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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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.

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

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

[6325–01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Federal Home Loan Bank Board

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment reestablishes the following positions under Schedule C because they are confidential in nature: Secretary (Typing) to the Chairman; Secretary to the Assistant to the Chairman; Secretary (Steno) to the Assistant to the Board Member; Director, Office of Communications; Director, Office of Housing and Urban Affairs; and, Secretary to the General Counsel.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3354(a) is amended; (d), (f), and (h) are reestablished as set out below:

§ 213.3354 Federal Home Loan Bank Board.

(a) One Secretary and one Secretary (Typing) to the Chairman of the Board.

* * * * *

(d) One Secretary to the Assistant to the Chairman and one Secretary (Steno) to the Assistant to the Board Member.

* * * * *

(f) Director, Office of Housing and Urban Affairs.

* * * * *

(h) One Secretary to the General Counsel.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–30251 Filed 10–17–77;8:45 am]

[6325–01]

PART 213—EXCEPTED SERVICE

Action

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Staff Assistant to the Assistant Director for Policy and Planning is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR. 213.3359(y) is added as set out below:

§ 213.3359 Action.

* * * * *

(y) One Staff Assistant to the Assistant Director for Policy and Planning.

(5 U.S.C. 3301, 3302, EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–30448 Filed 10–17–77;8:45 am]

[6325–01]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Two positions of Confidential Assistant to the Administrator (Agricultural Marketing Service) are expected under Schedule C because they are confidential in nature.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3313(m)(3) is added as set out below:

§ 213.3313 Department of Agriculture.

* * * * *

(m) *Agricultural Marketing Service.* * * *

(3) Two Confidential Assistants to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–30449 Filed 10–17–77;8:45 am]

[6325–01]

PART 213—EXCEPTED SERVICE

Commission on Civil Rights

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Staff Director for Public Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3356(g) is added as set out below:

§ 213.3356 Commission on Civil Rights.

* * * * *

(g) One Special Assistant to the Staff Director for Public Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–30450 Filed 10–17–77;8:45 am]

[6325–01]

PART 213—EXCEPTED SERVICE

Federal Deposit Insurance Corporation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Secretary to the Deputy to the Chairman of the Board of Directors is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3333(y) is added as set out below:

§ 213.3333 Federal Deposit Insurance Corporation.

* * * * *

(y) One Secretary to the Deputy to the Chairman of the Board of Directors.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-30451 Filed 10-17-77;8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Confidential Secretary to the Director, Institute of Museum Services is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3316(r)(3) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(r) *Office of the Assistant Secretary for Education.* * **

(3) Confidential Secretary to the Director, Institute of Museum Services.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-30452 Filed 10-17-77;8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

National Transportation Safety Board

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment reflects the following title changes: one Secretary (Stenography) to each of four Members of the Board, to one Confidential Assistant to each of four Members of the Board. This change in title reflects more appropriately the duties of these positions.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3396(a)(2) is amended as set out below:

§ 213.3396 National Transportation Safety Board.

(a) *Office of the Chairman.* * **

(2) One Confidential Assistant to the Chairman and each of four Board Members.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-30453 Filed 10-17-77;8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Occupational Safety and Health Review Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to change the title of an existing Schedule C position from Staff Assistant to the Chairman to Special Assistant to the Chairman because the latter title more accurately describes the duties of the position.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3344(a) is amended to read as follows:

§ 213.3344 Occupational Safety and Health Review Commission.

(a) One Special Assistant to the Chairman.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-30454 Filed 10-17-77;8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Agency For International Development

AGENCY: Civil Service Commission.

ACTION: Correction to final rule.

SUMMARY: This document corrects a final rule which appeared at 42 FR 41265, August 16, 1977, regarding the position of Secretary (Bilingual) to the Assistant Administrator for Latin America.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–23585, in § 213.3368, paragraph (j)(3) was inadvertently added, it should be paragraph (j)(2).

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to Commissioners.

[FR Doc.77-30461 Filed 10-17-77;8:45 am]

[3410-34]

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Overtime Work at Border Ports, Seaports, and Airports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulation which establishes charges for overtime work at border ports, seaports, and airports. Agricultural quarantine inspectors of the U.S. Department of Agriculture are charged with performing inspection duties relating to imports and exports at border ports, seaports, and airports. Such services may be performed outside the regular tour of duty of the inspector when requested by a person, firm, or corporation and the charge for such overtime is recoverable from those requesting the services. The following document amends the regulation entitled. "Overtime Work at Border Ports, Seaports, and Airports," by increasing the hourly rates for such services performed on a Sunday or holiday, or at any other time outside the regular tour of duty. These increases are commensurate with salary increases provided Federal employees in accordance with the Federal Pay Comparability Act of 1970 (Pub. L. 91–656), and Executive Order 12010 dated September 28, 1977.

EFFECTIVE DATE: October 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260) and the Airport and Airways Development Act Amendments of July 12, 1976 (90 Stat. 882; 49 U.S.C. 1741), § 354.1 of Part 354 Title 7, Code of Federal Regulations, the first sentence of § 354.1(a) is amended as set forth below:

§ 354.1 Overtime work at border ports, seaports, and airports.

(a) Any person, firm, or corporation having ownership, custody, or control of plants, plant products, animals, animal products, or other commodities or articles subject to inspection, laboratory

testing, certification, or quarantine under this chapter and Subchapter D of Chapter I, Title 9 CFR, who requires the services of an employee of the Plant Protection and Quarantine Programs, on a Sunday or holiday, or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of Sunday or holiday or overtime service request the Plant Protection and Quarantine Programs inspector in charge to furnish inspection, laboratory testing, certification, or quarantine service during such overtime, or Sunday or holiday period, and shall pay the Government therefor at the rate of $21.84 per man-hour per employee on a Sunday and at the rate of $15.32 per man-hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, or at any time after 5 p.m. or before 8 a.m. on a weekday, in connection with the arrival in or departure from the United Statse of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture; and except that owners and operators of aircraft will be provided service without reimbursement during regularly established hours of service on a Sunday or holiday; and except that the overtime rate to be charged owners and operators of aircraft at airports of entry or other places of inspection as a consequence of the operation of aircraft, for work performed outside of the regularly established hours of service on a Sunday will be $18.04, and for work performed outside of the regularly established hours of service for holiday or any other period will be $11.52 per hour, which charges exclude administrative overhead costs.

* * * * *

(64 Stat. 561 (7 U.S.C. 2260); Sec. 15 of Pub. L. 94-353, 90 Stat. 882 (49 U.S.C. 1741).)

Determination of the hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. It is to the benefit of the public that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to the administrative provisions of 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Animal and Plant Health Inspection Service 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.

Done at Washington, D.C., this 11th day of October 1977.

T. G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.77-30248 Filed 10-17-77;8:45 am]

[3410-05]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1978 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to (1) determine and proclaim a national marketing quota and national acreage allotment for the 1978 crop of extra long staple cotton (referred to as "ELS" cotton); (2) apportion the national acreage allotment to States; and (3) establish the period for holding the national marketing quota referendum in order to find whether farmers are in favor of or opposed to the announced marketing quota for ELS cotton. The need for this rule is to satisfy the statutory requirements as provided for in Sections 301, 343, 344, 347, and 375 of the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"). The latest available statistics of the Federal Government have been used in making determinations under this rule.

EFFECTIVE DATE: October 14, 1977.

ADDRESS: Production Adjustment Division, ASCS, USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Charles V. Cunningham (ASCS), 202-447-5953.

SUPPLEMENTARY INFORMATION: A notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on September 16, 1977 (42 FR 46542) in accordance with 5 U.S.C. 553. There was one comment received, recommending that the national acreage allotment be established at 93,385 acres. After considering the comment received, it was determined the national marketing quota for the 1978 crop of ELS cotton should be 97,000 bales and that the national acreage allotment for such crop should be 92,381 acres, a decrease of 27,619 acres from the allotment for the 1977 crop, computed in accordance with section 344(a).

It is essential that these provisions be made effective as soon as possible since the proclamation of the quota and the national allotment is required by statute to be made not later than October 15, 1977. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this amendment to 7 CFR §§ 722.558 to 722.561 shall become effective upon the filing of this document with the Director, Office of the Federal Register, with respect to the 1978 crop of ELS cotton. The material previously appearing in these Sections under centerhead "1977 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas" remains in full force and effect as to the crop to which it was applicable. Effective date: October 14, 1977.

Accordingly, 7 CFR §§722.558 through 722.561 are amended to read as follows:

§ 722.558 National marketing quota for the 1978 crop of ELS cotton.

The marketing quota for the 1978 crop of ELS cotton is hereby proclaimed to be an amount of 97,000 standard bales determined in accordance with Section 347(b) of the Act. The quota is based on the following data:

(1) Estimated domestic consumption, 1978-1979	75,000
(2) Estimated exports, 1978-1979	+5,000
(3) Adjustment to assure adequate stocks	+32,000
(4) Estimated imports, 1978-1979	-15,000
Total	97,000

§ 722.559 National acreage allotment for the 1978 crop of ELS cotton.

It is hereby determined and proclaimed that a national acreage allotment shall be in effect for the 1978 crop of ELS cotton. The amount of such national allotment is 92,381 acres calculated by multiplying the national quota in bales by 80 pounds (net weight of a standard bale) and dividing the result by the national average yield of 504 pounds per planted acre of ELS cotton for the four calendar years 1973, 1974, 1975, and 1976.

§ 722.560 Apportionment of national acreage allotment to the States.

The national acreage allotment of 92,381 acres is apportioned to the States in accordance with section 344(b) of the Act as follows:

State:	*State allotment (areas)*
Arizona	40,031
California	508
Florida	114
Georgia	121
New Mexico	18,743
Texas	32,864

§ 722.561 National marketing quota referendum for the 1978 crop of ELS cotton.

The national marketing quota referendum for the 1978 crop of ELS cotton shall be held during the referendum period December 12 to 15, 1977, inclusive, by mail ballot in accordance with Part 717 of this chapter (33 FR 18345, 34 FR 12940, 36 FR 12730, 38 FR 12891).

(Secs. 301, 343, 344, 347, 375, 52 Stat. 38, as amended; 63 Stat. 670, as amended; 63 Stat. 675, as amended; 52 Stat. 66, as amended; 7 U.S.C. 1301, 1343, 1344, 1347, 1375.)

NOTE.—The Agricultural Stabilization and Conservation Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Signed at Washington, D.C., on October 14, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-30479 Filed 10-14-77;11:23 am]

[3410-37]

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE (STANDARDS, INSPECTION, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 2851—FRESH FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

Subpart—Regulations [1]

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document increases the inspection fees at destination markets and is made necessary by the recently announced pay raise for Federal employees.

EFFECTIVE DATE: October 23, 1977.

FOR FURTHER INFORMATION CONTACT:

J. Lewis Maness, Fresh Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-2482.

SUPPLEMENTARY INFORMATION: The Agricultural Marketing Act of 1946 authorizes official inspection and certification of fresh fruits and vegetables and other products.[2] Such inspection and certification is voluntary and is made available only upon request of financially interested parties and upon payment of a fee. The Act requires such fees to be reasonable and, as nearly as possible, to cover the cost of rendering the service.

The rising costs of maintaining the inspection service in destination markets have made it necessary to increase inspection fees charged for most categories of inspections. The current small lot package fee and base fee for Farmers' stock peanuts, shelled peanuts, pecans, or other nuts will remain unchanged.

Pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U.S.C. 1621 et seq.), § 2851.38 Basis for Charges of the Subpart—Regulations Governing Inspection Certification and Standards for Fresh Fruits, Vegetables, and Other Products is hereby amended to read as follows:

§ 2851.38 Basis for Charges.[3]

(a) The fee for each lot of products inspected by an inspector acting exclusively for the Department, except for peanuts, pecans, or other nuts, shall be on the following basis:

(1) Quality and condition inspections:

(i) $31 for each over one-half carlot equivalent of an individual product up to a full carlot.

(ii) $27 for each half-carlot equivalent or less of an individual product.

(iii) $62 maximum for inspection of each carlot equivalent when more than one kind of product is involved.

(2) Condition inspection only:

(i) $27 for each over one-half carlot equivalent of an individual product up to a full carlot.

(ii) $25 for each half-carlot equivalent or less of an individual product.

(iii) $54 maximum for inspection of each carlot equivalent when more than one kind of product is involved.

(3) When any lot involved is in excess of a carlot equivalent, the quantity shall be calculated in terms of carlot and fractions thereof of the customary carlot quantity for such carlots and carlot inspection fee rates: *Provided*, That such fractions shall be calculated in terms of fourths, or next higher fourths.

(b) The base fee for peanuts (shelled), pecans, or other nuts shall be 90 cents per ton: *Provided*, That the minimum fee shall be $12 per lot, the different grades and varieties of peanuts shall be considered separate lots, and the fee for Farmers' Stock peanuts (unshelled) shall be $2 per ton.

(c) When inspections are made and the products inspected cannot readily be calculated in terms of carlots, or when the services rendered are such that a charge on the carlot or other unit basis would be inadequate or inequitable, charges for inspections may be based on the time consumed by the inspector in connection with such inspections, computed at the rate of $15 per hour.

(d) Notwithstanding the fee rates prescribed in the preceding paragraphs, fees and charges for the inspection of small lots where detailed reports of inspection are not normally required,[4] the following rates may be applied:

1 to 25 packages inclusive	$4.00
26 to 50 packages inclusive	5.00
51 to 150 packages inclusive	7.00
151 to ½ customary carlot equivalent	11.00

(e) Whenever inspections are performed at the request of the applicant during periods which are outside the inspector's regular scheduled workweek, a charge for overtime or holiday work shall be made at the rate of $7.50 per hour or portion thereof in addition to the regular commercial lot or hourly fees specified in this subpart. Holidays are those specified in Title 5 U.S.C., section 6103(a).

Notice of proposed rulemaking, public procedure thereon, and the postponement of the effective time of this action later than October 23, 1977, are impracticable, unnecessary, and contrary to the public interest in that (1) the Agricultural Marketing Act of 1946 provides that the fees charged shall be reasonable and, as nearly as possible, cover the cost of the service rendered; (2) the increases in fee rates set forth herein are necessary to more nearly cover such costs including, but not limited to Federal employee salary adjustments; (3) it is imperative that these increases in fee rates become effective in time to cover such increased costs; and (4) additional time is not required by users of the inspection service to comply with this amendment.

(Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).)

Dated to become effective at 12:01 a.m., October 23, 1977.

NOTE.—The Food Safety and Quality Service 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: October 11, 1977.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Service.

[FR Doc.77-30468 Filed 10-17-77;8:45 am]

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Overtime Work at Laboratories, Border Ports, Ocean Ports, and Airports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

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[1] None of the requirements in the regulations of this subpart shall excuse failure to comply with any Federal, State, county or municipal laws applicable to products covered in the regulations in this subpart.

[2] Among such other products are the following: Raw nuts; Christmas trees and evergreens; flowers and flower bulbs; and onion sets.

[3] Carlot equivalent shall be based on the customary quantity of a product loaded in common carrier rail cars.

[4] For example, the inspection of small lots for export to Canada or delivery to private and public institutions.

SUMMARY: This document amends the regulation which establishes charges for overtime work at laboratories, border ports, ocean ports, and airports. Veterinary Services inspectors of the United States Department of Agriculture are charged with performing inspection duties relating to imports and exports at laboratories, border ports, ocean ports, and airports. Such services may be performed outside the regular tour of duty of the inspector when requested by a person, firm, or corporation and the charge for such overtime is recoverable from those requesting the services. The following amendment increases the hourly rates for such services performed on a Sunday or holiday, or at any other time outside the regular tour of duty. These increases are commensurate with salary increases provided Federal employees in accordance with the Federal Pay Comparability Act of 1970 (Pub. L. 91–656), and Executive Order 12010 dated September 28, 1977.

EFFECTIVE DATE: October 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. E. R. Mackery, USDA, APHIS, VS, Room 870, Federal Building, Hyattsville, Md. 20782, 301–436–8695.

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260), and the Airports and Airways Development Act Amendments of July 12, 1976 (90 Stat. 882; 49 U.S.C. 1741), the first sentence of § 97.1, Part 97, Title 9, Code of Federal Regulations, is amended to read:

§ 97.1 Overtime work at laboratories, border ports, ocean ports, and airports.[1]

(a) Any person, firm, or corporation having ownership, custody or control of animals, animal byproducts, or other commodities subject to inspection, laboratory testing, certification, or quarantine under this subchapter and Subchapter G of this chapter, and who requires the services of an employee of Veterinary Services on a holiday or Sunday or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of overtime or holiday or Sunday service request the Veterinary Services inspector in charge to furnish inspection, laboratory testing, certification or quarantine service during such overtime or holiday or Sunday period, except as provided in paragraph (b) of this section, shall pay the Administrator of the Animal and Plant Health Inspection Service at a rate of $21.84 per man hour per employee on a Sunday and at a rate of $15.32 per man hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, except as provided in paragraph (b) of this section for inspection or quarantine services requested by an owner or operator of an aircraft at an airport on a Sunday or holiday which are performed within regularly established hours of service, or at any time after 5 p.m. or before 8 a.m. on a week day, in connection with the arrival in or departure from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture. * * *

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(64 Stat. 561 (7 U.S.C. 2260).)

Determination of the hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. It is to the benefit of the public that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to the administrative provisions of 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 11th day of October 1977.

NOTE.—The Animal and Plant Health Inspection Service 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.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc.77-30390 Filed 10-17-77;8:45 am]

[1] For designated ports of entry for certain animals, animal semen, poultry, and hatching eggs see 9 CFR 92.1 through 92.3; and for designated ports of entry for certain purebred animals see 9 CFR 151.1 through 151.3.

[6170–01]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Humidifiers

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This rule prescribes final test procedures for humidifiers. Appliance test procedures are one element of the appliance energy efficiency program required by the Energy Policy and Conservation Act.

EFFECTIVE DATE: November 25, 1977.

FOR FURTHER INFORMATION CONTACT:

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William J. Dennison, (Office of General Counsel), Room 7148—Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202–566–9750.

SUPPLEMENTARY INFORMATION:

A. *Background.* The Department of Energy (DOE) hereby amends Part 430, Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for humidifiers pursuant to section 323 (43 U.S.C. 6293) of the Energy Policy and Conservation Act (Act) (Pub. L. 94–163). These test procedures were proposed by the Federal Energy Administration (FEA) by notice issued May 25, 1977 (42 FR 27941, June 1, 1977), and a public hearing on the proposed test procedures was held on July 27, 1977. On October 1, 1977, DOE assumed FEA's authority under the Act, with regard to the appliance program, pursuant to section 301 of the Department of Energy Organization Act (Pub. L. 95–91).

By notice issued May 24, 1977 (42 FR 27896, June 1, 1977), FEA established Subparts A and B of Part 430, Chapter II of Title 10, Code of Federal Regulations. Certain definitions and general provisions applicable to the energy conservation program for appliances have been promulgated in Subpart A. Final test procedures for room air conditioners, dishwashers, electric refrigerators and electric refrigerator-freezers, freezers, television sets, clothes dryers, water heaters, and clothes washers have been prescribed in Subpart B. In addition to the test procedures for humidifiers prescribed today, the final test procedures for dehumidifiers are also being prescribed by separate notice. Several other test procedures have been proposed for inclusion in Subpart B. FEA has also proposed a Subpart C for appliance energy efficiency improvement targets. An outline of the provisions of Subparts A and B which have so far been established, including provisions in today's notices, is as follows:

Subpart A—General Provisions

Sec.
430.1 Purpose and scope.
430.2 Definitions.

Subpart B—Test Procedures

430.21 Purpose and scope.
430.22 Test procedures for measures of energy consumption.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.
* * * * *
(h) Television sets.
* * * * *
(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.

430.23 Units to be tested [Reserved].
430.24 Representations regarding measures of energy consumption.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.
* * * * *
(h) Television sets.
* * * * *
(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.

APPENDICES TO SUBPART B

APPENDIX A1—Uniform test method for measuring the energy consumption of electric refrigerators and electric refrigerator-freezers.
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APPENDIX B—Uniform test method for measuring the energy consumption of freezers.
APPENDIX C—Uniform test method for measuring the energy consumption of dishwashers.
APPENDIX D—Uniform test method for measuring the energy consumption of clothes dryers.
APPENDIX E—Uniform test method for measuring the energy consumption of water heaters.
APPENDIX F—Uniform test method for measuring the energy consumption of room air conditioners.
* * * * *
APPENDIX H—Uniform test method for measuring the energy consumption of television sets.
* * * * *
APPENDIX J—Uniform test method for measuring the energy consumption of clothes washers.
APPENDIX K1—Unifrom test method for measuring the energy consumption of central system humidifiers.
APPENDIX K2—Uniform test method for measuring the energy consumption of room humidifiers.
APPENDIX L—Uniform test method for measuring the energy consumption of dehumidifiers.

B. *Discussion of Comments.* Comments were received from industry and trade associations. The major issues raised by the comments are discussed below.

1. *Number of Units To Be Tested.* Several comments were directed to proposed section 430.23(k), which provided for sampling of each basic model to be tested when testing of humidifiers is required by the Act or by program regulations of agencies responsible for administering the Act. This provision was intended both to provide an acceptable level of assurance that test results are applicable to any entire basic model for which testing is required and to minimize the testing burden on manufacturers.

Test procedures prescribed under section 323 of the Act are intended ultimately to be used, for example, for labeling under section 324, for monitoring the progress of manufactureres toward accomplishing the energy efficiency improvement targets under section 325, and for enforcement testing under section 326. These aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions as to how a test procedures should be applied (e.g., sampling of production units), may differ. DOE, the National Bureau of Standards (NBS), and the Federal Trade Commission (FTC) are continuing to evaluate the appropriate method or methods for sampling the units to be tested in order to comply with the statute and satisfy all of the different elements of the appliance program.

While the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

> Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer or private labeler may make any representation—
> (1) in writing (including a representation on a label), or
> (2) in any broadcast advertisement, respecting the energy consumption of such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to eliminate the problems discussed above associated with a general sampling provision, § 430.23 has been reserved in the final test procedures, and sampling requirements which apply only for purposes of advertising have been reorganized into § 430.24(k) of the final test procedures. Section 430.24(k) is similar to proposed § 430.23(k), but contains several revisions. Most notably, the units tested are required to be representative of production units or actual production units. This change is intended to reduce the burden which might be caused by requiring post-production rating of basic models in every instance of testing pursuant to section 323(c) of the Act.

Until a labeling rule has been implemented pursuant to section 324, manufacturers are not required to test unless they choose to make representations regarding a measure of energy consumption identified in or based upon § 430.22(k). It should also be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model.

In addition, testimony of nine commenters regarding the proposed sampling provision for measures of energy consumption of humidifiers raised questions concerning product variability, the burden imposed by the testing requirements, and the level of testing needed to provide test results which reflect various energy parameters of humidifiers.

The proposed sampling provision, § 430.23, required a conference coefficient of 0.95 and an interval of ±5 percent around the sample mean. Industry spokesmen testified that product variability (media assemblies, etc.) was sufficiently large that the 0.95, ±5 percent level would be unduly burdensome and costly. Some supporting data were submitted by the Association of Home Appliance Manufacturers, but these data did not convincingly demonstrate the high variability of humidifier output suggested at the hearing.

The final sampling provision for dehumidifiers, also issued today, has been changed from its proposed form in a manner similar to the change requested by manufacturers of humidifiers. The lower level of sampling contained in the dehumidifier test procedures, however, is justified by more extensive data supporting the dehumidifier industry's assertions of burdensomeness of the proposed sampling provision. By contrast, the data submitted in regard to humidifiers was insufficient to substantiate the industry position that a 0.95, ±5 percent level of sampling would be burdensome.

Therefore, DOE has retained a sampling level of 0.95, ±5 percent in the final rule. This provision may be amended in the future if data are furnished which indicate the need for an amendment.

Finally, certain technical changes have been made in the sampling language. Specifically, there is to be at least a 95 percent confidence that the true mean of any measure of the basic model lies within ±5 percent of the mean of such measure of the sample.

Comments pertaining to several proposed test procedures criticized the language of the proposed sampling provisions. These comments suggested that a sampling provision should refer to the estimate of the mean rather than the true mean. DOE has considered this suggestion and has determined that the language prescribed today is more technically correct because the statistical measure "estimate of the mean" and "mean of the sample" are generally considered to be identical.

2. *Annual operating hours, infiltration rate, and field usage correction factor for room humidifiers.* The proposed test procedures contained representative average-use cycles of 1200 hours per year for central system humidifiers and 600 hours per year for room humidifiers. Several commenters stated that the figure for central system humidifiers was too high. Other comments challenged the average infiltration rate of 1.5 air changes per hour which was used to derive the 1200 hour annual use cycle. Some of these comments also criticized the use of a field usage factor to adjust the annual use figure for room humidifiers from 1200 to 600 hours.

NBS performed several analyses to address these issues. With regard to the average rate of infiltration, discussions with industry and analysis of recent trends toward tighter construction in new housing indicate that the proposed value of 1.5 air changes per hour is too high. NBS has now recommended a value of 0.75 changes per hour as being more representative of a typical residential structure, and this recommendation has been accepted in the final test procedures.

Using this revised infiltration rate, NBS then reevaluated the annual hours of operation for central system humidifiers with humidistats. This analysis involved a study of climatic conditions in

52 locations, and used an iterative technique to determine the proper size of a central system humidifier sufficient to maintain a 30% relative humidity level during all portions of the heating season that require humidification. On the average, this sizing technique showed a need for humidifiers with greater capacities than would be required if they were not dependent upon furnace operation. This analysis yielded a value of 700 hours per year as the average annual use of central system humidifiers with humidistats.

NBS also reevaluated the field usage correction factor of 0.5 for room humidifiers. This correction factor was based upon a premise that room humidifiers would frequently be allowed to run dry. NBS has now determined that a premise which assumes the improper use of room humidifiers is not appropriate. Therefore, the field usage correction factor for room humidifiers has been eliminated from section 4.1 of Appendix K2. Without this factor, and using an infiltration rate of 0.75 air changes per hour, NBS performed a new analysis to determine the annual operating hours of room humidifiers to maintain a 30% relative humidity. This analysis yielded a value of 1000 hours per year as the average annual use of room humidifiers with humidistats.

These average annual use values of 1000 hours for room humidifiers with humidistats and 700 hours for central system humidifiers with humidistats are analytical values and are based on a number of theoretical assumptions (e.g., proper sizing of central system humidifiers to meet a 30% relative humidity requirement, proper sizing and use of room humidifiers to meet seasonal humidification requirements, furnace plenum temperature of 140° F.). Several comments pointed out that a room humidifier and a central system humidifier of identical capacities would operate for the same number of hours per year under fixed operating conditions (i.e., maintenance of a 30% relative humidity). In order for a room humidifier to operate the same number of hours as a central system humidifier, it would have to be oversized in relation to the humidification requirements and the size which would be predicted by analytical models (reducing the annual hours of operation would require an increase in the capacity of a humidifier). DOE has determined that, in practice, room humidifiers are compared to central system humidifiers on the basis of capacity and that in order to allow this comparison to be made meaningfully, the average annual hours of operation of a room humidifier should be set equal to that of central system humidifiers (700 hours).

Because a central system humidifier without a humidistat will operate during the entire furnace operating period, the final rule specifies an average-use cycle of 1600 hours per year for central system humidifiers without humidistats. This average-use cycle is based on an average of 1600 annual operating hours for furnaces, a figure derived from FEA's proposed test procedures for furnaces.

Because a room humidifier without a humidistat may also operate unnecessarily to maintain a relative humidity greater than 30 percent, the 1600 hour average-use cycle is also used to calculate the estimated annual operating cost for room humidifiers without humidistats. This is an assumption based on the reasons given above.

One commenter requested further study to verify the humidistat factor of 2.0 in the proposed rule. This factor is dependent upon the ratio of the average-use cycles for units without and humidistats described above, so that the humidistat factor is 2.29 in the final rule. This factor is based on DOE's best information concerning the annual operating hours of furnaces and the fact that a central system humidifier without a humidistat will operate whenever the furnace operates.

Use of the same humidistat factor for room and central system humidifiers is a result of DOE's decision to use the same average-use cycles for both kinds of humidifiers.

3. *Plenum temperature.* One comment pointed out that no furnace operates at a 140°F plenum temperature during all of the furnace operating hours, and that some furnaces (i.e., electric furnaces) never operate at this temperature. For this reason, the commenter questioned the validity of measuring the energy consumption of a humidifier on the basis of a specified plenum temperature of 140°F.

The proposed rule assumes a correctly sized central system humidifier operating for the number of hours necessary to maintain a 30 percent relative humidity in Region III of the map in section 5 of Appendices K1 and K2. This humidification requirement is independent of the furnace plenum temperature. With a plenum temperature lower than 140°F, energy consumption per hour would decrease, but the humidifier would operate for a greater number of hours to meet the fixed humidification requirements. Because total energy consumption is not affected by plenum temperature, the 140°F plenum temperature remains the basis for determining the annual energy consumption and for rating the capacity of a central ssytem humidifier.

4. *Supplementary energy calculation.* Three commenters stated that the supplementary electrical energy consumption measured by the test procedures is an insignificant portion of the overall energy consumption. Another commenter stated that this energy is transmitted to the air stream as heat and should not be charged to the humidifier as a component of the annual operating cost.

Supplementary electrical energy consumption can constitute a significant portion of overall energy consumption (e.g., for humidifiers with steam vaporizing systems). Because the Act requires that the estimated annual operating cost reflect the actual cost of operation at the point of use, DOE finds it inappropriate to exclude the supplementary energy consumption from the estimated annual operating cost.

5. *Furnace seasonal performance factors.* One commenter stated that the seasonal performance factors for furnaces specified in the humidifier test procedures are too high. These figures were derived by NBS using the best data presently available, and the commenter did not submit any precise data in support of his suggested alternative value. Should additional data become available which indicate that the seasonal performance factors should be changed, the test procedures could be amended. At this time, no change has been made.

6. *Humidistats.* Several commenters discussed the beneficial effects of humidistats and pointed out the harmful effects and wasteful use of energy associated with overhumidification. By specifying the different average-use cycles described above DOE has included in the final test procedures a means of calculating different estimated annual operating costs for humidifiers with and without humidistats.

One commenter was concerned that his company's manually-adjustable bypass air dampers might not qualify as humidistats. To avoid any possibility of confusion, DOE has included a definition of "humidistat" in Appendices K1 and K2. Under this definition, a damper type device would be considered a humidistat if it operates to maintain a constant humidity without user interevention. A manually-controlled damper would not satisfy this definition, and the estimated annual operating cost of a humidifier featuring such a device would be measured using the 1600 hour average-use cycle.

This result is appropriate because a manually-operated damper cannot be relied upon to provide a comfortable level of humidification under all ambient conditions. Furthermore, overhumidification would not be apparent to the user except by signs (e.g., condensation on windows) which would not be visible until unnecessary energy consumption had already occurred. Adjustment of the damper at that time would reduce the capacity of the unit and could lead to underhumidification. Because of these unpredictable effects, manual dampers are not treated as energy-saving devices by the test procedures.

7. *Energy factor calculations.* Several comments pointed out the inconsistency of using different methods of calculating the energy factor for room and central system humidifiers. This inconsistency could be confusing to consumers if energy factors are eventually included in a labeling rule for humidifiers. One commenter specifically suggested that the energy factor for central system humidifiers be changed to reflect the same dimensions as the energy factor for room humidifiers.

Changing the central system humidifier energy factor to match the room humidifier energy factor would necessitate the deletion of two energy measures from the central humidifier energy factor calculation. These two measures, air flow and waste water, reflect significant energy usage and should be included

in the energy factor for central system humidifiers. Because DOE agrees that the energy factors for both classes of humidifiers should be comparable, the energy factor for room humidifiers has been changed to a dimensionless efficiency measure which is directly comparable to the energy factor for central system humidifiers.

This change was accomplished by expressing the output of room humidifiers in a manner different from the one proposed. Instead of "hourly humidification rate" in pounds per hour, section 4.6 of Appendix K2 now expresses output in terms of "humidification power" in kilowatts. As a result, the energy factor for room humidifiers described in section 430.22(k)(5) is dimensionless, and is therefore a comparable factor to the energy factor for central system humidifiers contained in § 430.22(k)(4). Both energy factors are now expressed as efficiency ratios.

8. *Oversizing.* Some comments noted that the estimated annual operating cost of humidifiers could be misleading because, given two humidifiers having the same efficiency but different capacities, the unit with the larger capacity would have a higher estimated annual operating cost. In a particular home, however, an oversized unit with a humidistat would actually consume no more energy than a "properly" sized unit of the same efficiency, and might even be preferable because the oversized unit could better handle peak loads.

DOE recognizes this problem, but has received no suggestion as to its solution. Although oversizing will occur, its effects cannot be quantified in an estimated annual operating cost which is valid generally, because the frequency and degree of oversizing depend on consumer decisions and home conditions which manufacturers cannot anticipate. The problem of oversizing can be stated, and explained by consumer information and education programs, but it cannot at this time be quantified in the estimated annual operating cost.

9. *Systems approach to energy consumption.* Some commenters stressed that the use of a humidifier produces side effects which may result in energy or cost savings, such as reduced air infiltration, possible lower temperatures, lower medical bills, and lower household furnishings repair or replacement cost. These comments suggested that the final humidifier test procedures be deferred until these possible side effects can be documented and incorporated into the test procedures.

While these and other factors may affect the net cost of energy associated with humidifiers, they cannot presently be quantified with any degree of certainty. After more detailed studies of such interactive factors are completed, DOE will consider amending its test procedures if incorporation of these factors is desirable. At this time, however, DOE has determined that the test procedures prescribed today best reflect those energy costs associated with humidifiers which can be quantified effectively.

One comment urged that final test procedures for humidifiers be delayed until the possible effect of the final furnace test procedures on humidifier operating hours can be assessed. Any such effect, however, can be the subject of a later amendment of these test procedures, if necessary.

10. *Regional costs.* One commenter questioned the benefits to be derived from the use of regional estimated annual operating costs, and expressed the view that the inclusion of regional costs in a labeling rule would unduly complicate humidifier labels. This is a decision which will be made by FTC. DOE, however, believes that an estimated regional annual operating cost may be useful to consumers.

Other comments suggested that the regional map be included in Appendix K2 as well as in Appendix K1, and that the map should be expanded to include Alaska, Hawaii, and the territories. These suggestions are incorporated in the final rule.

11. *Region VI factor.* One comment questioned the regional factor of 2.5 for Region VI as being too high for central system humidifiers, in light of the relatively low operating hours of furnaces in the southern portion of this region. This comment apparently is based on an error in the proposed test procedures which stated that the regional factors served to adjust the average-use cycle of humidifiers. These regional factors were intended to adjust the humidity load and not the average-use cycle. This error has been corrected in the final rule. A properly sized central system humidifier should satisfy the humidity load requirement within the operating hours of the furnace. DOE believes that the proposed map correctly represented the respective regional humidity loads, and therefore the map has not been changed.

12. *Other heat sources.* One comment stated that the proposed rule should cover humidifiers used in conjunction with gas and oil fueled hot water heating system (boilers), and DOE has now included these heating systems in the final rule. The data available to DOE indicate that boilers have approximately the same seasonal performnce factors as their furnace counterparts. Therefore, the various measures of energy consumption of room humidifiers operating with gas or oil boilers are computed in the same manner as measures of energy consumption for room humidifiers operating with gas or oil furnaces. The final rule reflects these changes.

The same comment also stated that the proposed rule should cover humidifiers used in conjunction with unvented gas heaters which, according to the commenter, also provide humidification.

It is true that unvented gas heaters can add humidity to the heated space, but this effect is small and largely cancelled by the greater infiltration rate needed when such heaters are used. For this reason, DOE believes that the seasonal performance factor for gas furnaces is also accurate for unvented gas heaters. Therefore, the final rule provides that the various measures of energy consumption of room humidifiers operating with unvented gas heaters are computed in the same manner as for room humidifiers operating with gas furnaces.

The changes discussed in this section apply only to room humidifiers, because central system humidifiers are never used in conjunction with hot water heating systems or with unvented gas heaters.

13. *Miscellaneous.* After careful consideration of all the comments and further consultation with NBS and FCT, DOE has incorporated in the final rule some minor changes that were not discussed above. In particular, the definitions of "humidifier," "central system humidifier," and "room humidifier" have been editorially changed.

C. *Regulations prescribed.*—1. *Test procedures.* The test procedures for humidifiers prescribed today are included in Subpart B and are substantially the same as those proposed, with the exception of the changes discussed above. As with the proposed procedures, the test methodology incorporates the approach contained in the Association of Home Appliance Manufacturers (AHAM) Standard HU-1-72 (for room humidifiers) and the Air Conditioning and Refrigeration Institute (ARI) Standard 610-74 (for central system humidifiers) to measure capacity, with a further methodology to determine energy consumption. For purposes of DOE's program, the incorporated approach remains applicable as presently written regardless of any subsequent amendment of the AHAM or ARI standard, until further amendment of the test procedures by DOE.

Under the requirements of section 32(c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.) as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70), the Administrator of FEA was directed to consult with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact on competition of any rules prescribed by FEA which utilized or incorporated any commercial standards. The Administrator transmitted copies of the proposed test procedures for humidifiers, which incorporated the above-mentioned commercial standards, to the Attorney General and the Chairman of the Federal Trade Commission for their comments concerning the impact of such standards on competition, in accordance with section 32(c). Neither official had any unfavorable comments, nor did they recommend against the incorporation or use of these commercial standards in the final test procedures for humidifiers.

2. *General provisions.* Also prescribed today are definitions of "humidifier," "central system humidifier," and "room humidifier." The definition of the term "basic model" for humidifiers has been added. These definitions were previously proposed in Subpart A (42 FR 27944, June 1, 1977). Comments which were received regarding these definitions and the issues which they raised have been discussed earlier in this notice.

3. *Application of test procedures.* As discussed previously, the final test procedures prescribed today must be applied before representations regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program (e.g., labeling, targets) vary, application of the standard test methodology prescribed today may differ in some respects for each program element. It is expected that instructions on how to apply the standard test methodology to these other elements of the appliance program will be proposed for comment in the near future.

The requirements of § 430.24(k) of the final regulations apply until such time as final labeling requirements for a particular measure of energy consumption and the associated test procedure application provision are prescribed. After that time, all representations regarding a measure of energy consumption covered by a labeling rule must be the same as represented on the label.

D. *Unit costs of energy.* Under section 323(b)(2) of the Act, FEA was to provide manufacturers information as to the representative average unit costs of energy. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

E. *Preemption.* Today's rulemaking prescribing final test procedures for humidifiers supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of humidifiers, or which provide for any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of humidifiers, must now employ test procedures identical to those specified in today's final rule.

(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; Department of Energy Organization Act, Pub. L. 95–91; 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 as set forth below, effective November 25, 1977.

Issued in Washington, D.C., October 11, 1977.

WILLIAM S. HEFFELFINGER,
Director of Administration,
Department of Energy.

1. Section 430.2 is amended by adding paragraph (11) as part of the definition of "basic model," and by adding in appropriate alphabetical order definitions of "central system humidifier," "humidifier," and "room humidifier," to read as follows:

§ 430.2 Definitions.

* * * * *

"Basic model" means all units of a given type of covered product (or class thereof) manufactured by one manufacturer and—

* * * * *

(11) With respect to humidifiers which have the same primary energy source, which have electrical characteristics that are essentially identical, and which do not have any differing physical or functional characteristics that affect energy consumption.

* * * * *

"Central system humidifier" means a class of humidifier designed to add moisture into the air stream of a heating system.

* * * * *

"Humidifier" means a consumer product designed to add moisture into the conditioned air, and which falls into one of the following classes: a central system humidifier or room humidifier.

* * * * *

"Room humidifier" means a class of humidifier designed to add moisture directly to the conditioned air without requiring connection to a separate heating or distribution system.

* * * * *

2. Section 430.22 is amended by adding paragraph (k), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

* * * * *

(k) *Humidifiers.* (1) The estimated annual operating cost for central system humidifiers shall be—

(i) Where heat is supplied by an electric furnace or electric resistance heating, the sum of: (A) The product of the average annual electric furnace or electric resistance heating energy consumption in kilowatt-hours per year, determined according to 4.1 of Appendix K1 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act plus (B) the product of the average annual supplementary electrical energy consumption in kilowatt-hours per year, determined according to 4.2 of Appendix K1 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting sum then being rounded off to the nearest dollar per year, and

(ii) Where heat is supplied by an electric heat pump, the sum of: (A) The product of the average annual electric heat pump energy consumption in kilowatt-hours per year, determined according to 4.3 of Appendix K1 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act plus (B) the product of the average annual supplementary electrical energy consumption in kilowatt-hours per year, determined according to 4.2 of Appendix K1 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting sum then being rounded off to the nearest dollar per year, and

(iii) Where heat is supplied by a gas or oil fired forced air furnace, the sum of: (A) The product of the average annual gas or oil furnace energy consumption in Btu's per year, determined according to 4.4 or 4.5, respectively, of Appendix K1 of this subpart, and the representative average unit cost in dollars per Btu for gas or oil, as appropriate, as provided pursuant to section 323(b)(2) of the Act plus (B) the product of the average annual supplementary electrical energy consumption in kilowatt-hours per year, determined according to 4.2 of Appendix K1 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act; the resulting sum then being rounded off to the nearest dollar per year.

(2) The estimated annual operating cost for room humidifiers shall be—

(i) Where heat is supplied by an electric furnace or electric resistance heating, the sum of: (A) The product of the average annual electric furnace or electric resistance heating energy consumption in kilowatt-hours per year, determined according to 4.1 of Appendix K2 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act plus (B) the product of the average annual supplementary electrical energy consumption in kilowatt-hours per year, determined according to 4.2 of Appendix K2 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting sum then being rounded off to the nearest dollar per year, and

(ii) Where heat is supplied by an electric heat pump, the sum of: (A) The product of the average annual electric heat pump energy consumption in kilowatt-hours per year, determined according to 4.3 of Appendix K2 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, plus (B) the product of the average annual supplementary electrical energy consumption in kilowatt-hours per year, determined according to 4.2 of Appendix K2 of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting sum then being rounded off to the nearest dollar per year, and

(iii) Where heat is supplied by a gas or oil fired forced air furnace, gas or oil boiler, or unvented gas heater, the sum of: (A) the product of the average annual gas or oil furnace, gas or oil boiler, or unvented gas heater energy consumption in Btu's per year, determined according to 4.4 or 4.5, respectively, of Appendix K2 of this subpart, and the representative average unit cost in dollars per Btu for gas or oil, as appropriate, as provided pursuant to section 323(b)(2) of the Act plus (B) the product of the average annual supplementary electrical energy consumption in kilowatt-hours per year, determined according to 4.2 of Appendix K2 of this subpart and the representative average unit cost in

dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting sum then being rounded off to the nearest dollar per year.

(3) The estimated annual operating cost for humidifiers by geographic region shall be—

(i) Where heat is supplied by an electric furnace or electric resistance heating, the product of: (A) The estimated annual operating cost determined according to subparagraph (1)(i) of this paragraph for central system humidifiers, or subparagraph (2)(i) of this paragraph for room humidifiers and (B) the regional factors for adjusting the humidity loads of the respective regions, determined according to 5 of Appendix K1 or K2 of this subpart, the resulting product then being rounded off to the nearest dollar per year;

(ii) Where heat is supplied by an electric heat pump, the product of: (A) The estimated annual operating cost determined according to subparagraph (1)(ii) of this paragraph for central system humidifiers, or subparagraph (2)(ii) of this paragraph for room humidifiers and (B) the regional factors for adjusting the humidity loads of respective regions, determined according to 5 of Appendix K1 or K2 of this subpart, the resulting product then being rounded off to the nearest dollar per year; and

(iii) Where heat is supplied by a gas or oil fired forced air furnace, gas or oil boiler, or unvented gas heater, the product of: (A) The estimated annual operating cost determined according to subparagraph (1)(iii) of this paragraph for central system humidifiers, or subparagraph (2)(iii) for room humidifiers and (B) the regional factor for adjusting the humidity loads of the respective regions, determined according to 5 of Appendix K1 or K2 of this subpart, the resulting product then being rounded off to the nearest dollar per year.

(4) The energy factor for central system humidifiers shall be the quotient of: (i) The hourly rate of energy output of a central system humidifier, in Btu's per hour, as determined according to 4.9 of Appendix K1 of this subpart, divided by (ii) the sum of (A) the humidistat factor, in Btu's per hour, as determined according to 4.10 of Appendix K1 of this subpart; (B) the hourly rate of electrical energy input to the humidifier, in Btu's per hour, as determined according to 4.7 of Appendix K1 of this subpart; (C) the hourly rate of equivalent electrical energy input for bypass humidifiers, in Btu's per hour, as determined according to 4.8 of Appendix K1 of this subpart; and (D) the rate of waste water energy (q_w) in Btu's per hour, as determined in 4.1 of Appendix K1 of this subpart, the resulting quotient then being rounded off to the nearest 0.01.

(5) The energy factor for room humidifiers shall be the quotient of the humidification power of the humidifier, in kilowatts, determined according to 4.6 of Appendix K2 of this subpart divided by the sum of (A) the humidistat factor, in kilowatts, determined according to 4.7 of Appendix K2 of this subpart, and (B) the input power, in kilowatts, as determined according to 3.2 of Appendix K2 of this subpart, the resulting quotient then being rounded off to the nearest 0.01.

(6) Other useful measures of energy consumption for humidifiers shall be those measures of energy consumption for humidifiers which the Secretary of Energy determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendices K1 and K2 of this subpart.

* * * * *

3. Section 430.24 is amended by adding a paragraph (k), to read as follows:

§ 430.24 Representations regarding measures of consumption.

* * * * *

(k) Humidifiers. (1) Except as provided in paragraph (k)(3) of this section, no manufacturer, distributor, retailer, or private labeler of humidifiers may make any representation with respect to or based upon a measure or measures of energy consumption described in section 430.22(k) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that, for each such measure of energy consumption, there is 95 percent confidence that the true mean of such measures of the basic model lies within ±5 percent of the mean of such measures of the sample.

(2) The sample selected for paragraph (k)(1) of this section shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) Whenever a rule applicable to humidifiers is prescribed under section 324 of the Act, this paragraph (k) shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption on the label.

4. Subpart B of Part 430 is amended to add an Appendix K1 and an Appendix K2, to read as follows:

APPENDIX K1—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF CENTRAL SYSTEM HUMIDIFIERS

1. *Definitions.*

1.1 "ARI" means the Air-Conditioning and Refrigeration Institute.

1.2 "ARI 610-74" means the test standard published by the ARI, titled "Standard for Central System Humidifiers," 1974, and designated as ARI 610-74.

1.3 "By-pass humidifier" means a central system humidifier in which the air for humidification is taken from the heated air of the furnace plenum and drawn through a wetted element by the pressure differential of the furnace blower system.

1.4 "Humidification rate" means a measure of the ability of a humidifier to add moisture to its surrounding atmosphere expressed as the number of gallons of water evaporated per 24 hours of continuous operation.

1.5 "Seasonal performance factor" means the ratio of the seasonal energy output of a heating system delivered to the conditioned space, in Btu's, divided by the seasonal energy input to the heating system, in Btu's.

1.6 "Humidistat" means a device which requires no user intervention and which is used to enable a humidifier to maintain a constant relative humidity of the conditioned air.

2. *Testing conditions.*

2.1 *Installation.* Install the humidifier according to manufacturer's instructions and in accordance with section A4 of ARI 610-74. In the event of a conflict between the manufacturer's instructions and ARI 610-74, the provision of ARI 610-74 shall control.

2.2 *Energy flow instrumentation.* Install energy flow instrumentation or other instrumentation as appropriate, in accordance with section A3 of ARI 610-74. A wattmeter shall be installed in the electrical circuit when a humidifier is connected to an electrical supply circuit.

2.3 *Temperature instrumentation.* Use mercury-in-glass thermometers that are accurate to within 0.1° F to measure both the wet bulb and dry bulb temperatures. The smallest graduation on the thermometers is to represent a maximum of 0.2° F.

3. *Testing and measurements.*

3.1 *Humidification rate.* Determine the humidification rate, H_m, of the humidifier under test, in gallons per day, according to the methods and calculations specified in sections A5 and A6 of ARI 610-74.

3.2 *Input power.* Measure the input power (P) to the humidifier, in watts, when the humidifier is operating under full load conditions.

3.3 *By-pass air flow rate determination for by-pass humidifiers.* The air flow rate through the by-pass humidifier (V_s) shall be measured in cubic feet per minute using air flow nozzles in accordance with Figure A1 described in paragraph A3.3.1 and static pressure taps in accordance with paragraph A3.3.2 of ARI 610-74.

The humidifier shall be mounted to a plenum attached to the outlet of a fan capable of delivering the required air flow for the conditionsof the test in accordance with 6 of this Appendix. The by-pass duct of the humidifier shall be connected to the inlet of the air measuring duct (AMD). Thetemperature of the air shall be room temperature, 70° F ±10° F, 30 percent relative humidity, and the static pressure in the duct between the fan and humidifier shall be adjusted to 0.2 in. water differential. The pressure drop across the nozzle shall be recorded and the air volume calculated using the equations of A6.1.1 and A6.1.2 of ARI 610-74.

3.4 *Temperature measurement.* The temperature of the water entering the humidifier shall be maintained at 60° F ±2° F. The waste water temperature from the the humidifier shall be measured and recorded. No less than five sets of readings shall be taken.

4. *Calculation of derived results from test measurements.*

4.1 *Average annual electric furnace or electric resistance heating energy consumption.* Calculate the average annual electric furnace or electric resistance heating energy consumption, E_{F-E}, expressed in kilowatt-hours per year, to vaporize water to maintain a room relative humidity of 30 percent at a room temperature of 70° F, and defined as:

$$E_{F-E}=\left[\frac{Q_o+Q_w-3412\,E_S}{SPF_E}\right]\left[\frac{1}{3412}\right],$$

where

Q_o=average annual energy output of the humidifier in terms of heat of vaporization, in Btu's,

$$=\frac{N\times H_m(8.34\times 1060)}{24},$$

where

N=700 hours per year for units with humidistats, or 1600 hours per year for units without humidistats, the representative average-use cycle of humidifier operation

H_m=humidification rate determined in accordance with 3.1 of this Appendix, in gallons per day

8.34=conversion factor to convert gallons of water to pounds of water

1060=heat of vaporization of water in Btu's per pound (Based on a water temperature of 60° F).

24=conversion factor to convert days to hours

SPF_E=1.0, seasonal performance factor of electric furnace or electric resistance heating dimensionless

Q_W=average annual energy lost in waste water from the humidifier housing or sump, in Btu's per year,

$=N\times q_w$,

where

N as defined above, and

q_w=rate of waste water energy lost, in Btu's per hour

$=W\times C\times\Delta t$,

where

W=measured waste water drainoff rate, in pounds per hour, consisting of the water quantity determined in accordance with section A5.6.2.4 of ARI 610-74, over the time period of the test.

C=1, specific heat of water, in Btu's per pound—degree Fahrenheit

Δt=waste water temperature rise, in degrees Fahrenheit

$=t_{out}-60°$ F

3412=conversion factor to convert kilowatt-hours to Btu's

E_s as defined in 4.2 of this Appendix.

4.2 *Average annual supplementary electrical energy consumption.* Calculate the average annual supplementary electrical energy consumption, E_s, expressed in kilowatt-hours per year, and defined as:

$$E_S=\frac{E_p+E_b}{1000},$$

where
E_p = average annual electric energy consumption to operate the humidifier determined in accordance with section 3.2 of this Appendix, in watt-hours per year
$= N \times P$,
where
N as defined in 4.1
P as determined in 3.2
E_b = additional equivalent electric energy required by the furnace fan for by-pass type humidifiers, in watt-hours per year
$= 0.365\ V_b \times N$,
where
V_b = by-pass flow rate determined in accordance with section 3.3 of this Appendix, in cubic feet per minute.
0.365 = furnace fan power to operate by-pass humidifier, in watts per cubic feet per minute
N as defined in 4.1.

4.3 *Average annual electric heat pump energy consumption.* Calculate the average annual electric heat pump energy consumption, E_{F-HP}, expressed in kilowatt-hours per year, to vaporize water to maintain a room relative humidity of 30 percent at a room temperature of 70° F, and defined as:

$$E_{F-HP} = \left[\frac{Q_o + Q_w - 3412\,E_S}{SPF_{HP}}\right]\left[\frac{1}{3412}\right],$$

where
SPF_{HP} = 1.5, seasonal performance factor of electric heat pump, dimensionless
3412 as defined in 4.1
Q_o as defined in 4.1
Q_w as defined in 4.1
E_S as defined in 4.2

4.4 *Average annual gas furnace energy consumption.* Calculate the average annual gas furnace energy consumption, E_{F-G}, expressed in Btu's per year, to vaporize water to maintain a room relative humidity of 30 percent at a room temperature of 70° F, and defined as:

$$E_{F-G} = \frac{Q_o + Q_w - 3412\,E_S}{SPF_G},$$

where
SPF_G = .65, seasonal performance factor of gas furnace, dimensionless
Q_o as defined in 4.1
Q_w as defined in 4.1
E_S as defined in 4.2
3412 as defined in 4.1

4.5 *Average annual oil furnace energy consumption.* Calculate the average annual oil furnace energy consumption, E_{F-o}, expressed in Btu's per year, to vaporize water to maintain a room relative humidity of 30 percent at a room temperature of 70° F, and defined as:

$$E_{F-o} = \frac{Q_o + Q_w - 3412\,E_S}{SPF_O},$$

where
SPF_O = .75, seasonal performance factor of oil furnances, dimensionless
3412 as defined in 4.1
Q_o as defined in 4.1
Q_w as defined in 4.1
E_S as defined in 4.2

4.6 *Hourly humidification rate.* Calculate the hourly humidification rate, H_{mh}, expressed in pounds per hour, and defined as:

$$H_{mh} = \frac{8.34\ H_m}{24}$$

where
H_m as defined in 4.1
8.34 as defined in 4.1
24 as defined in 4.1

4.7 *Hourly rate of electrical energy input.* Calculate the hourly rate of electrical energy input, q_p expressed in Btu's per hour, and defined as:

$$q_p = 3.412\ P,$$

where
P as determined in 3.2
3.412 = conversion factor to convert watts to Btu's per hour.

4.8 *Hourly rate of equivalent electrical energy input for by-pass humidifiers.* Calculate the hourly rate of equivalent electrical energy input for by-pass humidifiers, q_b, expressed in Btu's per hour, and defined as:

$$q_b = 0.365\ V_b \times 3.412,$$

where
0.365 as defined in 4.2
V_b as defined in 4.2
3.412 as defined in 4.7

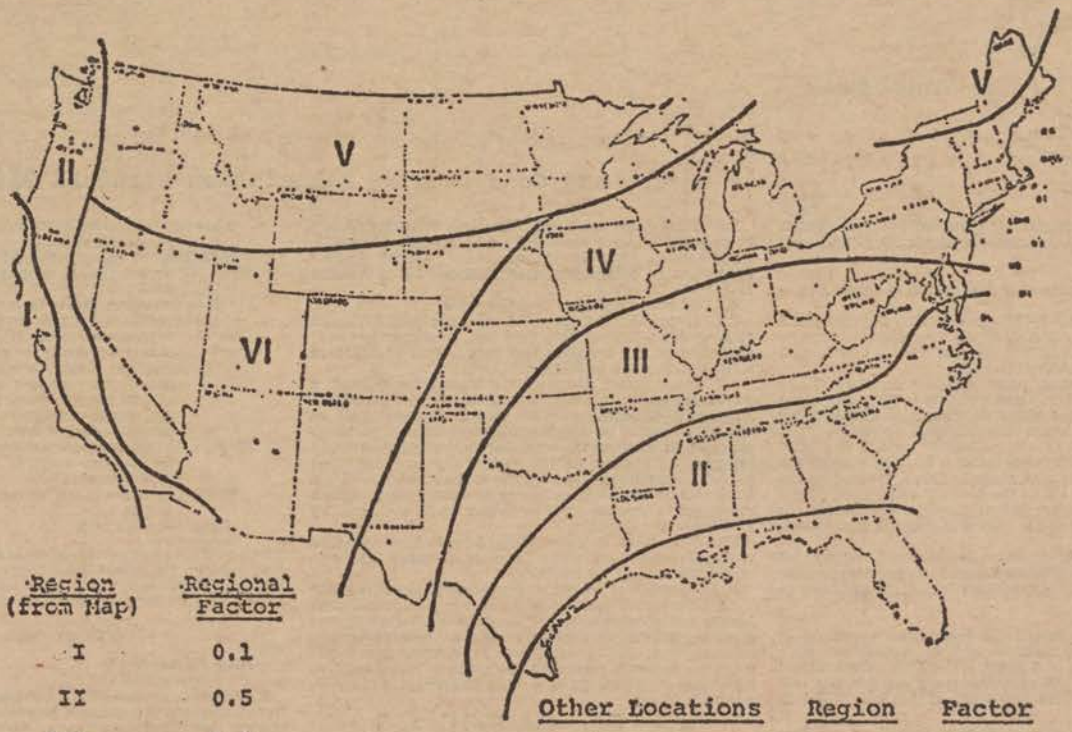
4.9 *Hourly rate of energy output of a central system humidifier.* Calculate the hourly rate of energy output of a central humidifier, H_o, expressed in Btu's per hour and defined as:

$$H_o = 1060\ H_{mh},$$

where
1060 as defined in 4.1
H_{mh} as defined in 4.6.

4.10 *Humidistat factor.* For a central system humidifier with a humidistat, the humidistat factor is equal to the hourly rate of energy output, as defined in 4.9, in Btu's per hour. For a central system humidifier without a humidistat, the humidistat factor is equal to 2.29 times the hourly rate of energy output, as defined in 4.9, in Btu's per hour.

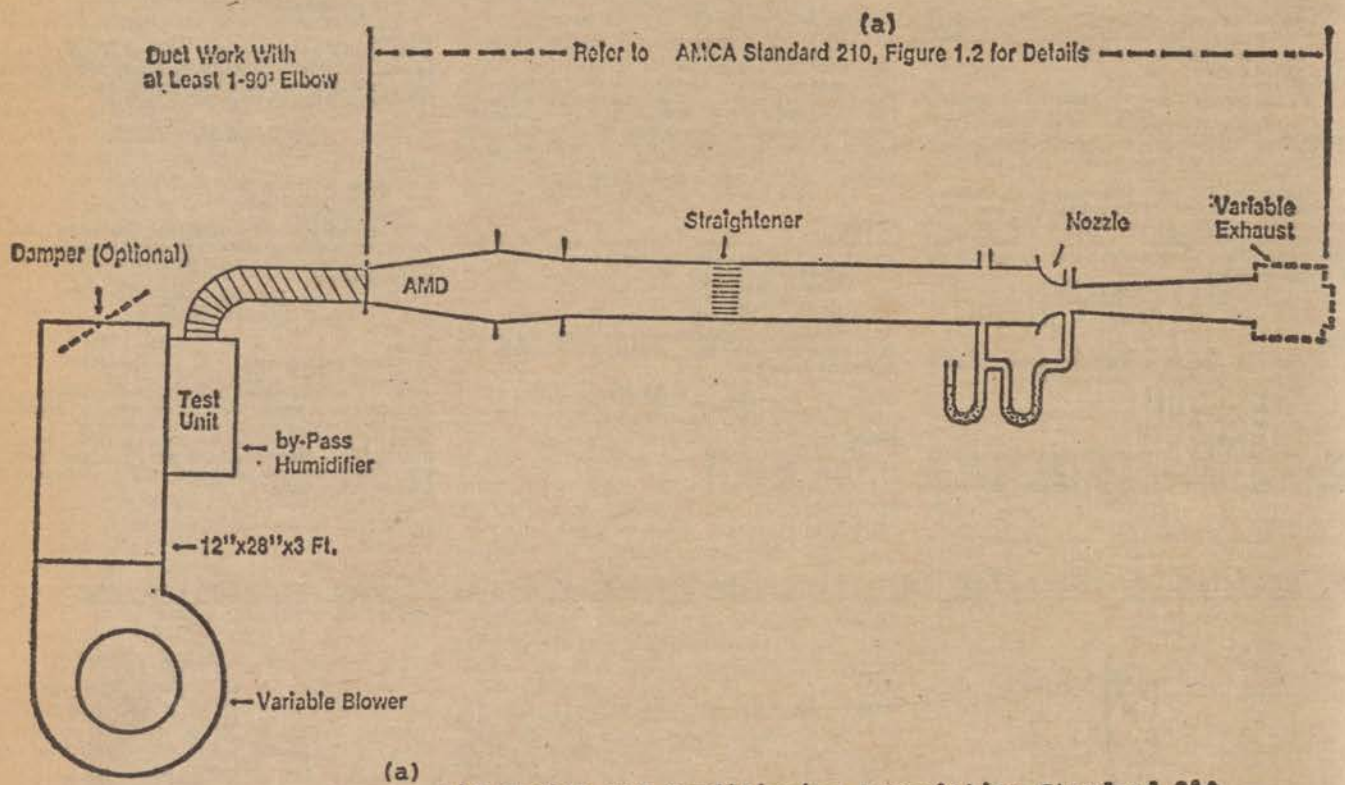
5. Regional factors for adjusting the humidity loads of the respective region:



	Region (from Map)	Regional Factor
5.1	I	0.1
5.2	II	0.5
5.3	III	1.0
5.4	IV	1.5
5.5	V	2.0
5.6	VI	2.5

Other Locations	Region	Factor
Alaska	VI	2.5
Hawaii	0	0.0
Territories	0	0.0

6. Installation of by-pass humidifiers.



(a) Air Moving and Conditioning Association Standard 210

APPENDIX K2—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF ROOM HUFMIDIHERS

1. *Definitions.*

1.1 "AHAM" means the Association of Home Appliance Manufacturers.

1.2 "AHAM HU-1-72" means the test standard published by the AHAM, titled "Appliance Humidifiers," American National Standard Z235.1-1972, and designated as AHAM HU-1-72.

1.3 "Humidification rate" means a measure of the ability of a humidifier to add moisture to its surrounding atmosphere expressed as the number of gallons of water evaporated per 24 hours of continuous operation.

1.4 "Seasonal performance factor" means the ratio of the seasonal energy output of a heating system delivered to the conditioned space, in Btu's, divided by the seasonal energy input to the heating system, in Btu's.

1.5 "Humidification power" means the power, in kilowatts, required to vaporize water at the humidification rate.

1.6 "Humidistat" means a device which requires no user intervention and which is used to enable a humidifier to maintain a constant relative humidity of the conditioned air.

2. *Test conditions.*

2.1 *Installation.* Install the humidifier according to manufacturer's instructions and in accordance with sections 5.2 and 5.3 of AHAM HU-1-72. In the event of a conflict between the manufacturer's instructions and AHAM HU-1-72, the provision of AHAM HU-1-72 shall control.

2.2 *Energy flow instrumentation.* Install energy flow instrumentation in accordance with section 5.1 of AHAM HU-1-72. A watt-hour meter shall be installed in the electrical circuit when a humidifier is connected to an electrical supply circuit. The watt-hour meter shall not have an error greater than 1 percent with the smallest scale division not greater than 1 watt-hour.

2.3 *Temperature instrumentation.* Use mercury-in-glass thermometers accurate to within 0.1° F to measure wet bulb, dry bulb, and water reservoir temperatures. The smallest graduation on the thermometers shall not be greater than 0.2° F.

2.4 *Air pressure instrumentation.* Use an air pressure measurement instrument accurate to within 0.1 inch of mercury.

2.5 *Time instrumentation.* Use time instrumentation in accordance with section 5.1.4 of AHAM HU-1-72.

2.6 *Weight instrumentation.* Use weight instrumentation in accordance with section 5.1.5 of AHAM HU-1-72.

3. *Test procedures and measurements.*

3.1 *Humidification rate.* Determine the humidification rate, Q, of the humidifier under test, in gallons per day, according to the methods and calculations specified in sections 5.2 and 6 of AHAM HU-1-72.

3.2 *Input power.* Connect the humidifier through a watt-hour meter in accordance with section 2.2 of this Appendix. Humidifiers with electric heaters shall be run with heaters on and humidity controls set at maximum levels. Measure the total electrical energy consumption, in watt-hours, at the end of the two hour test period. Calculate the input power to the humidifier, P, in kilowatts by dividing the two hour energy consumption measured in the test by 2 to obtain watts and then by 1000 to obtain kilowatt.

3.3 *Barometric Pressure.* Humidification rate shall be measured when barometric pressure is within the range of 29.9 inches (±1) of mercury.

4. *Calculation of derived results from test measurements.*

4.1 *Average annual electric furnace or electric resistance heating energy consumption.* Calculate the average annual electric furnace or electric resistance heating energy consumption, E_{F-E}, expressed in kilowatt-hours per year, to vaporize water to maintain a room relative humidity of 30 percent at a room temperature of 70° F, and defined as:

$$E_{F-E}=\left[\frac{Q_o-3412\,E_S}{SPF_E}\right]\left[\frac{1}{3412}\right],$$

where

Q_o=average annual energy output of the humidifier in terms of heat of vaporization, in Btu's per year,

$$=N\times Q\times 0.93\,\frac{8.34\times 1060}{24}$$

where

N=700 hours per year for units with humidistats, or 1600 hours per year for units without humidistats, the representative average-use cycle of humidifier operation.

SPF_E=8.34=conversion factor to convert gallons of water to pounds of water

1060=heat of vaporization of water in Btu's per pound (Based on a water temperature of 60° F)

24=conversion factor to convert days to hours

Q=humidification rate (water output capacity) determined in accordance with section 3.1 of this Appendix, in gallons per day.

0.93=correction factor to adjust the humidifier output at standard conditions of 75° F and 30 percent relative humidity to normal room conditions of 70° F and 30 percent relative humidity, dimensionless.

SPF_E=1.0, seasonal performance factor of electric furnace or electric resistance heating, dimensionless.

3412=conversion factor to convert kilowatt-hours to Btu's.

E_S as defined in 4.2

4.2 *Average annual supplementary electrical energy consumption.* Calculate the average annual supplementary electrical energy consumption, E_S, expressed in kilowatt-hours per year, and defined as:

$$E_S=N\times P,$$

where

N as defined in 4.1

P as determined in 3.2

4.3 *Average annual electric heat pump energy consumption.* Calculate the average annual electric heat pump energy consumption, E_{F-HP}, expressed in kilowatt-hours per year, to vaporize water to maintain a room relative humidity of 30 percent at a room temperature of 70° F, and defined as:

$$E_{F-HP}=\left[\frac{Q_o-3412\,E_S}{SPF_{HP}}\right]\left[\frac{1}{3412}\right],$$

where

SPF_{HP}=1.5, seasonal performance factor of electric heat pump, dimensionless.

3412 as defined in 4.1

Q_o as defined in 4.1

E_S as defined in 4.2

4.4 *Average annual gas furnace, gas boiler, or unvented gas heater energy consumption.* Calculate the average

annual gas furnace, gas boiler, or unvented gasheater energy consumption, E_{F-G}, expressed in Btu's per year, and defined as:

$$E_{F-G}=\frac{Q_o-3412\,E_S}{SPF_G},$$

where

SPF_G=. 65 seasonal performance factor of gas furnaces, gas boilers, or unvented gas heaters, dimensionless
Q_o as defined in 4.1
3412 as defined in 4.1
E_S as defined in 4.2

4.5 *Average annual oil furnace or oil boiler energy consumption.* Calculate the average annual oil furnace energy or oil boiler consumption. E_{F-o}, expressed in Btu's per year, to vaporize water to maintain a room relative humidity of 30 percent at a room temperature of 70° F, and defined as:

$$E_{F-o}=\frac{Q_o-3412\,E_S}{SPF_o},$$

where

SPF_o=. 75, seasonal performance factor of oil furnaces and oil boilers, dimensionless
3412 as defined in 4.1
Q_o as defined in 4.1
E_S as defined in 4.2

4.6 Humidification power. Calculate the humidification power, Q_H, expressed in kilowatts and defined as:

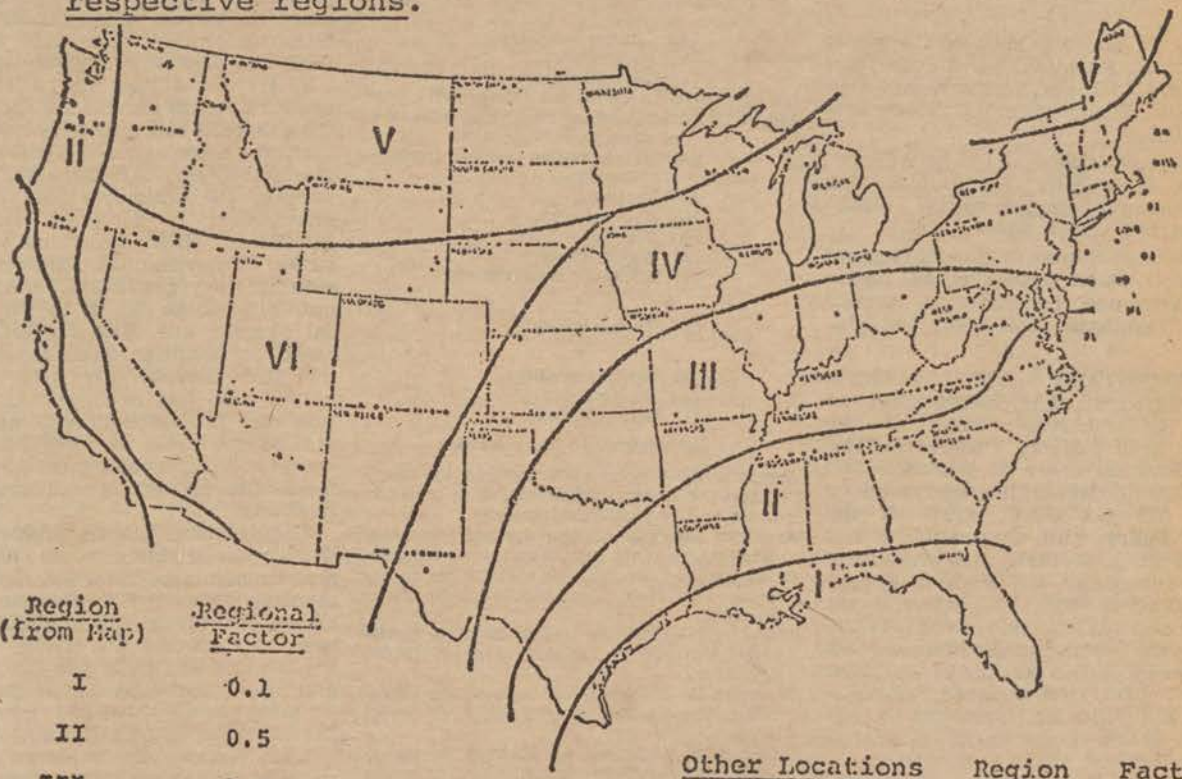
$$Q_H=\frac{8.34\times1060\times Q}{24\times3412}=0.107\,Q$$

where

Q as defined in 3.1
8.34 as defined in 4.1
24 as defined in 4.1
1060 as defined in 4.1
3412 as defined in 4.1

4.7 Humidistat factor. For a room humidifier with a humidistat, the humidistat factor is equal to the humidification power, as defined in 4.6, in kilowatts. For a room humidifier without a humidistat, the humidistat factor is equal to 2.29 times the humidification power, as defined in 4.6, in kilowatts.

5. Regional factors for adjusting the humidity loads of the respective regions.



	Region (from Map)	Regional Factor
5.1	I	0.1
5.2	II	0.5
5.3	III	1.0
5.4	IV	1.5
5.5	V	2.0
5.6	VI	2.5

Other Locations	Region	Factor
Alaska	VI	2.5
Hawaii	0	0.0
Territories	0	0.0

[FR Doc.77-30246 Filed 10-17-77;8:45 am]

[6170-01]

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Dehumidifiers

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This rule prescribes final test procedures for dehumidifiers. Appliance test procedures are one element of the appliance energy efficiency program required by the Energy Policy and Conservation Act.

EFFECTIVE DATE: November 25, 1977.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Office of Consumer products), Room 307—Old Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-4635.

Jim Merna (Office of Public Affairs), Room 3104—Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9833.

Laurence J. Hyman (Office of General Counsel), Room 7146—Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9750.

SUPPLEMENTARY INFORMATION:

A. *Background.* The Department of Energy (DOE) hereby amends Part 430, Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for dehumidifiers pursuant to section 323 (42 U.S.C. 6293) of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163). Test procedures were proposed by the Federal Energy Administration (FEA) by notice issued May 25, 1977 (42 FR 27951, June 1, 1977), and a public hearing on the proposed test procedures was held on July 27, 1977. On October 1, 1977, DOE assumed FEA's authority under the Act, pursuant to section 301 of the Department of Energy Organization Act (Pub. L. 95-91).

By notice issued May 24, 1977 (42 FR 27896, June 1, 1977), FEA established Subparts A and B of Part 430, Chapter II of Title 10, Code of Federal Regulations. Certain definitions and general provisions applicable to the energy conservation program for appliances have been promulgated in Subpart A. Final test procedures for room air conditioners dishwashers, electric refrigerators, electric refrigerator-freezers, freezers, television sets, clothes dryers, clothes washers, and water heaters have been prescribed in Subpart B. In addition to the test procedures for dehumidifiers prescribed today, the final test procedures for humidifiers are also being prescribed by separate notice. Several other test procedures have been proposed for inclusion in Subpart B. FEA has also proposed a Subpart C for appliance energy efficiency improvement targets. An outline of the provisions of Subparts A and B of Part 430 which have so far been established, including the provisions in today's notices, is as follows:

Subpart A—General Provisions

Sec.
430.1 Purpose and scope.
430.2 Definitions.

Subpart B—Test Procedures

430.21 Purpose and scope.
430.22 Test procedures for measures of energy consumption.
(a) Refrigerators and Refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.
* * * * *
(h) Television sets.
* * * * *
(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
430.23 Units to be tested [Reserved].
430.24 Representations regarding measures of energy consumption.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.
* * * * *
(h) Television sets.
* * * * *
(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.

Appendices to Subpart B

Appendix A—Uniform test method for measuring the energy consumption of refrigerators and refrigerator-freezers.
Appendix B—Uniform test method for measuring the energy consumption of freezers.
Appendix C—Uniform test method for measuring the energy consumption of dishwashers.
Appendix D—Uniform test method for measuring the energy consumption of clothes dryers.
Appendix E—Uniform test method for measuring the energy consumption of water heaters.
Appendix F—Uniform test method for measuring the energy consumption of room air conditioners.
* * * * *
Appendix H—Uniform test method for measuring the energy consumption of television sets.
* * * * *
Appendix J—Uniform test method for measuring the energy consumption of clothes washers.
Appendix K1—Uniform test method for measuring the energy consumption of central system humidifiers.
Appendix K2—Uniform test method of measuring the energy consumption of room humidifiers.
Appendix L—Uniform test method for measuring the energy consumption of dehumidifiers.

B. *Discussion of Comments.* Comments were received from industry and a trade association. The major issues raised by the comments are discussed below.

1. Definition of "dehumidifier". According to the definition in the proposed rule, dehumidifiers are devices designed to reduce the moisture content of ambient air to a "specified level." Those commenting on the proposal noted that a dehumidifier's ability to reduce the moisture content of ambient air to a particular level is dependent on both its capacity and the moisture 'load' of the ambient air. Once a particular level has been achieved, maintainnig it would require the dehumidifier to have a humidistat.

DOE agrees with those comments noting that capacity, moisture load, fan speed and evaporator temperature affect the ability of a dehumidifier to reduce humidity to any particular level. The phrase "to a specified level," was not intended to restrict applicability of the test procedures to devices with humidistats. Since the phrase would render the definition more restrictive than necessary, DOE has deleted it from the definition.

2. *Average annual use cycle.* The figure for average annual use cycle used in the proposed rule was 1,400 hours. However, the Association of Home Appliance Manufacturers (AHAM) submitted as part of its testimony data previously unavailable to National Bureau of Standards (NBS) regarding the distribution of dehumidifier shipments by region for the years 1973-1976. AHAM also multiplied these figures by the theoretical average use cycle for each region, based on weather data, to obtain the weighted average use cycle of 1,300 hours. NBS has reviewed this calculation and now recommends an average annual use cycle of 1,300 hours. DOE accepts this recommendation and has made the appropriate changes in the final rule.

3. *Significant figures of recorded data.* The proposed rule directed that certain measurements be recorded. Those commenting requested that these data be measured only to three significant figures by rounding the energy factor to the nearest 0.01 pints per kilowatt-hour and the rated capacity to the nearest 0.1 pints per day. NBS has recommended the adoption of this change. Since this change clarifies the procedure and results in data as accurate as the calculations require, DOE has incorporated it in the test procedures.

4. *Dual voltage rating tests.* The proposed rule contained a provision requiring those models designed to operate with either of two voltages to be tested at each of the rated voltages. Comments pointed out, however, that no models rated at dual voltages are currently marketed for sale in the United States. Since the provision has no present applicability, NBS has recommended that it be deleted. The proposed subparagraph 430.23(1)(3) has therefore been deleted from the final rule.

5. *Number of units to be tested.* The proposed rule contained a provision governing the sampling of production units to be tested by the proposed test procedure. As written, the proposal called for a sample to be drawn for an initial rating such that there was a 95% probability that the mean of the sample was within 5% of the true mean. Those commenting, however, suggested that this statement be changed to a range of ±15% about

the mean of the sample. Statistical information introduced at the hearing indicated that testing to a ±10% range would require approximately 58% fewer units to be tested than would testing to a ±5% range. Testimony was also adduced that the testing required to achieve a ±5% range could be burdensome in some cases. However, in most cases, the sampling required per basic model to achieve a ±10% range would entail only one unit more than the sampling necessary to produce a ±15% range.

DOE has weighed this data against the need for accuracy in the determination of any energy measures. Analysis of the statistical and economic information presented has led DOE to conclude that a probability of 95%±10% couples reasonable accuracy with a greatly diminished testing burden. DOE has, therefore, changed the test procedure to permit a range of ±10%.

Those commenting also expressed objections to the sampling provision for dehumidifiers similar in substance to the objections raised to the sampling plan proposed for room air conditioners by notices issued July 22, 1976 (41 FR 31237, July 27, 1976) and March 24, 1977 (42 FR 16811, March 30, 1977).

Proposed § 430.23(1) provided for sampling of each basic model to be tested when testing of dehumidifiers is required by the Act or by program regulations of agencies responsible for administering the Act. This provision was intended both to provide an acceptable level of assurance that test results are applicable to any entire basic model for which testing is required and to minimize the testing burden on manufacturers.

Test procedures prescribed under section 323 of the Act are intended ultimately to be used, for example, for labeling under section 324, in monitoring the progress of manufacturers toward accomplishing the energy efficiency improvement targets under section 325, and in enforcement testing under section 326. However, these aspects of the appliance program have not yet been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions on how a test procedure should be applied (e.g., sampling of production units), may differ. DOE, NBS, and Federal Trade Commission (FTC) are continuing to evaluate the appropriate method or methods for sampling the units to be tested in order to comply with the statute and to satisfy all of the different elements of the appliance program.

While the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

> Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer or private labeler may make any representation—
>
> (1) In writing (including a representation on a label), or
>
> (2) In any broadcast advertisement,
>
> respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to eliminate the problems discussed above associated with a general sampling provision, § 430.23(1) has been reserved in the final test procedures, and sampling requirements which apply only for purposes of advertising described in 323(c) have been reorganized into § 430.24(1) of the final test procedures. Section 430.24(1) is similar to proposed § 430.23(1) but contains several revisions. Most notably, the units tested are required to be representative of production units or actual production units. This change is intended to reduce the burden which might be caused by requiring post-production rating of basic models in every instance of testing pursuant to section 323(c) of the Act.

Until a labeling rule has been implemented pursuant to section 324, manufacturers are not required to test unless they choose to make representations regarding a measure of energy consumption identified in or based upon § 430.22 (1). It should also be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model.

In addition, certain technical changes have been made in the sampling language. Specifically, there is to be at least 95 percent confidence that the true mean of any measure of the basic model lies within ±10 percent of the mean of such measure of the sample.

Comments pertaining to several proposed test procedures criticized the language of the proposed sampling provisions. These comments suggested that a sampling provision should refer to the estimate of the mean rather than to the true mean. DOE has considered this suggestion and has determined that the language prescribed today is more technically correct because the statistical measures "estimate of the mean" and "mean of the sample" are generally considered to be identical.

6. *Hourly energy consumption.* Those commenting noted that the formula for the hourly energy consumption, E_H, omitted a factor, "24", from the denominator. DOE agrees that an error was made in omitting the factor and the final test procedure corrects this omission.

7. *Instrumentation.* The proposed test procedures required installation of a watt-hour meter. One commenter suggested that use of a watt meter be allowed as an option. Under this suggestion, the tester would take a minimum of 24 readings of the watt meter at 15 minute intervals and calculate the average watt-hour consumption over the test period.

Although both procdures would give similar results for steady-state operation, no evidence introduced into the record demonstrated that dehumidifiers always operate as steady-state devices. Variations in power consumption could arise, for example, from such sources as the initiation of a defrost cycle, interrupting the compressor operation. For this reason, DOE has rejected this recommendation and has left unchanged this aspect of the test procedures.

8. *Miscellaneous.* After careful consideration of all the comments and further consultation with NBS and FTC, DOE has incorporated some minor changes in the proposed test procedures in the final rule that were not discussed above.

C. *Regulations prescribed.*—1. *Test procedures.* The test procedures for dehumidifiers prescribed today are included in Subpart B and are substantially the same as the proposed procedures, with the exception of the changes discussed above. As with the proposed procedures, test methods and conditions incorporate the approach contained in "American National Standard B149.1, Dehumidifiers" (specified as ANS B149.1–1972) for measuring capacity, with further methodology to measure energy consumption. For purposes of DOE's program, the incorporated approach will remain applicable as presently written, regardless of any subsequent amendment of the American National Standard, until and unless DOE amends the test procedures.

Under the requirements of section 32 (c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.) as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70), the Administrator directed to consult with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact on competition of any rules prescribed by FEA which utilize or incorporate any commercial standards. The Administrator transmitted copies of the test procedures for dehumidifiers, which incorporates the above mentioned commercial standard, to the Attorney General and the Chairman of the Federal Trade Commission for their comments concerning the impact of such standard on competition in accordance with section 32(c). Neither official had any unfavorable comments nor has recommended against the incorporation or use of this commercial standard in the final test procedures for dehumidifiers.

2. *General provisions.* Today's rulemaking contains a definition of "dehumidifier." The definition of the term "basic model" for dehumidifiers has also been added. Comments discussing these definitions, and associated issues, have been discussed earlier in this notice.

3. *Application of test procedures.* As previously noted, the final test procedures prescribed today must be performed before representations regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program vary (e.g., labeling, targets), application of the standard test methodology prescribed today may differ in some respects for each program element. It is expected that instructions for applying the standard test methodology to these other elements of the appliance program will be proposed in the near future.

The requirements of § 430.24(1) of the final regulations apply until such time as the final labeling requirements for a particular measure of energy consumption and the provision for applying the associated test procedures are prescribed. After that time, all representations regarding a measure of energy consumption covered by a labeling rule must be the same as represented on the label.

D. *Unit costs of energy.* Under section 323(b)(2) of the Act, FEA had to provide manufacturers with information on representative average unit costs of energy. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

E. *Preemption.* Today's rulemaking prescribing final test procedures for dehumidifiers supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of dehumidifiers, or which provide for an energy efficiency standard, or similar requirement regarding the energy efficiency or energy use of dehumidifiers must now employ test procedures identical to those specified in today's final rule.

(Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 94–384; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended by Pub. L. 94–385; Department of Energy Organization Act, Pub. L. 95–91; EO 11790, 39 FR 23185.)

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulation, is amended as set forth below, effective November 25, 1977.

Issued in Washington, D.C., October 11, 1977.

WILLIAM S. HEFFELFINGER,
Director of Administration.

1. Section 430.2 is amended by adding a subparagraph (12) as part of the definition of "basic model" and by adding in appropriate alphabetical order the definition of "dehumidifier" to read as follows:

§ 430.2 Definitions.

* * * * *

"Basic model" means all units of a given type of covered product (or class thereof) manufactured by one manufacturer and

* * * * *

(12) With respect to dehumidifiers, which have electrical characteristics which are essentially identical and which do not have any differing physical or functional characteristics which affect energy consumption.

* * * * *

"Dehumidifier" means a self-contained, electrically-powered, mechanically-refrigerated device designed primarily to decrease the moisture content of the air in an enclosed space; it has a refrigerated surface (evaporator) onto which moisture from the air condenses, a refrigerating system that includes an electric motor, a fan for circulating air, and a drainage arrangement for collecting and/or disposing of the condensate.

* * * * *

2. Section 430.22 is amended by adding paragraph (l), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

* * * * *

(l) *Dehumidifiers.* (1) The estimated annual operating cost for dehumidifiers shall be the product of the following three factors: (i) The representative average-use cycle of 1,300 hours per year, (ii) the hourly energy consumption in kilowatt-hours per hour, determined according to section 4.2 of Appendix L of this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323 (b)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year.

(2) The estimated annual operating cost for dehumidifiers by region shall be the product of the following three factors: (i) The regional representative average-use cycle, determined according to section 5 of Appendix L of this subpart, (ii) the hourly energy consumption in kilowatt-hours per hour, determined according to section 4.2 of Appendix L of this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323 (b)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year.

(3) The energy factor, E_f, for dehumidifiers, expressed in pints of condensate collected per kWh, shall be the quotient of the weight of condensate collected, in pounds, as determined in American National Standard (ANS) B149.1–1972, divided by the product of the energy consumption, in kilowatt-hours, as determined in section 3.2 of Appendix L, and a conversion factor of 1.04 pounds per pint, the resulting quotient then being rounded off to the nearest 0.01 pints/kWh.

(4) Other useful measures of energy consumption for dehumidifiers shall be those measures of energy consumption for dehumidifiers which the Secretary of Energy determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix L or this subpart.

* * * * *

3. Section 430.24 is amended by adding a paragraph (l), to read as follows:

§ 430.24 Representations regarding measures of energy consumption.

* * * * *

(l) *Dehumidifiers.* (1) Except as provided in paragraph (l)(3) of this section, no manufacturer, distributor, retailer, or private labeler of dehumidifiers may make any representation with respect to or based upon a measure or measures of energy consumption described in § 430.22(l) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that, for each measure of energy consumption, there is at least 95 percent confidence that the true mean of such measures of the basic model is within ±10 percent of the mean of such measures of the sample.

(2) The sample selected for paragraph (l)(1) of this section shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) When a rule applicable to dehumidifiers is prescribed under section 324 of the Act, this paragraph shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption on the label.

* * * * *

4. Subpart B of Part 430 is amended to add an Appendix L, to read as follows:

* * * * *

APPENDIX L—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF DEHUMIDIFIERS

1. Definitions.

1.1 "ANSI" means the American National Standard Institute.

1.2 "ANS B149.1–1972" means the test standard published by the ANSI, titled "American National Standard B149.1, Dehumidifiers", and designated as ANS B149.1–1972.

1.3 "Capacity" means a measure of the ability of a dehumidifier to remove moisture from its surrounding atmosphere.

1.4 "Rated capacity" means the amount of water, stated in pints, collected per 24 hours of continuous operation when tested in accordance with this Appendix.

2. Testing conditions.

2.1 Installation and Operational Conditions. Install the dehumidifier, and maintain the operating conditions, according to ANS B149.1–1972 as amended by section 3.1 of this Appendix. Install a watt-hour meter with an error not greater than 0.5 percent of the indicated value. The smallest scale graduation of the watt-hour meter shall not exceed one watt-hour.

3. Testing and measurements.

3.1 Test. Perform a test by establishing the testing conditions set forth in section 2.1 of this Appendix, testing the dehumidifier in accordance with ANS B149.1–1972 sections 3, 4, 5, 6, and 7, except that paragraphs 5.1 and 6.3 of ANS B149.1–1972 shall be deleted.

3.2 Test Measurements. Measure the energy consumption (E), in kilowatt-hours (kWh) during the test performed according to section 3.1 and perform the measurements specified in section 7 of ANS B149.1–1972.

3.3 Recorded Values. Record both the energy consumption as measured according to section 3.2 of this Appendix and the data specified in section 7 of ANS B149.1–1972.

4. Calculation of derived results from test measurements.

4.1 Rated Capacity. Calculate the rated capacity, C_r, expressed in pints of condensate collected per 24 hours, in accordance with section 7.5 of ANS B149.1–1972, the resulting quotient then being rounded off to the nearest 0.1 pints/day.

4.2 Hourly Energy Consumption. Calculate the hourly energy consumption (E_H), expressed in kWh per hour and defined as:

$$E_H = \frac{C_r}{24 \times E_f}$$

C_r = the rated capacity as calculated in section 4.1 of this Appendix

E_f = the energy factor as calculated in section 430.22 (l)(3).

5. *Regional representative average-use cycle.*

	Region	State	Average-use cycle (hours per year)
5.1	New England	Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island.	704
5.2	Middle Atlantic	New York, New Jersey, and Pennsylvania	1,491
5.3	South Atlantic	Delaware, Maryland, District of Columbia, Virginia, West Virginia, North Carolina, South Carolina, Georgia, and Florida.	2,103
.4	East-north-central	Ohio, Indiana, Illinois, Michigan, and Wisconsin	1,166
5.5	East-south central	Kentucky, Tennessee, Alabama, and Mississippi	2,343
5.6	West-south central	Arkansas, Louisiana, Oklahoma, and Texas	2,840
5.7	West-north central	Minnesota, Iowa, Missouri, North Dakota, South Dakota, and Nebraska	989
5.8	Mountain	Arizona, Wyoming, Montana, Idaho, Utah, Colorado, New Mexico, and Nevada.	82
5.9	Pacific	California, Oregon, Washington, Alaska, and Hawaii	941

[FR Doc.77-30247 Filed 10-17-77;8:45 am]

[3510-19]

Title 13—Business Credit and Assistance

CHAPTER V—REGIONAL ACTION PLANNING COMMISSIONS

PART 570—REGIONAL EXCESS PROPERTY PROGRAM

Revocation of Part

AGENCY: Regional Action Planning Commission, Department of Commerce.

ACTION: Revocation of Part.

SUMMARY: 13 CFR, Part 570, Chapter V, is revoked. On October 17, 1977, the regional excess property program (Pub. L. 93-423) under section 514 of the Public Works and Economic Development Act of 1965, as amended (Act) terminated. Pub. L. 94-519 approved October 17, 1976, repealed section 514 of the Act effective one year after the date of enactment of Pub. L. 94-519.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Frances Pappas, 202-377-5177.

Accordingly, Part 570 of Chapter V, Title 13, is vacated.

Dated: October 18, 1977.

ROBERT T. HALL,
Acting Special Assistant to the Secretary for Regional Economic Coordination.

[FR Doc.77-30220 Filed 10-17-77;8:45 am]

[3190-01]

Title 15—Commerce and Foreign Trade

CHAPTER XX—OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

PART 2002—OPERATION OF COMMITTEES

PART 2006—PROCEDURES FOR COMPLAINTS RECEIVED PURSUANT TO SECTION 301 OF THE TRADE ACT OF 1974

Miscellaneous Amendments

AGENCY: Office of the Special Representative for Trade Negotiations.

ACTION: Final regulation.

SUMMARY: These amendments to the regulations of the Office of the Special Representative for Trade Negotiations establishes the Section 301 Committee as a subordinate body of the Trade Policy Staff Committee (TPSC). Prior to these amendments the Section 301 Committee was established as a subordinate body of the Trade Policy Review Group. The amendments also make other miscellaneous changes in the regulations to reflect the transfer of functions, and also changes the address of the Section 301 Committee.

EFFECTIVE DATE: The amendments shall be effective October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Ms. Shirley Coffield, Chairman, Section 301 Committee, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Room 715, Washington, D.C. 20506, 202-395-3432.

SUPPLEMENTARY INFORMATION: Notice is hereby given that under the authority of the Trade Act of 1974 (Pub. L. 93-618, 88 Stat. 1978) and EO 11846 (March 27, 1975), regulations pertaining to the Office of the Special Representative for Trade Negotiations are hereby amended.

These amendments transfer from the Trade Policy Review Group (TPRG) to the Trade Policy Staff Committee (TPSC) the responsibility for reviewing reports and hearings conducted by the Section 301 Committee and the responsibility for terminating Section 301 reviews. Under the new amendments the Section 301 Committee becomes a subordinate body of the TPSC. The regulations also make changes in the address of the Section 301 Committee.

The Office of the Special Representative for Trade Negotiations considers these regulations to be procedural in nature and hence exempt from the requirements of 5 U.S.C. 553. Accordingly, the amended regulations are final as published herein.

I. Part 2002, *Operation of Committees*, is amended as follows:

§ 2002.1 [Amended]

A. Section 2002.1(b)(4) is hereby redesignated as § 2002.2(b)(8).

B. Section 2002.1(b)(6) is redesignated as § 2002.2(b)(9).

§ 2002.2 [Amended]

C. Section 2002.2 is amended by redesignating paragraph (b)(9) as paragraph (b)(11) and redesignating paragraph (b)(8) as paragraph (b)(10).

§ 2002.3 [Amended]

D. Section 2002.3 is amended as follows:

1. Section 2002.3(a) is amended by deleting from the first sentence the words "Trade Policy Committee Review Group (TPRG)" and adding in their place the words "Trade Policy Staff Committee."

2. Section 2002.3(b)(3) is amended by deleting from the first sentence the words "Trade Policy Committee Review Group (TPRG)" and adding in their place the words "Trade Policy Staff Committee."

3. Section 2002.3(b)(4) is amended by deleting the letters "TPRG" and adding in their place the letters "TPSC".

II. Part 2006, *Procedures for Complaints Received Pursuant to Section 301 of the Trade Act of 1974*, is amended as follows:

§ 2006.0 [Amended]

A. Section 2006.0 is amended as follows:

1. Section 2006.0(b) is amended by deleting the words "Room 725".

2. Section 2006.0(c) is amended by deleting the numbers "(202) 395-6166" and adding in their place the numbers "(202) 395-3432".

§ 2006.4 [Amended]

B. Section 2006.4(a) is amended by deleting the words "Trade Policy Committee Review Group" and adding in their place the words "Trade Policy Staff Committee".

§ 2006.5 [Amended]

C. Section 2006.5(a) is amended by deleting from the last sentence the words "Room 725".

ALAN WM. WOLFF,
Deputy Special Representative for Trade Negotiations.

[FR Doc.77-30403 Filed 10-17-77;8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7515]

PART 301—PROCEDURE AND ADMINISTRATION

Revocation of Certain Provisions for Determining the Tax Classification of Professional Service Organizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document revokes certain regulations relating to the tax classification of professional service organizations. Many court decisions have declared these provisions of the regulations invalid, and the Internal Revenue Service has announced that it will no longer apply these provisions. Accordingly, these provisions are revoked.

DATE: The revocation of the regulations is effective immediately (October 18, 1977). See the revenue rulings cited in this document for the position of the Internal Revenue Service prior to this action.

FOR FURTHER INFORMATION CONTACT:

Paul A. Francis 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) 202-566-6640.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document revokes certain amendments made in 1965 to the Regulations on Procedure and Administration (26 CFR Part 301) under section 7701 of the Internal Revenue Code of 1954. The provisions being revoked related to the tax classification of professional service organizations.

The classification of an organization as a corporation for purposes of the Internal Revenue Code depends upon the application of the tests or standards contained in §§ 301.7701-1 and 301.7701-2 of the Regulations on Procedure and Administration. On February 3, 1965, amendments to these regulations dealing with the tax classification of professional service organizations were published in the FEDERAL REGISTER (30 FR 1116). Generally, these amendments provided that professional service organizations formed under State professional association or corporation statutes do not possess the major characteristics ordinarily found in a business corporation, and, therefore, would not be treated as corporations for Federal tax purposes.

The 1965 amendments to the regulations were repeatedly challenged in the Federal courts and, in a number of decisions, all or a part of the regulations were declared invalid. See *United States* v. *O'Neill*, 410 F. 2d 888 (6th Cir. 1969); *Kurzner* v. *United States*, 413 F. 2d 97 (5th Cir. 1969); *Empey* v. *United States*, 406 F. 2d 157 (10th Cir. 1969); and *Holder* v. *United States*, 289 F. Supp. 160 (1968) affirmed, per curiam, 412 F. 2d 1189 (5th Cir. 1969).

Because of these decisions, the Internal Revenue Service announced in 1970 that a professional service organization that meets the requirements for corporate classification under § 301.7701-2 of the Regulations on Procedure and Administration, exclusive of the 1965 amendments made thereto, in its organization and operation will be classified as a corporation for purposes of the Internal Revenue Code. See Rev. Rul. 70-101, 1970-1 C.B. 278. In addition, the Internal Revenue Service has announced its position with respect to the tax classification of professional service organizations formed under the professional association or corporation statutes of each of the 50 States (plus the District of Columbia) in Rev. Rul. 70-101, 1970-1 C.B. 278, amplified by Rev. Rul. 70-455, 1970-2 C.B. 297, and by Rev. Rul. 72-468, 1972-2 C.B. 647, modified by Rev. Rul. 73-596, 1973-2 C.B. 424, and further amplified by Rev. Rul. 74-439, 1974-2 C.B. 405. See also Rev. Rul. 77-31, 1977-5 I.R.B. 18.

Thus, it is the position of the Internal Revenue Service that the 1965 amendments to the regulations do not control the tax classification of professional service organizations. Accordingly, they are being revoked.

NOTICE OF PROPOSED RULEMAKING FOUND UNNECESSARY

Because this Treasury decision merely revokes existing provisions of the Regulations on Procedure and Administration for the purpose of conforming the regulations to the decisions of the Federal courts, it is found to be unnecessary to issue this Treasury decision with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

DRAFTING INFORMATION

The principal author of this regulation was Paul A. Francis of the Legislation and Regulations Division of the Office of the 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, 26 CFR Part 301 is amended as follows:

§ 301.7701-1 [Amended]

Paragraph 1. Section 301.7701-1 (c) is amended by revoking the last four sentences thereof.

§ 301.7701-2 [Amended]

PAR. 2. Section 301.7701-2 is amended by deleting the words ", including organizations labeled 'corporations' " from its heading and by revoking paragraphs (a)(5) and (h).

(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: October 5, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-30436 Filed 10-17-77;8:45 am]

[3710-08]

Title 32—Department of Defense

CHAPTER V—DEPARTMENT OF THE ARMY

SUBCHAPTER K—ENVIRONMENTAL QUALITY

[AR 420-76]

PART 657—FACILITIES ENGINEERING, PEST CONTROL SERVICES

Policies,, Responsibilities and Procedures

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: These regulations establish policies, responsibilities and procedures for conducting pest control services on all Army installations and activities. The regulations implement Department of Defense Directive 4150.7 on pest control operations and are designed to provide adequate pest control services to protect health of personnel and Army property without insult to the environment.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert B. McGough, Chief, Buildings and Grounds Division, Facilities Engineering Directorate, Office, Chief of Engineers, Washington, D.C. 20314, 202-693-6687.

SUPPLEMENTARY INFORMATION: The Secretary of the Army, acting through the Chief of Engineers has developed a regulation prescribing policies, responsibilities and procedures for conducting pest control services on all Army installations and activities. The regulation implements Department of Defense Directive 4150.7 and the policies and procedures of 32 CFR 650, "Environmental Protection and Enhancement," and 40 CFR 165, "Regulations for the Acceptance of Certain Pesticides and Recommended Procedures for the Disposal and Storage of Pesticides and Pesticides Containers." The regulation is being published pursuant to the following authorities: Executive Order 11870, Environmental Safeguards on Activities for Animal Damage Control on Federal Lands; Executive Order 11753, Prevention, Control and Abatement of Environmental Pollution at Federal Facilities; Public Law 92-516, Federal Environmental Pesticide Control Act of October 21, 1972; Pub. L. 93-205, Endangered Species Act of 1973. This regulation applies to: Installations and activities in active use by the Army, those held in inactive or standby condition for future use by the Army, and those in excess category; Federally operated installations and activities, or portions thereof, which are in full-time or intermittent use by the National Guard, or which are being held by the Department of the Army for use by the National Guard; Installations and activities, or portions thereof, which are in full-time or inter-

mittent use by the Army Reserve or ROTC. This regulation does not apply to: Civil Works functions of the Corps of Engineers; facilities occupied by Army activities as tenants when real property accountability and control are vested in another military department or Government agency, such as the General Services Administration.

The proposed rules for conducting pest control services were published in the FEDERAL REGISTER on August 17, 1976 (41 FR 34924) and interested persons were invited to submit comments on the proposal by September 16, 1976.

Several organizations representing major interests in pest control services expressed opinions that portions of the proposed regulation required needed changes. Accordingly, this regulation includes applicable comments provided by Department of the Interior, Department of Agriculture, Environmental Protection Agency, other Federal agencies and individuals. The following changes were made in accordance with comments furnished by the above offices and individual:

§ 657.3(a) and (e) through (k) concerning explanation of terms.

§ 657.15 concerning training and certification was amended to comply with the DOD training and certification plan.

§ 657.21 includes an additional requirement for an environmental assessment prior to aerial application of pesticides.

§ 657.23(d) is an added paragraph covering review and revision of contract technical provisions.

§ 657.41(a)–(d) is added to give details regarding the handling of pesticides.

§ 657.42(a)–(c) is added to give details covering pesticide disposal.

§ 657.43 gives additional details covering contract operations.

§ 657.44 clarifies the record and reporting requirements.

The proponent agency of this regulation is the Office of the Chief of Engineers.

In consideration of the foregoing, a new part 657 of Title 32 of the Code of Federal Regulations is hereby amended.

The Office of the Chief of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

32 CFR Part 657 is adopted to read as follows:

Subpart A—General

Sec.

657.1 Purpose.
657.2 Applicability.
657.3 Explanation of terms.
657.4 Objective.

Subpart B—Policies

657.11 General.
657.12 Supervision.
657.13 Operations.
657.14 Materials and equipment.
657.15 Training and certification.
657.16 Environmental quality.
657.17 Nonappropriated fund activities.
657.18 Property leased to the Government.
657.19 Cooperation with other agencies.
657.20 Quarantine.
657.21 Aerial application of pesticides.
657.22 Outleased property.
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Subpart C—Responsibilities

657.31 MACOM professional pest management personnel (MPPMP).
657.32 Installation commanders.
657.33 Facilities engineer.
657.34 Surgeon General.
657.35 Building occupants.

Subpart D—Procedures

657.41 Handling.
657.42 Pesticide disposal.
657.43 Contract operations.
657.44 Record and reporting requirements.

AUTHORITY: 10 U.S.C. 3012.

Subpart A—General

§ 657.1 Purpose.

This regulation provides policies, standards, and certain procedures for pest control activities at US Army installations in accordance with DOD Directive 4150.7, August 30, 1974. It establishes minimum levels of pest control operations in Real Property Maintenance Activities (RPMA) that are compatible with national mandates and for the protection of the environment.

§ 657.2 Applicability.

(a) This regulation applies to all installations and activities in the United States under control of the Department of the Army by ownership, lease, or similar instrument, under the following conditions of use:

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

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

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

(b) This regulation does not apply to:

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

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

§ 657.3 Explanation of terms.

The terms used herein are explained as follows:

(a) Pests are defined as those terrestrial or aquatic organisms which adversely affect the health and welfare of man and animals; which attack military real property, stored supplies, or equipment; or which are otherwise undesirable by their presence. They include, but are not limited to: arthropods, birds, rodents, nematodes, fungi, bacteria, viruses, algae, snails, marine borers, snakes and weeds. Viruses, bacteria and fungi living on or in man or other living animals are excluded.

(b) *Pesticides.* Substances or combinations of substances intended for preventing, destroying, repelling or mitigating pests and substances/mixtures intended for use as plant regulators, defoliants, or desiccants.

(c) *Pest control services.* All actions taken to prevent or mitigate pest problems including surveillance, determining proper application procedures, and operational implementation of chemical, physical and biological control techniques.

(d) *Pesticide classification.* A categorization of pesticides, based on toxicity and use patterns, for general or restricted use by the U.S. Environmental Protection Agency (EPA) in accordance with Pub. L. 92–516.

(e) *Certification.* Certification is the process of certifying a pest controller's competency by designated professionals and installation officials. It consists of a recommendation (pro or con) from the designated professional to an installation commander concerning the issuance of a Certificate of Competency (DD Form 1826) to a candidate for certification.

(f) *Certification categories.* Ten primary categories of certification training have been established by mandate (40 CFR 171.3) as specialized training requirements in addition to the basic core training. Seven of these categories are applicable to the variable conditions encountered in RPMA on Army installations. Included are industrial, institutional, structural and health related pest control; oranamental and turf pest control; aquatic pest control; right-of-way pest control; forest pest control and public health pest control.

(g) MACOM (Major Army Command) professional pest management personnel (MPPMP)—agronomists, entomologists and foresters engaged in (RPMA) and employed on the staff of the MACOM engineer. Specific areas of responsibility for pesticide certification, utilization and integrated management techniques are:

(1) *Entomologist*—Control of vertebrate and invertebrate animal pest species with insecticides, rodenticides, wood preservatives, and other principal types of control consistent with integrated pest management (TM 5–632). Included are those affecting the health and welfare of man (except those living on or within man); protection of facilities, stored products, supplies, equipment, and insects attacking turf and landscape plantings.

(2) *Agronomist*—Control of vegetation with herbicides, algaecides, plant regulators, defoliants and desiccants. Included are aquatic, herbaceous and woody plant life; soil sterilization and plant diseases (fungi, viruses).

(3) *Forester*—Control of forest pests with herbicides, insecticides and fungicides to preclude epidemic infestations and to control competitive vegetation that causes significant reduction in timber production.

(h) *Operating personnel.* Trained and trainee pest control services personnel. Trained personnel have qualified and have been issued a Certificate of Competency (DD Form 1826). Trainee personnel are in the process of qualifying for a Certificate of Competency and must operate under the direct supervision of a certified person.

(i) *Standard pesticides and equipment.* These are the pesticides and equipment, standardized, purchased and stocked as items proven most appropriate for use at defense installations. Only those pesticides and equipment listed in the Defense Logistics Agency Catalog will normally be used in pest control operations. Supplies will not be obtained from other sources unless approved by the MPPMP.

(j) *Nonstandard pesticides and equipment.* All pesticides and equipment that are not listed in the Defense Logistics Supply Catalog as standard items. These items can be obtained on a local purchase basis after written approval of the MPPMP has been obtained.

(k) *Integrated pest control.* The utilization of two or more basically different procedures to manage pest populations which reduce the quantity of toxic chemical used, i.e., sanitation, predator species, mechanical measures, habitat manipulation and the like.

§ 657.4 Objective.

Preventive measures will be applied with the objectives of:

(a) Maintaining an environmentally safe and effective pest control program at each Army facility.

(b) Initiating integrated pest control to the maximum extent practicable.

(c) Minimizing service calls on common household and nuisance pests and others which preventive control cannot be adequately established.

Subpart B—Policies

§ 657.11 General.

Pest control operations will be developed and applied consistent with the policies stated below.

§ 657.12 Supervision.

Except as specifically exempted (see Section 657.22 below—Outleased property), pest control operations will be performed by trained and certified personnel or under the direct supervision of these personnel.

§ 657.13 Operations.

Surveillance and control operations will be conducted on a scheduled basis to:

(a) Determine effectiveness of preventive and corrective measures.

(b) Prevent development of excessive pest populations.

(c) Monitor the program to evaluate the environmental impact of the pest management activities.

§ 657.14 Materials and equipment.

(a) Pesticides and equipment listed in the DOD section of the Federal Supply Catalogs will normally be used in pest control operations. Microfiches of catalogs C6800IL and 3740/50IL are available from the Adjutant General, USA Publications Directorate. Supply Operations Branch, ATTN: DAAG-PAS-T, WASH DC 20314. Use of a pesticide other than those registered by EPA or states and approved for specific application in accordance with labeling is not authorized. Pesticides that have been suspended or finally canceled by EPA will not be used effective the date indicated by EPA on cancellation or suspension notices.

(b) Appropriate MPPMP will review and approve proposed projects prior to acquisition or application of:

(1) Nonstandard pesticides and pest control equipment.

(2) Standard pesticides with restricted use patterns as classified by EPA.

(c) Justification for the use of standard pesticides with restricted use patterns and nonstandard pesticides or equipment will be approved only when one or more of the following criteria are met:

(1) An emergency exists which requires local purchase.

(2) Comparable standard pesticides with general use patterns are not available.

(3) Resistance to standard pesticides has been verified by competent authority.

(d) Contract items. Alternate pesticides (standard or nonstandard) which do not meet applicable contract specifications will not be authorized without approval of the MPPMP.

(e) Requisitions. (1) Requisitions for pesticides requiring professional assessment will be forwarded to the MACOM for review and written approval. Agencies or commands not having access to MPPMP support may obtain requisition review service from HQDA (DAEN-FEB) WASH DC 20314. Pesticide requisitions must be accompanied by data indicating the target pest, description of the area to be treated, extent of the area to be treated, the rate of application, name and certification number of the applicator and the justification as outlined in § 657.14(c) above.

(2) The Cdr DARCOM, CINCUSA REUR, Cdr USARJ, and Cdr USAEIGHT may delegate to subordinate commanders (excluding installation commanders) served by MPPMP as much of their approval authority as appropriate.

(3) CONUS (includes Alaska and Hawaii). Upon written approval of the requisition by the appropriate MPPMP nonstandard pesticides may be purchased locally.

(4) Overseas. When written approval of the requisition is received, it will be submitted through the appropriate supply agency for CONUS procurement. The professional pest management personnel at DAEN-FEB will be available to furnish technical guidance to CONUS supply agencies regarding procurement of nonstandard pesticides and equipment.

(f) Equipment listings are contained in TM 5-632. Procurement criteria are listed in AR 420-17. Information concerning new developments in equipment is available from the MPPMP.

§ 657.15 Training and certification.

(a) All personnel responsible for determining the effectiveness of, or selection and application of pest control measures on Army real property must receive periodic training and examination. Training for initial certification and re-certification will be obtained in accordance with the Department of Defense Plan for Certification of Pesticide applicators. This limits such training to specific courses given at U.S. Army Health Services Command, Fort Sam Houston, Texas; U.S. Air Force at Sheppard Air Force Base, Texas; U.S. Navy at Jacksonville Naval Air Station, Florida; and Naval Air Station, Alameda, California. Initially, all pesticide applicators that are candidates for certification must successfully complete the core phase and the special categories of training desired at the training facilities indicated above. Quotas for the U.S. Army Health Services Command training must be obtained from the U.S. Army Medical Department Personnel Support Agency, ATTN: SGPE-ED, Washington, D.C. 20314. This office may be contacted by telephone by calling autovon 223-5358 or 223-5559. Personnel involved in the use of pesticides are encouraged to keep abreast of developments by attending local and state training sessions, and trade and professional meetings.

(b) Training is to be available in the following categories:

I. Agricultural Pest Control (animal), II. Forest Pest Control, III. Ornamental and Turf, IV. Aquatic, V. Rights-of-way, VI. Industrial, Institutional, Structural and Health Related, and VII. Public Health.

(c) The MPPMP are responsible for surveillance and recommendations, as appropriate for the following:

(1) Engineer entomologist—Categories I, III, VI, VII.

(2) Management agronomist—Categories III, IV, V.

(3) Forester—Categories II.

(d) A Certificate of Competency (DD Form 1826) will be issued to personnel who successfully meet the required competency levels and as recommended by MPPMP for the appropriate category (ies). Refresher training and re-certification will be required at 3-year intervals.

(e) On-the-job training of new hires and interns will be accomplished by supervisors and certified applicators. MPPMP may assist in the training during technical visits and/or special MACOM sponsored training sessions.

§ 657.16 Environmental quality.

Pest control operations will be planned and conducted to minimize and/or eliminate adverse environmental effects. When environmental impact or assessments statements are required, draft documents and final environmental impact statements will be prepared and processed in a timely manner in accordance with AR 200-1.

§ 657.17 Nonappropriated fund activities.

The application of pesticides at nonappropriated fund activities shall be made only by or under the direct supervision of trained and certified personnel. Contracts for pest control at nonappropriated fund activities shall be governed by provisions of this regulation.

§ 657.18 Property leased to the Government.

(a) CONUS and overseas. (1) Lease instruments will be negotiated to delineate specifically the responsibilities of the Lessor and of the Lessee (Government) for accomplishing pest control operations. In foreign countries, these responsibilities will be predicated upon custom, condition, and practices of the country concerned as applicable.

(2) Occupants will maintain the leased premises in a clean and sanitary condition in conformance with normal standards of good housekeeping.

(b) CONUS (includes Alaska and Hawaii). Where feasible, the lessor will:

(1) Furnish the leased housing in pest-infestation-free condition to the lessee and maintain the premises free of pest infestation (AR 420–71).

(2) Employ control measures and pesticides which conform to Federal, state and local regulations as applicable to facilities under Department of the Army control.

§ 657.19 Cooperation with other agencies.

(a) *General.* Specialists of other Federal agencies provide consultation service and assistance on problems of medical, agricultural, and environmental importance (e.g., disease and pest control, quarantine control, customs inspection, fish and wildlife protection, water protection) as requested. Requests for services of these specialists will be made by the installation commander to the appropriate MACOM commander. The agencies include the United States Department of Health, Education, and Welfare (Public Health Service); Plant protection, quarantine and veterinary services of the animal and plant health inspection services, U.S. Department of Agriculture; the United States Department of the Interior (Fish and Wildlife Service); the United States Treasury Department (Bureau of Customs); and the Office of Pesticide Programs, Environmental Protection Agency.

(b) *Coordination.* Installations will coordinate environmental assessments of outdoor applications of pesticides with appropriate departments and agencies in § 657.19(a). This coordination will be requested through the MACOM to the appropriate agency. Requirements for Environmental Impact Assessments or Statements (EIA/EIS) for certain application of pesticides are provided in AR 200–1.

(c) *Notification.* Installations will notify MACOM commanders, or their designees, of proposed visits or surveys by representatives of the departments and agencies identified in § 657.19(a) when these visits or surveys relate to quarantine or to past or proposed pesticide applications.

§ 657.20 Quarantine.

(a) *General.* In accordance with AR–700–93 all echelons of command will give full cooperation to officials of governmental agencies responsible for quarantines of agricultural and pulblic health significance.

(b) MACOM commanders, or their designees, will insure that areas to receive pesticide treatment are limited to the minimum necessary to meet quarantine requirements.

(c) Installations will procure pesticides, equipment, an other materials necessary to comply with quarantine requirements.

§ 657.21 Aerial applications of pesticides.

Will be accomplished in accordance with AR 40–574. An Environmental Assessment must be prepared prior to aerial application of pesticides, followed by an Environmental Impact Statement when necessary.

§ 657.22 Outleased property.

Outgrant holders must comply with all applicable pesticide and animal damage control laws, ordinances, specifications and rules set forth in the land use regulations referred to and part of the outgrant document. Prior to commencing any program for compliance which deviates from the land use regulation specifications, review and approval of details of said program must be obtained from the MACOM. Where possible, supplemental agreement to existing outgrants so renewed or amended, for any reason, shall make provision for compliance hereof (see AR 420–74).

§ 657.23 Contractual services for pest control.

(a) Determinations made on methods of performance (in-house versus contract) must adhere to the requirements of AR 235–5.

(b) Installations located in states that conduct pesticide training, regulation and certification programs having final approval by EPA will determine contract/in-house-method of performance by a triennial review as outlined in para 3–3 AR 235–5.

(c) Installations located in states that do not have EPA approved programs may justify in-house performance under Exemption Code C (Table B–2, App. B, AR 235–5).

(d) MPPMP will review and approve or render technically acceptable technical provisions of all proposed contracts. CINCUSAREUR, USARJ and Eighth Army may delegate this approval.

Subpart C—Responsibilities

§ 657.31 MACOM professional pest management personnel (MPPMP).

The MPPMP serving on the engineer staff will provide direction, focus and technical supervision for pest control services on all real property within the MACOM jurisdiction. Included are:

(a) Advising on all aspects of pest control operations to include manpower requirements, operational needs, minimizing pesticidal environmental impact, training and certification of pest control personnel, and procedural requirements necessary to assure efficient pest control programs.

(b) Coordinating with other agencies to assure implementation of environmentally safe and efficient pest control programs.

(c) Coordinating with Army medical authorities in implementing their responsibilities as given in AR 40–5.

(d) Reviewing and providing written approval for the use of standard pesticides with restricted use patterns, nonstandard pesticides and all equipment prior to procurement, as indicated in § 657.14.

(e) Conducting reviews of installation pest control programs and recommending the facilities engineer those changes which would result in safer, more economical, and more efficient operations.

(f) Maintaining professional proficiency by attending professional meetings and keeping abreast of new developments reported in professional publications.

(g) Providing on-the-job training for installation pest control personnel in the selection, use, and maintenance of pest control equipment; in the selection, preparation, and application of pesticides; and in accurate reporting of usage of these materials.

(h) Maintaining surveillance and record of training and certification status of pesticide applicators.

(i) Recommending certification of those pest control personnel who have been found competent in accordance with FIFRA standards as contained in the Department of Defense training and certification plan.

§ 657.32 Installation commanders.

Will be responsible for:

(a) Determining an installation's position and responsibilities in community-wide pest control activities regarding quarantine and epidemics.

(b) Maintaining liaison with MACOM's concerning pest surveys, and investigations proposed by other agencies.

(c) Establishing lessee responsibility for using pesticides on outgrants of military real property.

(d) Initiating requests for aerial spraying of pesticides as prescribed in AR 40–574.

§ 657.33 Facilities engineers.

Installation facilities engineers will:

(a) Plan, supervise and manage pest control operations.

(b) Conduct preventive maintenance and surveillance inspections at timely intervals.

(c) Ensure that pest control services personnel receive adequate training to achieve required certification.

(d) Provide on-the-job training of pest control services personnel.

(e) Obtain and maintain adequate supplies of materials and equipment.

(f) Assure all pest control operations are accomplished safely.

(g) Determine the phases of pest control to be accomplished by contract based on existing policies. Included are:

(1) Preparation of necessary specifications and technical provisions of the contract document.

(2) Arranging for the purchasing and contracting (P&C) officer to obtain contractural services.

(3) Assuring that contract operations are conducted in accordance with the specifications through direct and continuous inspection by a certified pest controller.

(h) Perform all recordkeeping and reporting requirements of this regulation.

(i) Inform heads of nonappropriated fund activities: (1) That application of restricted use pesticides at these activities shall be made by, or under the direct supervision of, trained and certified personnel, (2) where certification training is given.

(j) Assure that pest control services are conducted so as to minimize any adverse effects on the environment.

(k) Cooperate with the installation medical authority by:

(1) Furnishing and maintaining mosquito light traps.

(2) Performing essential pest control operations indicated by results of surveillance of medical and quarantine pests.

(3) Providing all essential requirements to meet health safety requirements criteria, including shops, equipment, and protective gear.

(l) Maintain records of operations (e.g., investigations, inspections; utilization of manpower, funds, and pesticides) to be used for analyzing efficiency and economy, and evaluating accomplishment, of pest control.

§ 657.34 Surgeon General.

The medical authority (State Adjutant General for the National Guard Bureau) serving the installation is responsible for:

(a) Conducting surveillance of populations of pests involved in the health of the command and those involved in U.S. Department of Agriculture quarantine regulations, and furnishing the facilities engineer results of the surveillance activities.

(b) Conducting the installation pesticide monitoring program.

(c) Obtaining identification and susceptibility status of pests to pesticides as necessary and furnishing this information to facilities engineers to be incorporated into pest control operations.

(d) Establishing health and personnel safety criteria associated with pesticide operations.

§ 657.35 Building occupants.

Occupants of buildings, including occupants of Army family housing will:

(a) Apply good sanitation practices to prevent pest infestations.

(b) Apply only those pesticides approved for use by building occupants.

(c) Cooperate fully with installation pest control personnel in scheduling major pest control operations, to include preparation of areas to be treated.

Subpart D—Procedure

§ 657.41 Handling.

(a) *General.* Pesticides will be handled in accordance with AR 200–1 and appropriate Federal regulations (29 CFR 1910 and 40 CFR 165.10). Vehicles with lockable storage suitable for safe transportation of pesticides, personnel and supplies will be assigned for control operations, and will not be used for other purposes. Pesticides will not be transported in cabs of vehicles.

(b) *Safety.* Current recommendations for the design and/or construction criteria for pesticide mixing or storage facilities and the use of protective devices and clothing will be furnished by the MPPMP or appropriate medical authority. The facilities engineer will provide masks, respirators, gloves and protective clothing as required (AR 385–32). Pesticide contaminated clothing will not be home laundered, but will be laundered at government expense. In case of pesticide poisoning, contact the installation's surgeon or nearest available doctor, then call the Chemical Transportation Emergency Center (CHEMTREC) toll-free at 800–424–9300 for immediate assistance. Outside CONUS or within Military District of Washington (MDW), use CHEMTREC telephone 202–483–7616.

(c) *Pesticide spills.* All pesticide spills will be reported in accordance with the installation's National Oil and Hazardous Pollution Contingency Plan. In addition, if not covered in the plan, the installation surgeon, safety officer, fire marshall, and the appropriate MPPMP will be notified.

(1) Immediate assistance for emergency-type pesticide spills which threatens life or gross contamination of the environment can be obtained by contacting CHEMTREC at telephone 800–424–9300. For spills outside CONUS or within MDW call 202–483–7616.

(2) Information on decontamination of nonemergency type pesticide spills also may be obtained by dialing the CHEMTREC number given above. The operator must be told immediately that no emergency exists and the call is a request only for decontamination information. Guidance for decontaminating minor spillage or leakage will be obtained from the appropriate MPPMP.

(d) *Pesticide storage.* Inspection and inventory of stored pesticides will be made at appropriate intervals (see AR 200–1). Certified personnel, safety and fire prevention officers will perform and record inspections in accordance with their criteria.

§ 657.42 Pesticide disposal.

(a) *General.* Installation will not accept storage or disposal responsibilities for pesticides collected by the civilian community.

(b) *Disposal.* Serviceable excess pesticides should be used locally for the purpose originally intended, if permitted; reported to the local Defense Property Disposal Office (DPDO); or disposed of as appropriate. Permissible disposal methods will vary from one location to another based on availability of approved pesticide incinerators and specially designated landfills. Consultation on proper disposal procedures should be accomplished with the MPPMP. Guidance is also available from the U.S.A. Environmental Hygiene Agency Regional Divisions. In overseas areas, local laws and Status of Forces agreements regarding pesticide disposal will be followed. Records will be maintained locally on any pesticide disposal.

(c) *Repacking.* Pesticides in deteriorated containers will be transferred to approved clean containers which are lined to protect against chemical reaction. Different formulations of the same pesticide will not be placed in the same container. Replacement containers will be labeled to include the name and strength of the pesticide formulation, the registration number and other pertinent manufacturing data (e.g., log number, date of manufacture, and expiration date) from the original label (40 CFR 162.4–162.7). Serviceable repackaged pesticides should be managed as described for serviceable excess pesticides (see (b) above). Details on repackaging are found in AR 200–1.

§ 657.43 Contract operations.

(a) Contracts for supplementing pest control services will be executed, when required, according to existing procurement regulations and the following guidelines:

(1) The services are economically beneficial and advantages to the Government and certified contractors are available.

(2) Application by trained and certified facilities engineering personnel is not feasible because of remote location, project size, and/or manpower-time-equipment limitations.

(3) Single applications of fumigants for entire building or other large inclosure are required.

(4) Aerial or special equipment applications over large areas such as mosquito breeding areas are necessary.

(5) Extensive wood treatment projects such as groundline treatment of utility poles are proposed.

(6) Extensive termite control operations are required which facilities engineering personnel cannot accomplish with in-house resources.

(b) Technical requirements for all pest management contracts will be prepared by the facilities engineering office in cooperation with the installation medical authority. Project plans and specifications will be forwarded to the appropriate MACOM for approval before a request is submitted for procurement of the service from commercial sources. Information should be included on the status of the Environmental Protection Agency's approval of State Plans for training and certification of commercial applicators and/or Department of the Army

criteria established pending EPA approval of State Plans.

(c) Technical provisions will specify only the pesticides approved by HQDA DAEN–FEB WASH DC and registered by EPA. The items provided for use by the contractor must be identified qualitatively and quantitatively.

(d) The contractor must submit proof that the supervisory and applicator personnel to be employed on the contract will:

(1) Meet the State certification standards that have been established in response to EPA's implementation of FIFRA, or competency requirements established by HQDA (DAEN–FEB) WASH DC for the pesticide(s) to be used in the contract for those states that do not meet FIFRA certification requirements.

(2) Be capable of providing safe working conditions for his personnel and installation occupants.

(e) Inspection of the contract will be performed by one or more Facilities Engineer personnel having a current DA Certificate of Competency (DD Form 1826) in pesticide selection and application. Inspection will include but not be limited to:

(1) Onsite inspection, by the contracting officer's representatives (COR) of unopened pesticide containers to verify that the chemicals listed on the label meet contract specifications and can be applied in accordance with the registered use.

(2) Observation of the mixing and equipment operations, rate of application (volume versus area), recognition of environmental hazards, and safety precautions in order to assure work is performed in accordance with the contract specifications and provisions.

§ 657.44 Record and reporting requirements.

(a) Adequate records must be maintained of all pest control operations to include nonappropriated funded activities, contract operations and pest control accomplished on out-leased property, in addition to that accomplished in-house by the facilities engineer: The records will serve as reference for continuous monitoring and management of pest control operations and for the reporting, inspection, and manpower requirements.

(b) DD Form 1532. The Pest Control Summary Report (Report Control Symbol DD–HL (AR 1080)) will be prepared on DD Form 1532.

Each installation will submit the reports monthly to the appropriate MACOM; the US Army Environmental Hygiene Agency (USAEHA), Aberdeen Proving Ground, MD 21010; and to the appropriate medical entomologist at USAEHA Regional Divisions, within 15 days after the report period. Individual reports will be submitted for each installation and/or subinstallation. This regulation does not change any other instructions or standard terminology previously furnished.

Dated: September 26, 1977.

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

[FR Doc.77-30440 Filed 10-17-77;8:45 am]

[7710–12]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Postal Service Manual—Correction of Errors in Transmittal Letter 42

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The purpose of this document is to correct publicly certain typographical errors contained in a recent transmittal letter making changes to the Postal Service Manual. The Postal Service published on page 10 of the Postal Bulletin of October 6, 1977 a list of these errors and advised subscribers to the Postal Service Manual to make appropriate pen and ink changes to their Manuals pending issuance of a new transmittal letter correcting the mistakes. The present publication is intended to reach holders of the Manual who may not be subscribers of the Postal Bulletin or who happened not to see the notice in it.

EFFECTIVE DATE: July 13, 1977, except that the rates described in paragraphs 4 and 6 below became effective July 6, 1977 and were published in the FEDERAL REGISTER on June 21, 1977 (42 FR 31506).

FOR FURTHER INFORMATION CONTACT:

Paul J. Kemp, 202–245–4638.

SUPPLEMENTARY INFORMATION: Chapter I of the Postal Service Manual has been incorporated by reference in the FEDERAL REGISTER (See 39 CFR 111.1). This chapter was amended by the issuance of Post Office Services (Domestic) Transmittal Letter 42, Issue 117, dated July 13, 1977, and, as so amended, was published in full text in the FEDERAL REGISTER on Friday, September 16, 1977 (42 FR 46742). The present document refers to and corrects errors in the document published on Friday, September 16, 1977 at 42 FR 46742.

ROGER P. CRAIG,
Deputy General Counsel.

1. On page 46743, in the left hand column under that part of the Filing Instructions labeled "Remove pages headed":

(a) "139.259" should read "135.259", and

(b) "161.82–161.921 (3 sheets)" should read "161.82–161.863 (2 sheets)".

Pages headed 161.921 and 161.922 are printed below for those who discarded this sheet.

2. On page 46743, in the right hand column, under Explanation of Changes, paragraphs .2d and .3i should be deleted. The sections referred to were not changed.

3. On page 46766 the reference in 131.233d to "131.233b" is erroneous. The reference should read "131.233c".

4. On page 46771, (a) in 132.123b the number "0.3" should read "0.8", and (b) in 132.13 the amount of "4¢" should read "6¢".

5. On page 46773, the reference in 132.31b to "132.23" is erroneous. The reference should read "132.33".

6. On page 46777, in 133.1 the amounts of "10.8 cents" and "3.2 cents" should read "11.7 cents" and "3.6 cents" respectively.

7. On page 46807 add the following at the end of 144.46: "As an alternative, the ZIP Code designation may be shown in the meter postmark in lieu of the city/State designation. When this occurs, the words "Mailed From ZIP Code" shall appear in place of the city designation and the mailer's delivery address ZIP Code in place of the State. When it is necessary to print multidenomination meter stamps on more than one tape, the circle showing the post office must appear on each tape."

8. On page 46816, in 147.234, the phrase "On articles prepaid at airmail rates" should read "On articles prepaid at International rates".

9. On page 46833, revise 161.32 to read as follows: "The sender must securely seal envelopes. Self-sealing envelopes are not acceptable. Do not place paper or cellulose strips or wax or paper seals over the intersections of flaps of letter size envelopes where the postmark impressions are made. Wrap and seal packages with mucilage or glue or with plain paper or cloth tape. Packages containing currency or securities may not be sealed exclusively by use of paper strips, but must first be sealed securely with mucilage or glue. Large envelopes (flats) which are completely sealed and which also have paper strips or paper tape across the intersections of the flaps may be considered packages so far as the sealing requirements are concerned. Tape that will not adhere in such a manner as to damage the envelope or wrapper if removed, or tape which will not absorb a postmark impression, may not be used on registered mail."

10. On page 46854, this page should be filed after the Postal Service Manual page headed "163.734c".

.883 *Missing Dispatch Bill*

Make a bill and send it to the original office, if known. If the original dispatch office is unknown, send the bill to the general manager, logistics division.

161.9 SPECIAL INSTRUCTIONS

.91 OFFICES WITH 950 OR MORE REVENUE UNITS

.911 *Registry Section*

a. *Transfer from Opening Unit.* Transfer mail to other units as follows:

(1) *City or Local Delivery.* Backstamp these articles. Postmark envelopes once over intersection of the flaps. Send registered mail to carrier cage and get a receipt on Forms 3852, 3853 or 3854. Show the registration numbers of all articles. No receipt is required if there is no separate cage.

(2) *Transit Pouches and Jackets.* Send to the outgoing or dispatch cage. Get a receipt on the incoming bill if there is a separate cage. Use a separate form or back of incoming bill if you have a large number of pouches and jackets.

(3) *Transit and Station Articles.* Transfer to the dispatch unit to be included in outgoing dispatches.

(4) *Valuable Mail.* See 161.932. Place in vault or safe for safekeeping awaiting delivery or dispatch. If it will be delivered or dispatched in a short time, place it in a pouch or jacket promptly. This mail must be receipted for by signing opposite each valuable article listed on the incoming bill. You may bracket all valuable articles and sign only once.

b. *Transfer from Acceptance or Delivery Windows.* Transfer mail to other units without receipt except when:

(1) Valuable mail is transferred from acceptance window. See 161.932. Get receipt on office record Form 3806 or firm mailing bill.

(2) Separate dis and city cages are operated. Get receipt for articles of ordinary value to be forwarded or returned. Use Form 3852, 3853, or 3854.

(3) Acceptance or delivery window is in a separate cage. Get receipt. Use Form 3852, 3853, or 3854.

(4) Registered articles are sent to dead letter section. Window clerk must get receipt on Form 3849.

c. *Record of Employees.* Keep a record of employees working in the registry section each day. Use Form 1625, *Record of Entry to Registry Secion or Distribution Units Thereof.* Keep a separate record of employees detailed to that section. Employees in charge of, or working in the valuable cage or vault, must record time of entering and leaving the valuable cage or vault. Use Form 1625.

.912 *Stations and Branches*

a. *Mail Received from Main Office.* Check articles received in pouches. Report to supervisor of the station or branch and supervisor in charge of main registry section any shortage or surplus. Endorse bill and coupon to show discrepancies. Mail coupons signed by both supervisor and opening clerk showing discrepancies to the official in charge of main registry section. Separate registered articles for desk delivery and for carrier delivery.

b. *Mail Dispatched to Main Office.* Bill as instructed in 161.52.

.92 ARTICLES INTENDED FOR REGISTRATION FOUND IN THE ORDINARY MAIL

.921 Register articles marked for registration found in ordinary mail which are not endorsed *Not in the Registered Mail* if postage and fees have been fully prepaid. Endorse article *Found in ordinary mail.* Mail registration receipt and Form 3892 *Notice of Registered Mail Found in Ordinary Mail,* to sender. Show on post office registration record when and by whom the article was removed from ordinary mail. Endorse articles not fully prepaid *Not in the Registered Mail* and dispatch as ordinary mail.

.922 Mobile unit clerks who find in the ordinary mail an article intended for registration which is not marked *Not in the registered mail* shall mark it *Found in the ordinary mail* and postmark it. When dispatching the article, it must be listed on the dispatch bill by office of origin, if known, and the letters FOM (found ordinary mail) must be entered on the bill in the column for the registration number. The article will not be numbered. The first post office to which the article is dispatched must register it and send Form 3892 to the sender with the registration receipt. Any postage due shall be rated for collection from the addressee.

.93 PROTECTION

.931 *All Registered Mail*

a. Keep registered mail separate from ordinary mail, except as provided in 161.524 and 161.72.

b. Handle registered mail at all times so that individual responsibility can be fixed, consistent with instructions in this part.

c. Whenever practicable, keep registry activities separate from the workroom floor and other service areas having personnel not charged with registered mail.

d. In post offices where registry activities are limited in scope and include service windows, wire screen partitions are not considered necessary to separate the activities from the workroom floor and other service areas. Acceptable security in present facilities usually may be obtained by using standard furniture items to separate the activities, or by using counterhigh partitions.

e. Where service counter activities are combined, registered mail must be handled at all times in such a manner that individual responsibility for the registered mail can be fixed.

f. At post offices requiring a separate registry unit on the workroom floor, provide an operating area enclosed with wire screen partitions. If the screen partition does not extend to the ceiling, a top must be provided.

.932 *Internal Protection*

a. *Stationary Units.* The following special rules apply only to internal handling in a stationary postal unit. The term *valuable* as defined in (2) is not to be used as a guide to dispatching or to carrier delivery.

(1) Provide a safe, vault, separate cage, or locked container. Assign an employee or employees to be responsible for valuable registered mail. Do not permit other employees to have access to this unit.

(2) Determine on the basis of local conditions the value of registered mail considered to warrant transfer to the valuable unit while awaiting dispatch or delivery. This value is not to be less than $1,000. This determination is the responsibility of the postmaster.

(3) Transfer valuable mail to and from the valuable unit by receipts showing the number and office of origin of individual pieces or full particulars of rotary-lock pouches. Keep a record on Form 3853 or 3854 of the valuable articles and pouches on hand in the unit.

(4) While registered mail is in the valuable unit, use Form 3810, *Reminder Record,* in the dispatch or delivery sections as a reminder, unless other approved methods of identifying articles held in the valuable unit are in effect.

[FR Doc.77-30317 Filed 10-17-77;8:45 am]

[4710-01]

Title 41—Public Contracts and Property Management

CHAPTER 6—DEPARTMENT OF STATE

PART 6-6—FOREIGN PURCHASES

Subpart 6-6.8—Balance of Payments Program

GUIDANCE FOR FOREIGN PURCHASES

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department's procurement regulations regarding foreign purchases are amended to conform with Federal Procurement Regulations Amendment 153, which increased the exemption of foreign purchases from the provisions of the Balance of Payments program from $2500 to $10,000. The purpose of this amendment is to provide implementing regulations for the increased exemption and to make necessary editorial and procedural changes.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Hary M. Hite, 703-235-9529.

SUPPLEMENTARY INFORMATION: Under the Balance of Payments program, Federal agencies procuring for use abroad should purchase domestic materials, unless the delivered cost of domestic materials is estimated to be 50 percent greater than the cost of like materials of foreign origin. These regulations implement procedures prescribed for furtherance of that program.

Since these regulations relate solely to internal rules and guidance for contracting officers, and do not enlarge or diminish any rights or obligations of contractors and subcontractors, neither notice of proposed rulemaking nor public participation therein under 5 U.S.C. 533 is deemed appropriate.

Accordingly, Subpart 6-6.8 of title 41, Code of Federal Regulations, is amended as follows:

1. Section 6-6.802 is revised to read as follows:

§ 6-6.802 Definitions.

Those countries currently designated as excess or near-excess countries are listed in Volume 4 of the Foreign Affairs Manual, section 360.

§ 6-6.803 [Amended]

2. Section 6-6.803 is amended by deleting the word "Services" from the title of the approving official.

3. Section 6-6.805 is amended as follows: Paragraph (a) is revised; paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) are revoked and reserved; paragraphs (b), (b)(1), and (b)(2) are revised; and paragraph (b)(3) is revoked and reserved, to read as follows:

§ 6–6.805 Exceptions.

(a) Foreign end products and services may be procured, without regard to the provisions of §§ 1–6.804 and 1–6.806 of this title, in accordance with the exceptions contained in § 1–6.805 of this title.

(1) through (4) [Reserved]

(b) The determinations required by § 1–6.805(a)(4), (5), and (6) of this title shall be made:

(1) For procurement within the United States, by the Chief, Supply and Transportation Division, upon the basis of findings forwarded by the procuring activity.

(2) For procurement by posts in foreign countries, by the Principal Officer or his designee.

(3) [Reserved]

4. Section 6–6.806–1 is amended by revising paragraph (a) and revoking and reserving paragraph (b) to read as follows:

§ 6–6.806–1 Restricted solicitation.

(a) The Chief, Supply and Transportation Division, is designated to make the determination required by § 1–6.806–1(b)(1) of this title.

(b) [Reserved]

5. Section 6–6.806–2 is revised to read as follows:

§ 6–6.806–2 Method of purchase.

Procurement in furtherance of this Subpart 6–6.8 shall be made in accordance with the methods described in § 1–6.806–2 of this title.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 4, 63 Stat. 111; 22 U.S.C. 2658, as amended.

Dated: September 29, 1977.

JOHN M. THOMAS,
Assistant Secretary for Administration.

[FR Doc.77–30441 Filed 10–17–77;8:45 am]

[7555–01]

Title 45—Public Welfare

CHAPTER VI—NATIONAL SCIENCE FOUNDATION

PART 614—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

Amendments

AGENCY: National Science Board.

ACTION: Amendment to the regulations.

SUMMARY: The amendment eliminates a special procedure for handling requests for transcripts under the Government in the Sunshine Act, and instead applies the same procedures already employed when requests for other documents are received under the Freedom of Information Act. As required by the Sunshine Act, however, the exemptions in that Act, not the exemptions of the Freedom of Information Act, will continue to be applied in determining which portions of a closed session transcript may be withheld.

SUPPLEMENTARY INFORMATION: On July 14, 1977, the National Science Foundation published a proposed amendment (42 FR 36278) to revise the present Government in the Sunshine Act regulations. As the Board explained then, when a formal request is made to inspect or copy the transcript or recording of a session of the Board closed under the Government in the Sunshine Act, the agency must determine which portions of the transcript or recording will be released and which, if any, will be withheld under the Sunshine Act exemptions. The regulations now provide a special procedure for making such a determination. The proposed amendment brings the Government in the Sunshine Act regulations in line with the Freedom of Information Act regulations, thus simplifying the procedure by which the public may request documents from the National Science Foundation. Since no comments have been received on the proposed amendment, no change has been made to it.

EFFECTIVE DATE: October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

William J. Snider, Assistant to the General Counsel, National Science Foundation, Washington, D.C. 20550, 202–632–4369.

Accordingly, 45 CFR 614.4 is amended to read as follows:

§ 614.4 Opening of transcript or recording.

(a) Except as otherwise provided in this section, the transcript or electronic recording of every portion of every meeting closed to the public will promptly be made available on request to any member of the public in an easily accessible place.

(b) Informal requests to inspect or copy the transcript or electronic recording of a closed session may be made to the staff of the National Science Board and will be handled informally and expeditiously. Written requests to inspect or copy such a transcript or recording that cite the Freedom of Information Act or the Sunshine Act will be treated as formal requests made under the Freedom of Information Act. They will be handled under the Foundation's Freedom of Information procedures described in 45 CFR Part 612. The exemptions of these Sunshine Act regulations, 45 CFR Part 614.2, will govern, however, in determining what portions of the transcript or recording may be withheld.

(c) A request to inspect or copy a transcript or electronic recording should specify the date of the meeting and the agenda item or items to which the request pertains. It should contain a promise to pay the costs of any duplication requested.

(d) No search or transcription fees will be charged. Duplication fees may be charged as provided in 45 CFR 612.6.

NORMAN HACKERMAN,
Chairman, National Science Board.

OCTOBER 12, 1977.

[FR Doc.77–30447 Filed 10–17–77;8:45 am]

[6712–01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 73—RADIO BROADCAST SERVICES

Reregulation of Radio and Television Broadcasting

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Effective date of amended rule concerning AM station modulation monitors is stayed until March 1, 1978, because the time previously set for compliance with the new rule was too short due to practical difficulties.

EFFECTIVE DATE: November 1, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Carol Fox Foelak, Broadcast Bureau, 202–632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: October 7, 1977.

Released: October 11, 1977.

Order. In the matter of reregulation of Radio and Television Broadcasting.

1. We have before us a Motion for Partial Stay of the Commission's Reregulation Order, FCC 77–476 (released July 15, 1977), filed by the National Association of Broadcasters ("NAB") on September 29, 1977.

2. The NAB requests a stay of paragraph 10 of the Order, which reads as follows:

10. On April 5, 1972, the Commission adopted amendments to § 73.55 of the rules for AM stations limiting the use of positive modulation to peaks not exceeding 125 percent (FCC 72–327, Docket No. 18857). In the Report and Order it was pointed out that not all existing station modulation monitors had a sufficient range to indicate positive peak modulation to or exceeding 125 percent, and that pending the availability of type approved monitors for observing positive modulation to 125 percent, licensees may use other means such as an oscilloscope or composite device to insure proper modulation levels when positive modulation exceeded the range of their monitors. Type approved modulation monitors capable of indicating positive modulation peak levels of 125 percent or greater are now readily available, and therefore the use of composite devices or equipment other than type approved modulation monitors is no longer necessary. AM stations that elect to use asymmetric modulation with positive peaks exceeding 100 percent should have type approved modulation monitors capable of indicating the peak positive modulation levels transmitted. In conformity with the Report and Order in Docket 18857, we are amending § 73.56 of the rules to include the provision that the modulation monitor in use be capable of insuring that positive peak modulation levels of 125 percent are not exceeded. This does not mean that stations are required to replace an existing modulation monitor if the positive peak modulation levels transmitted do not exceed the peak indication range of their existing monitors. However, under the provisions of

the Report and Order in Docket 18857, stations electing to use modulation with positive peaks to 125 percent must have modulation monitors capable of indicating peaks to that level in use by November 1, 1977.

3. The NAB states that for the past several weeks it has been receiving letters and telephone calls from broadcasters across the country who are learning of this rule change for the first time. In urging that the November 1, 1977, effective date be stayed, it makes the following arguments: (a) Stations have not been given effective notice of this new requirement. To date, the amended rule has not appeared in the "transmittal sheets" provided by the Government Printing Office—the rules service on which most stations rely to learn of substantive changes in FCC requirements. (b) Many broadcasters are concerned that they may be forced to purchase modulation monitors which will soon be obsolete in light of AM stereo. (c) The Commission's new rule creates an unnecessary economic burden on broadcasters which will be especially harsh on small and medium market stations. The NAB states that the equipment costs $1,000–$2,000, excluding the cost of installation. (d) Some parties have pointed out that the Commission's type approval requirements do not include performance tests at +125 percent modulation levels.[1]

4. In light of these arguments we have decided to stay the effective date of paragraph 10 until March 1, 1978. This will give the Commission time to rectify some of the problems mentioned by the NAB and will relieve broadcasters from the expense of immediate compliance with the rule. *Accordingly, it is ordered,* That effective November 1, 1977, the effective date of paragraph 10 of FCC 77–476 amending § 73.56 of our rules, 47 CFR 73.56, is stayed until March 1, 1978.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act and § 0.281 of our rules.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-30294 Filed 10-17-77;8:45 am]

[1] The NAB also submitted a petition for rulemaking to remedy any defects in the type approval requirements. It asks that the effective date of paragraph 10 be stayed pending consideration of this petition.

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER C—ACCOUNTS, RECORDS, AND REPORTS

PART 1252—PIGGYBACK TRAFFIC STATISTICS

[No. 34364 (Sub-No. 2)]

Quarterly Report Forms PTR–R, PTR–M, PTR–W, PTR–FF for Piggyback Traffic Statistics

AGENCY: Interstate Commerce Commission.

ACTION: Administrative rule change.

SUMMARY: An order is being issued to change the filing frequency of Forms PTR–R, PTR–M, PTR–W, and PTR–FF from quarterly to semi-annual. After reviewing the uses of these reports, we determined the Commission's needs for the information can be met by semi-annual reporting. Semi-annual reporting would contribute to the Federal Paperwork Reduction Program by reducing the carriers' reporting requirements. The change will not effect the general public because the reports are not documents available to them.

EFFECTIVE DATE: For the 6-month period beginning January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

James H. Bayne, Chief, Section of Reports, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, Phone No. 202–275–7331.

SUPPLEMENTARY INFORMATION: By order of the Commission, effective for the first quarter of 1964, Class I railroads, Class I intercity motor carriers of property, Class A carriers by water, and Class A freight forwarders are required to file quarterly reports of piggyback traffic statistics on Forms PTR–R, PTR–M, PTR–W and PTR–FF, respectively. The purpose of the reports is to disclose the extent of piggyback transportation service.

This is an administrative rule change to revise the order requiring these reports so they are filed every six months instead of every three months.

Rulemaking proceedings under Section 553 of the Administrative Procedure Act are unnecessary because the piggyback reports are not documents available to the general public, the reports are for informational purposes only, they are not considered permanent books and records of the reporting carriers, and the change in filing frequency represents a reduction in reporting.

This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

(49 U.S.C. 12, 20, 304, 320, 904, 913, 1003 and 1012.)

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

Part 1252 of Chapter X, Title 49, Code of Federal Regulations is amended as follows:

Sec.

1252.1 Railroads.
1252.2 Motor carriers.
1252,3 Water carriers.
1252.4 Freight forwarders.

§ 1252.1 Railroads.

Commencing with reports for the 6 months ending June 30, 1978, and for each semi-annual 6 month period thereafter, until further order, each class I railroad, except switching and terminal railroad companies, as defined in § 1240.1 of this chapter, subject to Part I of the Interstate Commerce Act, is required to file reports of piggyback traffic in accordance with Form PTR–R, Revenue Piggyback and Container Traffic, or to advise the Commission that it does not perform piggyback service. Form PTR–R shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 60 days after the close of the period to which it relates. The individual reports filed under this section shall not be open to public inspection.

§ 1252.2 Motor carriers.

Commencing with reports for the 6 months ending June 30, 1978, and for each semi-annual 6 month period thereafter, until further order, each class I intercity motor carrier of property, as defined in § 1240.5 of this chapter, subject to Part II of the Interstate Commerce Act, is required to file reports of piggyback traffic in accordance with Form PTR–M, Piggyback Traffic of Class I Motor Carriers of Property, or to advise the Commission that it does not make use of piggyback service. Form PTR–M shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423 within 60 days after the close of the period to which it relates. The individual reports filed under this section shall not be open to public inspection.

§ 1252.3 Water carriers.

Commencing with reports for the 6 months ending June 30, 1978, and for each semi-annual 6 month period thereafter, until further order, each carrier by water subject to Parts I and III of the Interstate Commerce Act, assigned to class A, as described in § 1240.2 of this chapter, and each maritime carrier subject to Part III of the Interstate Commerce Act, is required to file reports of piggyback traffic in accordance with Form PTR–W, Piggyback Traffic Terminated by Class A Water Carriers and Maritime Carriers, or to advise the Commission that it does not perform piggyback service. Form PTR–W shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423 within 60 days after the close of the period to which it relates. The individual reports filed under this section shall not be open to public inspection.

§ 1252.4 Freight forwarders.

Commencing with reports for the 6 months ending June 30, 1978, and for each semi-annual 6 month period thereafter, until further order, each freight forwarder subject to Part IV of the Interstate Commerce Act, assigned to Class A, as described in § 1240.6 of this chapter, is required to file reports of piggyback traffic in accordance with Form PTR–FF, Piggyback Traffic Originated by Class A Freight Forwarders, or to advise the Commission that it does not make use of piggyback service. Form PTR–FF shall be filed in duplicate in the office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423 within 60 days after the close of the period to which it relates. The individual reports filed under this section shall not be open to public inspection.

[FR Doc.77–30446 Filed 10–17–77;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.

[3410–15]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

ELECTRIC PROGRAM

Proposed Revision of REA Bulletin on Operating Reports

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend Bulletin 108–2, Operating Report—Power Supply Borrowers and Distribution Borrowers With Generating Facilities, containing instructions for completion of REA Form 12a through 12h—Operating Report. It is proposed that these reports be revised to provide REA more current information and to delete unnecessary information. The revisions are intended to create a more useful and pertinent report for the REA borrowers.

DATE: Public comments must be received by REA no later than November 16, 1977.

ADDRESS: Interested persons may submit written data, views or comments to the Director, Electric Borrowers' Management Division, Room 3346, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Electric Borrowers' Management Division, during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles R. Weaver, Director, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3346, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–5900.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 108–2 issued January 18, 1971, and REA Forms 12a through 12h as follows:

1. To incorporate changes made by previous "file with" releases, to make certain adjustments to these releases, and to make the following changes not covered by the present instructions:

a. Due date for submission of the December 31 reports to REA is extended from 20 days to 60 days after the close of each year. It is believed that all borrowers will be able to meet this new due date.

b. Submission of copies of power bills to REA is to be discontinued after the close of the year 1977.

2. REA Form 12a—Operating Report—Financial: a. Section A, Balance Sheet; One item is deleted, another item is divided, and three new items are added to this section. In addition, all items after Item 35 are renumbered. The footnote at the close of this section furnishing instructions for the handling of margins on the December 31 report and the asterisks after Items 27a, 28, 29, and 30 are deleted as this practice is being discontinued immediately. All margins for the current year are to be reported in Items 29 through 31 as appropriate. Details of the item changes are:

[Deleted] Old Item 41, Contributions in Aid of Construction.

[Divided] Old Item 36, Notes and Accounts Payable.

[New] Item 37, Accounts Payable; Item 38, Taxes Accrued; Item 39, Interest Accrued.

b. Section B, Statement of Operations; The following two items have been added to this section; Item 5.1, Operation Expense—Production—Fuel, and Item 9.1, Customer Service and Informational Expense, to disclose the amounts involved in each item.

3. REA Form 12b—Operating Report—Sales of Electricity: This Form has been expanded from one to two pages to provide additional space for listing of purchasers as the present form was found to be inadequate for a large number of power supply borrowers. A new column for reporting the number of purchasers by group totals is added as Column 1a. In addition, all items are renumbered consecutively by lines.

4. REA Form 12c—Operating Report—Sources and Distribution of Energy: Two new columns for REA Use Only are added to this form as columns 1a and 1b. Also all items are renumbered consecutively by lines with two more spaces provided for listing of suppliers under Purchased Power.

5. FEA Form 12d—Operating Report—Steam Plant: Section D, Year-to-Date Statistics; This new section of twenty-two (22) items is added to this for reporting cumulative totals of certain data of Sections A and B for use in annual statistical profiles.

6. REA Form 12f—Operating Report—Internal Combustion Plant: Section C, Year-to-Date Statistics; This new section of sixteen (16) items is added to this form for reporting cumulative totals of certain data of Section A for use in annual statistical profiles.

7. REA Form 12g—Operating Report—Lines and Stations: All items of Sections A, B, and D of this form are renumbered consecutively by lines with appropriate changes in the references for subtotals and totals. Item 4, Average Number of Distribution Consumers Served, and Item 5, Average Number of Hours Out per Consumer, are added to Section D to furnish outage data for use in loan recommendations.

8. REA Form 12h—Operating Report—Annual Supplement:

a. Section A, Utility Plant; This section has been condensed from sixty-seven (67) to twenty-eight (28) items by consolidation of the data of individual accounts for production and general plant.

b. Section D, Substation and Metering Points, and Section K, Professional Service Payments; The number of space provisions for entering data in these sections has been increased from thirty-four (34) to one hundred (100) and eight (8) to eighteen (18), respectively, as most borrowers found the provisions to be inadequate.

c. Sections I through R; The letter designations for these sections are all changed due to inclusion of the letters I and O which were previously omitted, and to the deletion of three old sections and the addition of one new section.

d. Section M, Debt Service Payments on Long-Term Debt—Other; This section has been added to furnish detail information on Long-Term Debt—Other and debt service requirements thereon for purposes of computing TIER and DSC ratios.

e. Section Q, Man-Hour and Payroll Statistics; Two (2) items for reporting estimated man-years of contract labor are deleted from this section with item numbers of the other items being adjusted accordingly.

A copy of the proposed revision of REA Bulletin 108–2 and REA Forms 12a through 12h may be secured in person or by written request from the Office of the Director, Electric Borrowers' Management Division.

Dated: October 12, 1977.

JOSEPH VELLONE,
Acting Administrator.

[FR Doc.77–30393 Filed 10–17–77;8:45 am]

[6715–01]

FEDERAL ELECTION COMMISSION

[Notice 1977–51]

[11 CFR Part 109]

FEDERAL CANDIDATES: INDEPENDENT EXPENDITURES

Request for Comments

AGENCY: Federal Election Commission.

ACTION: Proposed regulations.

SUMMARY: This notice contains a request for public comment regarding the regulations on independent expenditures. This action is taken to implement the provisions of the Federal Election Campaign Act of 1971.

DATES: Close of comment period is November 30, 1977.

ADDRESS: Send comments to Federal Election Commission, Office of General Counsel, 1325 K Street NW., Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT:

Walter Moore at 202–523–4102.

SUPPLEMENTARY INFORMATION: The Commission requests public comment regarding the regulations govern-

ing the making of independent expenditures in support of federal candidates. Pertinent existing regulations appear at Title 11 of the Code of Federal Regulations, Part 109. See also 2 U.S.C., Section 431(p), and 2 U.S.C., Section 441a (a)(7)(B)(i).

The period for receipt of written comments will close November 30, 1977. Submissions should be made to the Office of General Counsel, Federal Election Commission, 1325 K Street, NW., Wash., D.C. 20463, and will be made available to the public in the Office of Public Records.

The United States Supreme Court, in *Buckley* v. *Valeo*, 424 U.S. 1, 46–47, n. 53 (January 30, 1976), noted that 18 U.S.C. Section 608(c)(2)(B) of the Federal Election Campaign Act Amendments of 1974 (current version at 2 U.S.C. Section 441a(b)(2)(B)(1976)) provided that certain expenditures which were "authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate" were to be treated as contributions by the expender and were therefore subject to the contribution limits of the Act. The Court's test for determining when individual expenditures were contributions rather than independent expenditures was whether the expenditures were "placed in cooperation with or without the consent of a candidate, his agents, or an authorized committee of the candidate * * *"

In interpreting the Act's provisions regarding independent expenditures, in light of the language in *Buckley*, the Commission has stressed the relationship of and contacts between the spender and the candidate (or committee or agent) in support of whom the expenditure is made. The Commission's present regulation Part 109.1(b)(4)(i) describes two factual situations where this relationship or contact gives rise to a presumption that an expenditure is not independent (and thus is treated as a contribution-in-kind to the candidate). The situations are those where the expenditure in question is:

(A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made;

(B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate or the candidate committee or agent.

The focus of the proposed discussion regarding the regulations on independent expenditures concerns the question of whether there might be other specific sets of facts which indicate a relationship between expender and candidate such that cooperation with or consent of the candidate is presumed to exist. Public response must be precise in describing the circumstances surrounding this presumption of cooperation and consent and must bear in mind the constitutional protection given by the First Amendment to the spending of money for political speech.

The Commission invites public comment on all aspects of the subject of independent expenditures, as well as responses to the specific questions set forth below:

(1) Do the present regulations offer sufficient guidance to a person who wishes to know whether a contemplated expenditure is independent?

(2) The statute defines an "independent expenditure" as an expenditure "expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committe or agent of such candidate and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate."

What types of expenditures constitute express advocacy of the election or defeat of a clearly identified candidate?

(3) The evidentiary device of a presumption is currently utilized in regulating independent expenditures. Should the factual situations which give rise to a presumption that an expenditure is not independent include those where:

(a) There has been substantial or significant contact between the expending person and the candidate, committee, or agents; or

(b) an individual in a decision-making position within a committee which makes an expenditure, or an individual making an expenditure, has actively participated in or at the time of the expenditure is actively participating in the financing or management of that candidate's campaign?

(4) The present regulations do not distinguish independent expenditures made by committees from those made by individuals. Are there constitutional or other considerations which require or allow different treatment?

(5) Should the definition of "agent" as set forth in regulation 109.1(b)(5) be expanded (or narrowed)? If it should be expanded, should it include any person who is an agent under the common law of agency, including an employee or an independent contractor?

Dated: October 11, 1977.

THOMAS E. HARRIS,
Chairman for the Federal Election Commission.

[FR Doc.77-30300 Filed 10-17-77;8:45 am]

[4510-26]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1904]

ACCESS TO THE LOG OF OCCUPATIONAL INJURIES AND ILLNESSES TO EMPLOYEES AND THEIR REPRESENTATIVES

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rule.

SUMMARY: Under the Occupational Safety and Health Act of 1970 the Secretary of Labor in cooperation with the Secretary of Health, Education, and Welfare is required to prescribe regulations requiring employers to maintain accurate records of, and to make periodic reports on, work-related death, injuries and illnesses other than minor injuries requiring only first aid treatment. This document proposes to amend certain provisions of the recordkeeping regulations to provide access to the log of occupational injuries and illnesses to employees, including former employees, and their representatives. The statutory requirements for occupational safety and health standards also include the employee's basic right to know about workplace hazards. Since the log contains a record of each workplace injury and illness, employees will be more fully informed of the hazards in the workplace and thus would be significantly assisted in their efforts under the Act to protect themselves from these hazards.

DATES: Comments should be submitted on or before November 17, 1977

ADDRESS: Comments should be sent to: Theodore J. Golonka, Assistant Commissioner, Occupational Safety and Health Statistics, Bureau of Labor Statistics, U.S. Department of Labor, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Norman Root, Chief, Division of Record Requirements and Information, Bureau of Labor Statistics, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-9281.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On November 14, 1973, a notice was published in the FEDERAL REGISTER (38 FR 31449) proposing to amend certain provisions in § 1904.7 of 29 CFR Part 1904, pertaining to access to records. The notice invited interested persons to submit written data, views, or arguments by December 31, 1973. Numerous comments were received regarding the proposed changes in § 1904.7 which would have provided employees and their representatives access to the log. These comments were considered at the close of the comment period but no final regulations were issued at that time. In light of the period of time which has elapsed since the original proposal, a new proposal on this subject is being published at this time. In developing this proposal, consideration has been given to the comments on the original proposal. In addition, consideration has been given to the findings and recommendations of the Ad Hoc Advisory Task Force established for the purpose of advising the Bureau of Labor Statistics with regard to these amendments. The Task Force recommended that access to the log be extended to employee representatives. The Secretary of Health, Education and Welfare was consulted on the advisability of these revisions. This new proposal was also approved in principle at a joint meeting of the BLS Labor and Business Research Advisory Committees on Occupational Safety and Health Statistics on August 4, 1977.

PUBLIC PARTICIPATION

Interested persons are hereby given until November 17, 1977, in which to submit comments, views and arguments.

These submissions are to be sent to Theodore J. Golonka, Assistant Commissioner, Occupational Safety and Health Statistics, Bureau of Labor Statistics, U.S. Department of Labor, Washington, D.C. 20210.

ISSUES

Under § 8(c)(2) of the Occupational Safety and Health Act of 1970 (the Act), the Secretary of Labor, in cooperation with the Secretary of Health, Education, and Welfare, is required to prescribe regulations requiring employers to maintain accurate records of, and to make periodic reports on, work-related death, injuries and illnesses other than minor injuries requiring only first aid treatment. (Injuries involving medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job are not considered minor.)

The recordkeeping regulations issued by the Secretary of Labor are contained in 29 CFR Part 1904. Among other things, these regulations require covered employers to prepare and maintain a log of occupational injuries and illnesses for that establishment (§ 1904.2). Access to these documents must be provided to compliance safety and health officers of the Occupational Safety and Health Administration (OSHA), representatives of the Bureau of Labor Statistics, U.S. Department of Labor, and representatives of the Secretary of Health, Education and Welfare, and representatives of the state under approved state plans (§ 1904.7). While the regulations currently require the employer to compile and post an annual summary of occupational injuries and illnesses at the establishment (§ 1904.5), the log of occupational injuries and illnesses is not available to employees or their representatives.

This proposal would require the employer to make the log available to employees and their representatives upon request. Since the log contains a record of each workplace injury and illness, employees will be more fully informed of the hazards in the workplace and thus would be significantly assisted in their efforts under the Act to protect themselves from these hazards.

The Act's declared objectives and specific implementing provisions demonstrate the importance of providing employees with full and complete information about safety and health hazards at their worksite. Citations issued by the Secretary must describe with particularity the violations cited and be prominently posted by the employer in or near each place where the cited violation occurred (§ 9). In addition, whenever an OSHA compliance officer discovers an imminent danger in a workplace, he must immediately inform employees of the existence of the danger and his recommendation that appropriate court enforcement action be taken by the Secretary (§ 13(c)).

The statutory requirements for occupational safety and health standards also include the employee's basic right to know about workplace hazards. Under § 6(b)(7), standards must "prescribe the use of labels or other appropriate forms of warning as are necessary to assure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and precautions of safe use or exposure." Section 6(b)(7) further requires that standards shall "provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary for the protection of employees."

Under § 8(c)(3) of the Act, employees or their representatives must be provided an opportunity to observe this monitoring and to examine the resulting records. This section further requires that present and former employees must have access to records which indicate their personal exposure to toxic materials or harmful physical agents. Finally, when an employee has been exposed to toxic materials or harmful physical agents in excess of the permissible levels established by applicable standards, § 8(c)(3) requires the employer to promptly notify these employees of the exposure and to inform them of the corrective action taken. These statutory requirements have been implemented in the occupational safety and health standards issued by the Secretary of Labor. See, for example, the standard on coke oven emissions (42 FR 46742), and dibromo-3-chloropropane (DBCP) (42 FR 45536).

The importance of access to the injury and illness log for employees and their representatives is compelling in light of the statutory provisions implementing the employee's right to know about workplace hazards. The record of actual workplace injuries and illnesses at an establishment is a fundamental source of information about the specific hazards in that workplace. Indeed, OSHA compliance officers are instructed to examine the log at the beginning of an inspection in order to identify hazards at the worksite. (OSHA Field Operations Manual, Ch. V). Employees in the establishment are entitled to the same information in their efforts to control hazards under the Act, e.g., joint labor-management initiatives (§ 2(b)(13)). Moreover, employee access to this information is reinforced by the limited resources of OSHA to inspect worksites for hazards and to impose abatement requirements when violations are found.

Some comments on the original proposal indicated that the information presently available to employees and their representatives provides them with adequate information; that is, they are able to observe, first-hand, the existence of violations and the occurrence of injuries and illnesses. However, first-hand information is not sufficient since not all employees or their representatives could possibly witness every injury. In addition, subsequent recollections of observed injuries will often be imprecise and disorganized. Furthermore, illnesses, particularly latent diseases, are not usually observable facts. On the other hand, a review of log entries describing the nature and location of the injury can bring into focus the basic facts of any injury or the onset of an illness. The broad categories and the totals of injuries and illnesses in the annual summary provide relevant information. However, the annual summary does not contain the necessary specific information contained in the log. Moreover, the annual summary contains aggregate data and is made available only once a year. In contrast, entries are made in the log as recordable injuries and illnesses occur. Therefore the log contains the most timely information on workplace injuries and illnesses.

THE PROPOSAL

1. Section 1904.7 of the present regulations permits access to the employer's log for inspection and copying by compliance safety and health officers of OSHA during any occupational safety and health inspection under Part 1903 of the OSHA regulations and § 8 of the Act. The proposed regulation would specifically provide access to these records to any representative of the Secretary of Labor. The purpose of this language is to make the records available to other officials and employees of the Department of Labor who, although not compliance safety and health officers, have a legitimate need to examine and copy employers' OSHA records in order to carry out various responsibilities under the Act which are not directly related to compliance. For example, these would include Department officials inspecting a workplace to determine if a variance should be granted (see § 6(d)), or officials engaged in gathering information for the purpose of developing standards (§ 6(b)).

2. Section 1904.7(b)(1) would be amended to provide access to the log to any employee or former employee and his or her representative. The documents would have to be made available if requested by any individual employee or a representative selected by an employee. An employee representative would include, but is not limited to, a labor organization which serves as the collective bargaining representative for the employees. The employee or his or her representative will have access to the log for any establishment where the employee is or has been employed.

3. Under § 1904.15, employers employing no more than ten employees are generally exempt from the requirement of maintaining the log of occupational injuries and illnesses. However, certain employers otherwise exempted under § 1904.15 may be required to maintain a log for the purposes of a statistical survey of occupational injuries and illnesses conducted by the Bureau of Labor Statistics. Under proposed § 1904.7(b)(2), those generally exempted employers participating in the survey would be required to provide access to the log to employees and their representatives.

4. Proposed § 194.7(b)(3) would make it clear that the proposal does not preclude employee representatives from col-

lectively bargaining with employers to obtain access to information relating to workplace injuries and illnesses in addition to the information made available under this proposal.

5. Section 1904.5, currently requires employers to retain the log for five years from the end of the year covered by the log. Proposed § 1904.7(b)(4) would provide access to all logs retained pursuant to § 1904.6.

Accordingly, pursuant to §§ 8(c) (1), (2) and (3), 8(g)(1) and 24(e) of the Occupational Safety and Health Act of 1970 (84 Stat. 1599, 1600, 1615, 29 U.S.C. 657, 673), and Secretary of Labor's Order No. 8–76 (41 FR 25059), §§ 1904.2 and 1904.7 of 29 CFR Part 1904 would be amended as follows:

1. Section 1904.7 would be amended by designating the existing text of that section as paragraph (a), and by adding a new pragraph (b). As amended, § 1904.7 would read as follows:

§ 1904.7 Access to records.

(a) Each employer shall provide, upon request, records provided for in § 1904.2, for inspection and copying by any representative of the Secretary of Labor and representatives of the Secretary of Health, Education and Welfare during any investigation under § 20(b) of the Act, or by any representative of a State accorded jurisdiction for occupational safety and health inspections or for statistical compilation under §§ 18 and 24 of the Act.

(b)(1) The log of all recordable occupational injuries and illnesses provided for in § 1904.2 of this part shall be made available, upon request, to any employee, former employee and to their representative for examination and copying in a reasonable manner and at reasonable times. The employee, former employee, and their representative shall have access to the log for any establishment in which the employee is or has been employed.

(2) Employers who are exempt from the recordkeeping provisions under § 1904.15 of this part are required to provide access to the log under paragraph (b) of this section if the exempted employer if required to maintain a log for the purposes of the statistical survey of occupational injuries and illnesses conducted by the Bureau of Labor Statistics.

(3) Nothing in this section shall be deemed to preclude employees and employee representatives from collectively bargaining to obtain access to information relating to occupational injuries and illnesses in addition to the information made available under this section.

(4) Access to the log provided under this section shall pertain to all logs retained under the requirements of § 1904.6 of this part.

Signed at Washington, D.C. this 12th day of October 1977.

EULA BINGHAM,
Assistant Secretary of Labor.
JULIUS SHISKIN,
Commissioner of the Bureau of Labor Statistics.

[FR Doc.77-30528 Filed 10-17-77;8:45 am]

[4310-09]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[43 CFR Part 426]

ACREAGE LIMITATION

Public Hearings

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public hearings on proposed rulemaking.

SUMMARY: The Bureau of Reclamation, Department of the Interior, published proposed rules and regulations for acreage limitation in the August 25, 1977, FEDERAL REGISTER (42 FR 43044). Notice is hereby given that the Department of the Interior will conduct public hearings to receive testimony on the proposed rules and regulations. Requests to testify at a hearing may be made in writing to the Regional Office of the Bureau of Reclamation conducting the hearing. The Regional Office will then establish a schedule for witnesses. Because of extensive interest in the hearings. Hours for all hearings will be 9 tions will be limited to 10 minutes for each witness.

DATES: November 7 through 22, 1977.

Following is a schedule for the hearings. Hours for all hearings will be 9 a.m.–12 noon, 1 p.m.–5 p.m., and 6:30 p.m.–conclusion, (local time). Requests to testify at the hearings may be made to the appropriate regional office.

Addresses	*Regional Office*
November 7, 1977—Ramada Inn, Mullowney Lane and Interstate 90, Billings, Mont.	Upper Missouri Regional Office, P.O. Box 2553, Billings, Mont. 59103.
November 7 and 8, 1977—Sacramento Community/Convention Center, 14th and J Streets, Sacramento, Calif.	Mid-Pacific Regional Office, 2800 Cottage Way, Sacramento, Calif. 95825.
November 11, 1977—Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C.	Commissioner of Reclamation, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.
November 15, 1977—The Regency Inn, 3900 Elati Street, Denver, Colo.	Lower Missouri Regional Office, P.O. Box 25247, Denver, Colo. 80225.
November 15, 1977—Salt Palace, 100 Southwest Temple, Salt Lake City, Utah.	Upper Colorado Regional Office, P.O. Box 11568, Salt Lake City, Utah 84147.
November 15 and 16, 1977—Fresno Townhouse Hotel, 2220 Tulare Street, Fresno, Calif.	Mid-Pacific Regional Office, 2800 Cottage Way, Sacramento, Calif. 95825.
November 16, 1977—Civic Center, One Civic Center Plaza, El Paso, Tex.	Southwest Regional Office, Herring Plaza, Box H-4377, Amarillo, Tex. 79101.
November 16, 1977—Perry Institute, 2011 West Washington, Yakima, Wash.	Pacific Northwest Regional Office, Box 043, Boise, Idaho 83724.
November 21, 1977—Imperial County Fairgrounds, El Centro, Calif.	Lower Colorado Regional Office, P.O. Box 427, Boulder City, Nev. 89005.
November 22, 1977—Civic Plaza Convention Center, 225 E. Adams, Phoenix, Ariz.	Lower Colorado Regional Office, P.O. Box 427, Boulder City, Nev. 89005.

FOR FURTHER INFORMATION CONTACT:

Mr. Vernon S. Cooper, Special Projects Officer, Division of Water and Land, Bureau of Reclamation, 202–343–5104.

Dated: October 13, 1977.

GUY MARTIN,
Assistant Secretary of the Interior.

[FR Doc.77-30460 Filed 10-17-77;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.

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation No. A506]

TEXAS

Designation of Emergency Areas

The Secretary of Agricultural has determined that farming, ranching, or aquacaulture operations have been substantially affected in the following Texas Counties as a result of drought conditions during the period of May 1, 1977, through September 12, 1977:

Leon Limestone

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph VB, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than April 3, 1978, for physical losses and October 4, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C. this 11th day of October 1977.

JAMES E. THORNTON,
Administrator, Farmers Home Administration.

[FR Doc.77-30431 Filed 10-17-77;8:45 am]

[3410-07]

[Designation Number A505]

WISCONSIN

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or or aquaculture operations have been substantially affected in the following Wisconsin Counties as a result of tornado July 30, 1977, in Barron and Rusk Counties; tornado, high winds and excessive rainfall July 30, 1977, in Chippewa County; and tornado, high winds, excessive rainfall and hail July 30, 1977, in Taylor County.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Martin J. Schreiber that such designation be made.

Applications for emergency loans must be received by this Department no later than March 31, 1978, for physical losses and October 3, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 11th day of October, 1977.

JAMES E. THORNTON,
Administrator, Farmers Home Administration.

[FR Doc.77-30432 Filed 10-17-77;8:45 am]

[3410-37]

Food Safety and Quality Service

NITRATES AND NITRITES IN MEAT PRODUCTS

Statement of Policy, Request for Data

AGENCY: Food Safety and Quality Service, U.S. Department of Agriculture.

ACTION: Notice.

SUMMARY: The Administrator has determined that nitrates and nitrites as currently used in manufacturing cured meat products have the potential of interacting with components of the meat to form carcinogenic nitrosamines. As a result, he has established a program for obtaining from the industry information required to resolve definitive questions about the safety of the continued use of nitrites and nitrates in such products.

DATES: Data demonstrating whether the use of nitrates and/or nitrites in the production of bacon results in the formation of carcinogenic nitrosamines during its ordinary processing and/or preparation for eating shall be submitted on or before January 16, 1978. Data to demonstrate if carcinogenic nitrosamines are formed in cured products other than bacon as a result of ordinary conditions of processing and/or preparation for eating shall be submitted in accordance with the following time periods from date of publication of this document:

	Months
1. Dry cured cuts and fermented sausages, including dry and semi-dry sausages	6
2. Cooked sausages	12
3. Pickle cured products and perishable canned products	18
4. Shelf-stable and sterile canned products	24

ADDRESS: Send required information to: Hearing Clerk, U.S. Department of Agriculture, Wash., D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

Irwin Fried, Acting Director, Product Labels and Standards Staff, Food Safety and Quality Service, U.S. Department of Agriculture, Room 202 Annex, Wash., D.C. 20250, 202-447-4293.

SUPPLEMENTARY INFORMATION: Selection of the above groups of cured products to be tested and their sequential listing on a priority basis is founded upon: (1) limited, but existing knowledge that carcinogenic nitrosamines have been found in several samples of these products; (2) limited national laboratory capability to simultaneously analyze all four categories of products; and, (3) the differing levels of nitrates and/or nitrites that are used in their production.

The finding of carcinogenic nitrosamines is not considered positive until confirmed by mass spectrometry.

Data to demonstrate that the use of nitrates and/or nitrites in the production of bacon does not result in the formation of carcinogenic nitrosamines during processing and/or preparation for eating shall be based on a cooking time of at least 3 minutes on each side and at a temperature of at least 340° F. Data made available to the Department since the publication of its proposed rule on nitrates, nitrites and salt (FR Vol. 40, No. 218, Tuesday, November 11, 1975, pp. 52613-52615) indicate that carcinogenic nitrosamines are being found in samples of bacon as prepared for eating.

Protocols to demonstrate whether carcinogenic nitrosamines are formed in cured products other than bacon as a result of ordinary conditions of processing and/or preparation for eating shall be submitted to the Administrator. As a minimum, the protocols shall include methods of processings and preparation for eating under ordinary conditions, sampling techniques and methods of analysis.

After review of all data now available to the Department and submitted pursuant to this notice the Administrator will determine the action to be taken to ban the use of nitrates and/or nitrites in the

production of bacon and other cured products unless it is shown that the use of nitrates and/or nitrites will not result in the formation of carcinogenic nitrosamines in any samples of that product processing or preparation for eating.

The Administrator has determined that data requested may be submitted by industry associations or individual meat processing firms. The testing protocols are to be reviewed by the Administrator for assessing their sufficiency in providing the needed data.

Done at Washington, D.C., on: October 13, 1977.

ROBERT ANGELOTTI, Ph.D.,
Administrator, Food Safety and Quality Service.

[FR Doc.77-30430 Filed 10-17-77;8:45 am]

[3410-15]

Rural Electrification Administration

SAN MIGUEL ELECTRIC COOPERATIVE, INC., JOURDANTON, TEXAS

Proposed Loan Guarantee

Under authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $352,300,000 to San Miguel Electric Cooperative, Inc., Jourdanton, Texas. These loan funds will provide San Miguel with financing required for construction of the 400 MW, lignite-fired, mine mouth, San Miguel Generating Unit No. 1, and associated lignite mine facilities. The plant and mine are to be located in Atascosa and McMullen Counties in Texas.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. James E. Monahan, Co-Manager, San Miguel Electric Cooperative, Inc., c/o Brazos Electric Power Cooperative, Inc., P.O. Box 6296, Waco, Tex. 76706 or Mr. William S. Robson, Co-Manager, San Miguel Electric Cooperative, Inc., c/o South Texas Electric Cooperative, Inc., Rt. 6, Bldg. 102, Victoria, Regional Airport, Victoria, Tex. 77901.

In order to be considered, proposals must be submitted November 16, 1977, to Mr. Monahan and/or Mr. Robson. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received as San Miguel and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Wash., D.C. 20250.

Dated at Washington, D.C., this 11 day of October 1977.

JOSEPH VELLONE,
Acting Administrator, Rural Electrification Administration.

[FR Doc.77-30392 Filed 10-17-77;8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Dockets 29411, 29412, 30619]

AIR NAURU

Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on November 9, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge William A. Kane, Jr.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement at the prehearing conference.

Dated at Washington, D.C., October 12, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-30437 Filed 10-17-77;8:45 am]

[6320-01]

[Docket 31413]

PITTSBURGH-LOS ANGELES/SAN FRANCISCO/DENVER SERVICE INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 22, 1977, at 10 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Ronnie A. Yoder.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before November 8, 1977, and the other parties on or before November 16, 1977. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operatng Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., October 12, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-30437 Filed 10-17-77;8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

DEPARTMENT OF DEFENSE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary (Intelligence and Warning Systems), OASD (Intelligence), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-30222. Filed 10-17-77; 8:45 am]

[6325-01]

DEPARTMENT OF JUSTICE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Associate Deputy Attorney General, Office of the Deputy Attorney General.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-30221 Filed 10-17—77;8:45 am]

[6325-01]

DEPARTMENT OF LABOR

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Administrator for Comprehensive Employment Development, Employment and Training Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-30223 Filed 10-17-77;8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

BRIGHAM YOUNG UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Wash., D.C. 20230.

Docket Number: 77-00140. Applicant: Brigham Young University, Provo, Utah 84602. Article: Picker Dynamic Flow Microcalorimeter, complete with heat of mixing and specific heat options. Manufacturer: Techneurop, Inc., Canada. Intended use of Article: The article will be used for precise physical-chemical measurements of liquid non-electrolytes to determine heat of mixing and heat capacities. In addition, the article is intended to be used in the courses Chemistry 697 and 797 Masters and Doctoral Candidates Research.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a flow heat mixing calorimeter which provides a sensitivity of 1 x 10^{-6}° C, a response time of less than six seconds, temperature control of ±0.001° C, a flow-rate of 13 millimeters^3/second, precision of ±0.3-0.5 percent, and a pump with a maximum volume of less than 0.2 cubic centimeters. The National Bureau of Standards advises in its memorandum dated August 24, 1977 that (1) the combination specifications of the article described above are pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article which was available at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-30307 Filed 10-17-77;8:45 am]

[3510-25]

CASE WESTERN RESERVE UNIV.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

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The following is a decision on an aptific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Wash., D.C. 20230.

Docket Number: 77-00118. Applicant: Case Western Reserve University, 10900 Euclid Ave., Cleveland, Ohio 44106. Article: Scanning Electron Microscope, Model S4-10, Goniometer Specimen Stage and accessories. Manufacturer: Kent Cambridge Scientific Inc., United Kingdom. Intended use of article: The article is intended to be used in conducting the following experiments: (a) Sequence of blood clotting steps; (b) Sequence of corrosion fatigue in polymers; (c) Studies of artificial heart valves; (d) Studies of endosteal blade-vent implant; and (e) Vascular effects of sickle cell anemia in humans.

The article will also be used for educational purposes in the following courses:

EMMS 509: Electron Microscopy.
EMMS 204: Materials Laboratory II.
EMMS 308: Characterization of Materials.
EMAC 679: Polymer Characterization Laboratory II.
EMMS 304: Material Projects Laboratory.
EBME 306: Introduction to Biomedical Materials.
EBME 405: Materials for Prosthetic and Orthotic Use.
EBME 406: Polymers in Medicine.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (October 12, 1973).

Reasons: This application is a resubmission of Dockets Numbers 74-00175-33-46070 and 75-00008-33-46070 which were denied without prejudice to resubmission on April 3, 1974 and October 4, 1976 respectively for informational deficiencies. The foreign article consistently produces Selected Area Channel Patterns (SACP) on areas of less than 10 microns. The Department of Health, Education, and Welfare (HEW) and the National Bureau of Standards (NBS) advise in their memorandums dated May 23, 1977 and September 7, 1977 respectively that the capability of the article described above is pertinent to the applicant's intended purposes. HEW and NBS also advise that they know of no domestic instrument or apparatus which provided the pertinent capability of the article at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-30308 Filed 10-17-77;8:45 am]

[3510-25]

DUKE UNIV. MEDICAL CENTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Wash., D.C. 20230.

Docket Number: 77-00223. Applicant: Duke University Medical Center, Box 3094, Durham, N.C. 27710. Article: Gas Analyser, Model 200 MGA. Manufacturer: Twentieth Century Electronics, United Kingdom. Intended use of article: The article is intended to be used to analyze up to eight individual gases simultaneously either in a breathing mixture or in blood or other tissue fluids following, on a moment-to-moment basis, changes in gas composition in a given respired gas mixture. In addition, the article will be used to identify and subsequently, to analyze a wide variety of gases in both hyperbaric and operating room environments. This not only includes gaseous contaminants but also includes all general anesthetic gases and vapors. Water vapor content in the breath will also be analyzed on a moment-to-moment basis.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides selection for continuous analysis of up to eight gases (2-200 atomic mass units), two blood gas inlets, and a high speed scan. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated August 10, 1977 that (1) this combination of features in the article described above is pertinent to the applicant's intended use and (2) it

knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended uses.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assurance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-30309 Filed 10-17-77;8:45 am]

[3510-25]

UNIVERSITY OF UTAH

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00230. Applicant: University of Utah, University and 200 South, Salt Lake City, Utah 84112. Article: Automatic Recording Spectropolarimeter, Model J-40A with Standard Accessories. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use of article: The article is intended to be used for studies of nucleosides, nucleic acids, peptides and proteins. Experiments will be conducted to obtain circular dichroism spectra at various concentrations and temperatures for solutions of nucleosides, polynucleotides and polynucleotide complexes, peptides, proteins, and proteins in the presence of various membranes. These experiments frequently involve the measurement of very small changes in ellipticity (rotation of a beam of polarized light) in the presence of high absorbance of the light beam. The article will also be used in the course Medicinal Chemistry 797, Thesis Research to train Ph. D. candidates in the techniques and skills required for the conduct of original research in Medicinal Chemistry.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a sensitivity limit at 185 nanometers (nm), 200 nm, 500 nm and 700 nm of 8 millidegrees (m°) noise, 3m° noise, 0.5° noise, and 1.5m° noise respectively. These sensitivities are enhanced by high frequency switching between right and left circularly polarized light. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated August 10, 1977 that (1) the features of the article described above are pertinent to the applicant's intended uses and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-30310 Filed 10-17-77;8:45 am]

[3510-25]

U. OF UTAH COLLEGE OF MEDICINE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00226. Applicant: University of Utah College of Medicine, 50 North Medical Drive, Salt Lake City, Utah 84132. Article: Tubinger Perimeter and accessories. Manufacturer: Oculus, West Germany. Intended use of article: The article will be used for static and kinetic visual field examination which is necessary for the clinical management of patients with glaucoma. In addition, the article will be used to provide comprehensive clinical material relating to static perimetry for use in teaching conferences. The article will also be used to provide ophthalmology residents in training understanding of static perimetry techniques.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such puposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability for static perimetry. The Department of Health, Education, and Welfare advises in its memorandum dated August 10, 1977 that (1) the feature of the article described above is pertinent to the applicant's intended uses and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

RICHARD M. SEPPA,
Director, Director, Special Import Programs Division.

[FR Doc.77-30311 Filed 10-17-77;8:45 am]

[3510-25]

VA. POLYTECHNIC INST. & STATE U.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00137. Applicant: Virginia Polytechnic Institute and State University, Department of Geological Sciences, 4044 Derring Hall, Blacksburg, Va. 24061. Article: Automatic sequential X-ray spectrometer, Model PW145/80 ASP and accessories. Manufacturer: Philips Electronics Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used to analyze samples of naturally occurring rocks and minerals. These samples are to be analyzed for elemental constituents for understanding the origin of these rocks. There will be a careful study of the redistribution of the original elements of rocks along the eastern U.S. Also, correlation of elemental, abundances determined by the XRF will be made with uranium and thorium concentrations to provide information on heat production of rocks and its relation to rock chemistry.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a higher sensitivity level by the use of a 100 kilovolt (kv) excitation potential. The most closely comparable domestic instrument is the model XRD-8300 which is manufactured by the Diano Corporation. The Model XRD-8300

provides 75 kv excitation and resulting lower sensitivity. The National Bureau of Standards advises in its memorandum dated August 24, 1977 that (1) the capability of the foreign article described above is pertinent to the applicant's research studies and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

We, therefore, find that the Model XRD-8300 X-ray spectrometer is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-30312 Filed 10-17-77;8:45 am]

[3510-25]

WISTAR INSTITUTE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

Thef ollowing is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00256. Applicant: The Wistar Institute, 36th Street at Spruce, Philadelphia, Pa. 19104. Article: Tachophor complete, with Power Supply Unit, and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of biological molecules that include proteins from animal tissue. Investigations will consist of studies on in vitro and/or in vivo reactions between molecules following increase, decrease, or absence of one or all of the reacting molecules.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. REASONS: The foreign article provides the capability for counter flow isotachorphoresis. The Department of Health, Education, and Welfare advises in its memorandum dated September 12, 1977 that (1) the capability of the article described above is pertinent to the applicant's intended research and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc. 77-30313 Filed 10-17-77; 8:45 am]

[3510-25]

RAMON ALVAREZ GUTIERREZ, ET AL.

Export Privileges Restored; Order

In the matter of Dr. Ramon Alvarez Gutierrez, Jose Arce Gutierrez, Autos y Refacciones Hidalgo, S.A., Donald W. T. Bruce, Stanley Crossley, Victor Hernandez Rodriguez, Kouri y Perez, Yamil Amado Haron, Roberto Castellon Mulia, Michael Sanchez, Respondents.

Pursuant to the Export Control Act of February 28, 1949, as amended and supplemented by the Export Administration Act of 1969, 50 U.S.C. App. § 2401 et seq., the above named parties were denied all U.S. export privileges. Their names appear on the Table of Denial and Probation Orders List, 15 CFR 388, Supp. I and II.

The Director, Compliance Division, reports that respondents are not now suspect or known to be in violation of the U.S. export laws or regulations.

The Hearing Commissioner, in view of that report, recommends respondents be restored to full export privileges.

I have examined the report and recommendations of the Commissioner. The record fails to disclose any adverse report. Nor are respondents presently suspect in connection with any violation of the United States export laws or U.S. Department of Commerce export regulations. Therefore, pursuant to the authority delegated to me by the Export Administration Regulations, it is

ORDERED

Respondents are hereby unconditionally restored to all United States export privileges.

Dated: October 12, 1977.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.77-30413 Filed 10-17-77;8:45 am]

[3510-12]

National Oceanic and Atmospheric Administration

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Public Meeting

The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet December 14-15, 1977, at the Holiday Inn, Junction of Routes 1 and 128, Peabody, Mass. The meeting starts at 10 a.m. on December 14, and will adjourn at about 5 p.m.; on December 15 at 9 a.m. and will adjourn at about 4 p.m.

Proposed Agenda: (1) Groundfish (Cod, Haddock, Yellowtail Flounder) for 1978; (2) Status of Herring, Scallop, Whiting Management Plans; (3) Management Objectives for Ocean Perch, Pollock, Red Crab—preliminary discussions; and (4) other business.

Meeting is open to the public. For more information on seating, changes to the agenda, or written comments, contact Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Mass. 01960. Telephone 617-535-5450.

Dated: October 11, 1977.

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

[FR Doc.77-30433 Filed 10-17-77;8:45 am]

[3510-12]

MARINE MAMMALS

Issuance of Permit

On July 12, 1977, notice was published in the FEDERAL REGISTER (42 FR 35877), that an application had been filed with the National Marine Fisheries Service by Dr. Albert W. Erickson, Wildlife Research Professor, College of Fisheries, University of Washington, Seattle, Wash. 98195, to take by tagging up to 2,000 and by killing up to 800 Antarctic pinnipeds annually, for the purpose of scientific research.

Notice is hereby given that on October 6, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); the National Marine Fisheries Service issued a Permit for the above described taking to Dr. Erickson, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northwest Region, 1700

Westlake Avenue North, Seattle, Wash. 98109.

Dated: October 5, 1977.

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

[FR Doc.77-30408 Filed 10-17-77;8:45 am]

[3510-12]

MARINE MAMMALS

Issuance of Permit

On August 16, 1977, notice was published in the FEDERAL REGISTER (42 FR 41318) that an application had been filed with the National Marine Fisheries Service by the State of Maine, Department of Marine Resources, State House, Augusta, Maine 0433, for a Permit to take an unspecified number of the following species of marine mammals, that may be taken incidentally in gill nets utilized to sample shortnose sturgeon: Atlantic bottlenosed dolphin (*Tursiops truncatus*); Atlantic white-sided dolphin (*Lagenorhynchus acutus*); harbor porpoise (Phocoena *phocoena*); harbor seal (*Phoca vitulina concolor*); and gray seal (*Halichoerus grypus*).

Notice is hereby given that on October 7, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit authorizing the taking of up to five animals of each species but limited to a total of fifteen animals for all species subject to certain conditions set forth therein. The Permit is available for review by intertsted persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whithaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Dated: October 7, 1977.

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

[FR Doc.77-30410 Filed 10-17-77;8:45 am]

[3510-12]

MARINE MAMMALS

Modification of Permits

Notice is hereby given that, pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 197 issued to Sea Life Park, Inc., Makapuu Point, Waimanalo, Hawaii 96795, on August 9, 1977 (40 FR 8846) and Permit No. 2 issued on February 8, 1974 (39 FR 7477), as modified on March 3, 1975 (40 FR 8846) and December 31, 1975 (40 FR 60105), are modified in the following manner:

1. Permit No. 197: Section B-4 under the Permit that requires a qualified veterinarian to accompany the Permit Holder's capture operations has been changed to read, "The Holder shall maintain radio contact with a qualified veterinarian."

2. Permit No. 2: The monthly report requirement under Section B-4 of this Permit has been changed to an annual requirement.

These modifications are effective on October 18, 1977.

The Permits are modified, and documentation pertaining to the modification is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: September 26, 1977.

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

[FR Doc.77-30412 Filed 10-17-77; 8:45 am]

[3510-12]

MARINE MAMMALS

Modification of Permit

Notice is hereby given that, pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Scientific Research Permit for Importing Marine Mammal Materials issued to Dr. Akhouri A. Sinha, Building 49, Room 207, Veterans' Administration Hospital, Minneapolis, Minn. 55417 (41 FR 23742), is modified in the following manner:

The period of validity, during which the authorized marine mammal materials may be imported from the British Antarctic Survey, Cambridge, England, is extended from December 31, 1977, to December 31, 1979.

This modification is effective on October 18, 1977.

The Permit, as modified, and documentation pertaining to the modification is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Dated: September 30, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-30411 Filed 10-17-77;8:45 am]

[3510-12]

MARINE MAMMALS

Modification of Permit

Notice is hereby given that pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Scientific Research Permit issued to Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Wash. 98112, on July 28, 1976, is modified so that:

The general conditions of the permit relating to taking of pregnant, lacatating or unweaned marine mammals do not apply to the authorized taking.

The modification reflects the Permit Holder's original intent since predetermination of the animals condition would be impossible until after taking had occurred. It is effective on October 18, 1977. The permit, as modified, and documentation pertaining to the modification is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Wash., 98109; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

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

OCTOBER 4, 1977.

[FR Doc.77-30409 Filed 10-17-77;8:45 am]

[3510-12]

MARINE MAMMALS

Receipt of Application

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: (a) Name: Ocean World, Flamingo Park Zoo; (b) Address: Kirby Misperton, Malton, Yorkshire, England.

2. Type of permit: Public display.

3. Name and number of animals: Bottlenosed dolphins (*Tursiops truncatus*), 6.

4. Type of activity: Live capture by professional collector.

5. Location of activity: Off the coast of Florida.

6. Period of activity: Two years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11614, March 12, 1975). In this regard, the application:

(a) Was submitted to the Director, NMFS, through the Department of the

Environment of the United Kingdom, that Department being responsible, among other things, for ensuring the suitable care of animals in captivity;

(b) Includes: (i) A verification, from the Ministry of Agriculture, Fisheries and Food of the United Kingdom, of the information set forth in the application;

(ii) A certification from the Department of the Environment that the Government of the United Kingdom is prepared to monitor compliance with the terms and conditions of the permit, and will do so, if and when necessary; and

(iii) A statement that the Department of the Environment will have no objection to a NMFS decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Department of the Environment and the Ministry of Agriculture, Fisheries and Food of the United Kingdom have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Fla. 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: October 11, 1977.

MORRIS M. PALLOZZI,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-30407 Filed 10-17-77;8:45 am]

[3510-12]

MASSACHUSETTS COASTAL MANAGEMENT PROGRAM

Public Hearing on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold five public hearings for the purpose of receiving comments on the draft environmental impact statement for the Coastal Management Program of the State of Massachusetts.

The hearing schedule is as follows:

November 14, 1977, 7:30 p.m.—Upper and Lower North Shore, Essex Agricultural and Technical Institute, Hathorne, Mass., Room 201, John Berry Building.

November 15, 1977, 7:30 p.m.—Buzzards Bay and Mount Hope Bay, Fall River Government Center Hearing Room.

November 16, 1977, 7:30 p.m.—South Shore and Plymouth Bay, Marshfield Town Hall, Hearing Room 3, 2nd Floor.

November 17, 1977, 7:30 p.m.—Cape Cod, Martha's Vineyard, and Nantucket, Cape Cod Regional Technical High School, Rt. 124, Harwich, Mass.

November 22, 1977, 1 p.m. to 7 p.m.—Greater Boston Harbor, New England Aquarium, Central Wharf "Discovery" Pavillion.

The views of interested persons and organizations are solicited. These may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-served basis, but may be limited to a maximum of ten minutes or as otherwise appropriate. Priority will be given to those with written statements. Time will be available at the end of the meeting for persons without statements to present their views orally. The Office of Coastal Zone Management staff may question any speaker following presentation of his/her statement. No verbatim transcript of the hearing will be maintained; but staff present will record the general thrust of the remarks.

Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management as soon as possible so that an appearance schedule may be drawn up and definite times established for presentations. Please contact:

June Cradick, National Oceanic and Atmospheric Administration, Office of Coastal Zone Management, 3300 Whitehaven St. NW., Washington, D.C. 20235; phone: 202-634-4242.

Written comments may also be submitted by mail to the Office of Coastal Zone Management. Such comments should be received before November 28, 1977, to assure adequate consideration for inclusion in the final environmental impact statement.

Copies of the draft environmental impast statement may be obtained by contacting the Office of Coastal Zone Management or:

Russ Sylva, Executive Office of Environmental Affairs, Coastal Zone Management, Leverett Saltonstall Bldg., 100 Cambridge Street, Boston, Mass. 02202; phone: 617-727-2808.

Comments may address the adequacy of the impact statement and/or the nature of the Massachusetts Coastal Management Program.

Following consideration of the comments received at these hearings, as well as written comments submitted, the Office of Coastal Zone Management will prepare the final environmental impact statement pursuant to the National Environmental Policy Act of 1969 and implementing guidelines.

Dated: October 13, 1977.

T. P. GLEITER,
Assistant Administrator for Administration.

[FR Doc.77-30404 Filed 10-17-77;8:45 am]

[3510-13]

National Bureau of Standards

VOLUNTARY PRODUCT STANDARD

Intent To Withdraw

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw Voluntary Product Standard PS 14-69, "Salt Packages."

It has been determined that this standard is technically inadequate and that revision would serve no useful purpose because the subject matter of PS 14-69 is adequately covered by the American National Standards Institute's standard ANSI Z353.1, "American National Standard for Salt Packages," and duplication is inappropriate and not in the public interest.

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to the Standards Development Services Section, National Bureau of Standards, Washington, D.C. 20234, within 30 days after publication of this notice. The effective date of withdrawal will be not less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

Dated: October 12, 1977.

ERNEST AMBLER,
Acting Director.

[FR Doc.77-30396 Filed 10-17-77;8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN MAN-MADE FIBER INFANTS' SWEATERS AND CARDIGANS

Permitting Entry From the Philippines

OCTOBER 13, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Permitting entry of infants' sweaters and cardigans of man-made fibers in T.S.U.S.A. Nos. 382.0427 and 382.7870 (Category 221) from the Philippines, effective on October 13, 1977, and extending through December 31, 1977.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement

between the Governments of the United States and the Republic of the Philippines provides a separate level of restraint for certain traditional garments which are defined as "infants' garments up to and including size 6x." Certain infants' sweaters and cardigans are presently charged to the level of restraint established under the agreement for non-traditional sweaters and cardigans of man-made fibers in Category 221; consequently, that level has been filled. This action will permit entry of the traditional infants' sweaters and cardigans in T.S.U.S.A. Nos. 382.0427 and 382.7870, from the effective date through December 31, 1977.

EFFECTIVE DATE: October 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On September 27, 1976, there was published in the FEDERAL REGISTER (41 FR 42234) a letter dated September 22, 1976, from the Chairman of the Committee for the Implementation of Textile Agreements, which established the levels of restraint applicable to certain specified categories of cotton and man-made fiber textile products, produced or manufactured in the Philippines and exported to the United States during the twelve-month period which began on October 1, 1976, and extended through September 30, 1977. The agreement was amended by directive of August 5, 1977 (42 FR 40304) and extended for three months through December 31, 1977. The amendment established, inter alia, a specific level of restraint for knit sweaters and cardigans in Category 221.

In the letter of October 13, 1977, published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to permit entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products classified in T.S.U.S.A., Nos. 382.0427 and 382.7870 in Category 221, produced or manufactured in the Philippines, during the period beginning on October 13, 1977, and extending through December 31, 1977.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive issued to you on September 22, 1976 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain specified categories of cotton and man-made fiber textile products, produced or manufactured in the Philippines.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975, as amended, between the Governments of the United States and the Republic of the Philippines, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed effective on October 13, 1977 and for the period extending through December 31, 1977, to permit entry for consumption or withdrawal from warehouse for consumption, of man-made fiber textile products in T.S.U.S.A. numbers 382.0427 and 382.7870 in Category 221, produced or manufactured in the Philippines, without charge to the level of restraint established for Category 221.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of man-made fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.77-30405 Filed 10-17-77;8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. C177-735, et al.]

OCEAN PRODUCTION CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

OCTOBER 11, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 4, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in deter-

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

mining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI77-735..... A 8-16-77	Ocean Production Co., et al., P.O. Box 61780, New Orleans, La. 70161.	Trunkline Gas Co., South Timbalier block 86, offshore Louisiana, Gulf of Mexico.	[1] $1.4943	15.025
CI77-744..... A 8-19-77	American Natural Gas Production Co., One Woodward Ave., Detroit, Mich. 48226.	Panhandle Eastern Pipe Line Co., Baca County, Colo.	[1] 1.4421249	14.65
CI77-753..... B 8-22-77	Connally Oil Co., Inc., P.O. Box 768, Abilene, Tex. 79604.	El Paso Natural Gas Co., Spraberry (trend area) Reagan County Tex.	(4)	.....
CI77-754..... A 8-25-77	Chevron U.S.A. Inc., P.O. Box 599, Denver, Colol 80201.	Kansas-Nebraska Natural Gas Co., Inc., Waltman, Cooper Reservoir and Lost Cabin Fields, Fremont and Natrona Counties, Wyo.	(1)	15.025
CI77-755..... A 8-25-77	Amoco Production Co., P.O. Box 5910-A, Chicago, Ill. 60680.	Tennessee Gas Pipeline Co. and Columbia Gas Transmission Corp., "B" platform, West Cameron block 609, offshore, Louisiana.	[1] 1.942232	15.025
CI77-760..... A 8-26-77	General Crude Oil Co., P.O. Box 2252, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., Van Meter Field area, Hardin County, Tex.	[1] 1.4521	14.65
CI77-762..... A 8-18-77	Pinto, Inc., 999 The Main Building, Houston, Tex. 77002.	Sea Robin Pipeline Co., block 228, Vermilion area, offshore, Louisiana.	[1] [2] 0.963925 [1] [2] 1.494339	15.025
CI77-763..... A 8-30-77	Champlin Petroleum Co., P.O. Box 1257, Englewood, Colo. 80150.	Colorado Interstate Gas Co., Shell Creek unit, Moffat County, Colo.	[1] 1.452071	14.65
CI77-764..... A 8-29-77	Hunt Oil Co., 2900 First National Bank Building 1401 Elm St., Dallas, Tex. 75202.	El Paso Natural Gas Co., East half section 81, block Y, GC & SF Ry. Co. Survey, Amacker Tippett, S.W. (Wolfcamp) Field, Upton County, Tex.	[1] 2.1545	14.73
CI77-766..... B 8-31-77	Bright & Schiff, 2355 Stemmons Building, Dallas, Tex. 75207.	Tennessee Gas Pipeline Co., East Englehart Field, Colorado, Texas.	(5)	.....
CI77-767..... B 8-31-77	do	do	(5)	.....
CI77-768..... A 9-1-77	CNG Producing Co., 445 West Main St., Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp., block 313, Vermilion area, South Addition, offshore Louisiana.	[1] [3] 151.1750¢	14.73
CI77-770..... A 9-1-77	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Co., Webb "E" No. Well, section 19-4N-12ECM, Texas County, Okla.	(1)	15.025
CI77-771..... (G-12533) B 9-1-77	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79105.	Northern Natural Gas Co., Perryton Field, Ochiltree County, Tex.	(6)	.....
CI77-776..... A 8-31-77	Transco Exploration Co., P.O. Box 1396, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., East Collins Field, Covington County, Miss.	[1] [3] $1.59744784	15.025
CI77-783..... A 9-9-77	Kerr-McGee Corp., P.O. Box 25861, Oklahoma City, Okla. 73125.	Southern Natural Gas Co., the northern portion of Breton Sound block 37, Plaquemines Parish, La. ("Field").	(1)	15.025
CI77-784..... A 9-9-77	do	Southern Natural Gas Co., S.L. 2000 Well No. 44 in the south half of Breton Sound block 29, Plaquemines Parish, La. ("well").	(1)	15.025
CI77-785..... (G-14388) B 9-6-77	Petroleum Corp. of Texas (operator), et al., P.O. Box 911, Breckenridge, Tex. 76024.	Coastal States Gas Producing Co., Hidalgo Field, Hidalgo County, Tex.	(7)	.....
CI77-793..... B 9-6-77	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Union Texas Petroleum Co., N.E. Bloodworth Field, Coke and Nolan Counties, Tex.	(8)	.....
CI77-796..... A 9-9-77	General Crude Oil Co., P.O. Box 2252, Houston, Tex. 77001.	Northern Natural Gas Co., South Marsh Island area, blocks 243 and 244, offshore Louisiana.	[1] $1.46	15.025
CI77-797..... A 9-9-77	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Mountain Fuel Supply Co., Yellow Creek Field, Uinta County, Wyo.	[1] 168.4902¢	14.73
CI77-800..... B 9-6-77	James M. Forgotson, 242 Main Building, 1212 Main, Houston, Tex. 77002.	United Gas Pipe Line Co., Roanoke Field, Jefferson Davis Parish, La.	(9)	.....
CI77-801..... A 9-12-77	Monsanto Co., 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77056.	Transwestern Pipeline Co., Wink Airport No. 2 Well, (Ellenburger formation) Winkler County, Tex.	[1] $1.601903	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI77-814..... A 9-14-77	Chevron U.S.A. Inc., P.O. Box 7643, San Francisco, Calif. 94120.	Pacific Alaska LNG Associates, Ivan River Field, Cook Inlet area, Alaska.	[1] 163.5200	14.73
CI77-815..... A 9-7-77	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	El Paso Natural Gas Co., Reydon Field, Roger Mills County, Okla.	([1])	14.65
CI77-827..... B 9-19-77	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Warren Petroleum Co. Inbee Field, Lea County, N. Mex.	([10])	.....
CI77-828..... A 9-22-77	Union Oil Co., of California, Union Oil Center, Room 904 P.O. Box 7600, Los Angeles, Calif. 90051.	Texas Gas Transmission Corp., blocks A-302, A-303, A-334, A-335 and A-382, east addition, south extension and blocks A-572 and A-573, south addition, High Island area, offshore Texas.	([1])	14.65
CI77-829..... (CI 63-1152), B 9-26-77	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Arkansas Louisiana Gas Co., North Anthon Field, Custer County, Okla.	([11])	.....
CI77-830..... A 9-26-77	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	Tennessee Gas Pipeline Co., a Division of Tenneco, platform "A" located in block, 327, Eugene Island, offshore Louisiana.	[1] 2.00¢	15.025
CI77-837..... A 9-28-77	Exxon Corp.....	Sea Robin Pipeline Co., east Cameron block 334 Field, offshore Louisiana.	[1] 193.1329	15.025
CI77-839..... A 9-26-77	Forest Oil Corp., 1500 Colorado National Bldg., 950 17th St., Denver, Colo. 80202.	Columbia Gas Transmission Corp., certain acreages of blocks 142 and 143, south Marsh Island area, offshore Louisiana.	[1] $1.90	15.025
CI77-840..... A 9-27-77	Union Texas Petroleum, a Division of Allied Chemical Corp., P.O. Box 2120, Houston, Tex. 77001.	Transwestern Pipeline Co., Loisel Field, Iberia Parish, Louisiana.	([1])	15.025
CI77-841..... A 9-29-77	Kewanee Oil Co., P.O. Box 2239, Tulsa, Okla. 74101.	Cities Service Gas Co., NW/4 of section 35-T34S-R9E, Chautauqua County, Kans.	([1])	14.73

[1] Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.
[2] Prices promulgated by opinion Nos. 770, and 770-A. Prices at 15.025 in², assume 1,000 Btu content and include $0.0051 gathering allowance. Spud dates of wells are as follows: A-1, Mar. 30, 1974; A-2, Oct. 6, 1975; A-3, Jan. 16, 1975; A-4, Apr. 7, 1976; A-5, June 27, 1976; and A-6 Apr. 29, 1976.
[3] Applicant and purchaser are affiliated.
[4] Wells reserves depleted. Uneconomical to produce.
[5] Reservoir depleted and well plugged and abandoned and no oil and gas lease rights.
[6] Nonproductive.
[7] Depleted, well plugged and lease terminated.
[8] Abandonment—contract was considered terminated on June 22, 1977.
[9] Producing sands depleted. No other productive sands located.
[10] Abandonment—leases expired.
[11] Leases expired.

[FR Doc.77-30208 Filed 10-17-77;8:45 am]

[6740-02]

[Docket Nos. CI77-707, *et al.*]

PHILLIPS PETROLEUM CO.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

OCTOBER 11, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 31, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI77-707..... A 8-1-77	Phillips Petroleum Co., 5 C4 Phillips Building, Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Coates "A" No. 1 Well, Pecos County, Tex.	[1] 146.0¢	14.73
CI77-708..... A 8-1-77	Texas Eastern Exploration Co., P.O. Box 2521, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Block 594 Field, West Cameron Area, offshore Louisiana.	[1] $1.90	15.025
CI77-709..... A 8-3-77	MRT Exploration Co., 9900 Clayton Rd., St. Louis, Mo. 63124.	Mississippi River Transmission Corp., Ray P. Oden, Sr., Unit No. 1 Well in the Holly Field, DeSoto Parish, La.	[2] [3] $1.59240	15.025
CI77-710..... B 8-4-77	Skinner Corp., D-434 Petroleum Center, San Antonio, Tex. 78209.	Coastal States Gas Producing Co., East Mathis Field, San Patricio County, Tex.	(4)	.....
CI77-711..... A 8-5-77	Transco Exploration Co., P.O. Box 1396, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., Stephenson Point Field, Galveston County, Tex.	[2] [3] $1.57378435	14.65
CI77-714..... A 8-10-77	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Block A-323, High Island area, offshore Texas.	[1] $2.00	14.65
CI77-715..... A 8-8-77	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Transcontinental Gas Pipe Line Corp., Bassfield Field, Jefferson Davis County, Miss.	(2)	15.025
CI77-716..... A 8-4-77	Felmont Oil Corp., 6 East 43rd St., New York, N.Y. 10017.	El Paso Natural Gas Co., South Blanco Pictured Cliffs Field, Rio Arriba County, N. Mex.	[1] $1.716	14.73
CI77-719..... A 8-8-77	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., East Cameron block 42 Field, offshore Louisiana.	[2] $1.4650	14.73
CI77-720..... A 8-10-77	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., block A-520, High Island area, offshore Texas.	[1] $2.00	14.65
CI77-722..... A 8-4-77	Cotton Petroleum Corp., 2121 South Columbia, Suite 600, Tulsa, Okla. 74114.	El Paso Natural Gas Co., Hemphill/Morrow, U. Field, Hemphill County, Tex.	[1] 159.1484¢	14.73
CI77-723..... B 8-5-77	Phillips Petroleum Co., 5 C4 Phillips Building, Bartlesville, Okla. 74004.	El Paso Natural Gas Co., James Ranch area, Eddy County, N. Mex.	(5)	.....
CI77-726..... A 8-12-77	Petroleum, Inc. (operator), 300 West Douglas, Wichita, Kans. 67202.	Panhandle Eastern Pipe Line Co., Hamaker lease, Ellis County, Okla.	(2)	15.025
CI77-727..... A 8-12-77	Amoco Production Co., Security Life Building, Denver, Colo. 80202.	Northern Natural Gas Co., S. E. Gage Field, Ellis County, Okla.	(2)	15.025
CI77-728..... A 8-12-77	Amoco Production Co., P.O. Box 5910-A, Chicago, Ill. 60680	Sea Robin Pipeline Co., East Cameron block 231 field, offshore, Louisiana.	[2] $1.90	15.025
CI77-729..... A 8-12-77	do.....	Trunkline Gas Co., Ship Shoal block 292 field, offshore, Louisiana.	[2] $1.75	15.025
CI77-730..... A 8-18-77	Texaco Inc., P.O. Box 52332, Houston, Tex. 77052.	Columbia Gas Transmission Corp., Eugene Island 330 field, offshore, Louisiana.	(2)	15.025
CI77-731..... A 8-15-77	Ocean Production Co., P.O. Box 61780, New Orleans, La. 70161.	Michigan Wisconsin Pipe Line Co., Eugene Island block 27, offshore, Louisiana.	[1] $1.90	15.025
CI77-732..... B 8-15-77	Hawn Bros. et al., 100 Hawn Bldg., Corpus Christi, Tex. 78401.	Texas Eastern Transmission Corp., South Cottonwood Creek Field, DeWitt County, Tex.	(6)	.....
CI77-733..... B 8-18-77	G. E. Kadane & Sons, P.O. Drawer, Wichita Falls, Tex. 76307.	United Gas Pipe Line Co., Maxie-Pistol Ridge Field, Forrest County, Miss.	(7)	.....
CI77-734..... B 8-16-77	Kewanee Oil Co., P.O. Box 2239, Tulsa, Okla. 74101.	Trunkline Gas Co., South Timbalier, blocks 179 and 187, offshore, Louisiana.	(8)	.....
CI77-736..... A 8-24-77	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Michigan Wisconsin Pipe Line Co., High Island area, block A-323, offshore, Texas.	(2)	14.65
CI77-738..... A 8-24-77	Ashland Oil, Inc., P.O. Box 1503, Houston, Tex. 77001.	Kansas-Nebraska Natural Gas Co., Maxted 44-30 well located in section 30-T13N-R53W, Kimball County, Nebr.	[1] $1.46	14.73
CI77-739..... A 8-18-77	Kewanee Oil Co., P.O. Box 2239, Tulsa, Okla. 74101.	Southern Natural Gas Co., Dalcour Field, Plaquemines Parish, La.	[1] 155.92¢	15.025
CI77-737..... A 8-24-77	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Transwestern Pipeline Co., Robinson Gas Com. No. 1, located in the N/2 section 27-17S-29E, Eddy County, N. Mex.	(2)	15.025
CI77-740..... A 8-22-77	Amoco Production Co., Security Life Building, Denver, Colo. 80202.	Pioneer Gas Products Co., S. E. Aylesworth Field, Bryan County, Okla.	[2] $1.46	15.025
CI77-741..... A 8-22-77	Amoco Production Co., Security Life Building, Denver, Colo. 80202.	Northern Natural Gas Co., Mocane Laverne Field, Ellis County, Okla.	[2] $1.46	15.025
CI77-742..... A 8-22-77	Energy Reserves Group, Inc. a corporation, P.O. Box 1201, Wichita, Kans. 67201.	Michigan Wisconsin Pipe Line Co., Well No. 1, block 327, Eugene Island area, offshore Louisiana.	(1)	14.73
CI77-743..... B 8-22-77	Sklar & Phillips Oil Co. (operator), et al., 2925 Mansfield Rd., Shreveport, La., 71103.	Tennessee Gas Transmission Co., Bell City Field, Calcasieu Parish La.	(4)	.....

Filing code A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnote at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI77-745..... A 8-22-77	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	[2] 60.3395	14.73
CI77-747..... A 8-22-77	Mapco Inc., 1800 South Baltimore Ave., Tulsa, Okla. 74119.	Florida Gas Transmission Co., North St., Rose Field, St. Charles Parish La.	[3]	15.025
CI77-748..... A 8-22-77	Mapco Inc., 1800 South Baltimore Ave., Tulsa, Okla. 74119.	Florida Gas Transmission Co., Chalkley Field, Cameron Parish, La.	[3]	15.025
CI77-749..... A 8-23-77	Cotton Petroleum Corp., 2121 South Columbia, Suite 600, Tulsa, Okla. 74114.	Transwestern Pipeline Co., Follett/ Morrow Field, Lipscomb county, Tex.	[1] 183.2309	14.73
CI77-750..... A 8-18-77	Shell Oil Co., Two Shell Plaza, P.O. Box, 2099 Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, Vermilion block 302 field, offshore La.	[1] 190.0¢	15.025

[1] Applicant is willing to accept a permanent certificate in accordance with Opinion No. 770, as amended.
[2] Applicant proposes to collect the applicable national rate as prescribed in Opinion No. 770-A subject to conditions contained therein.
[3] Applicant and Purchaser are Affiliated.
[4] Reserves depleted and wells were plugged and abandoned.
[5] Reserves depleted and the only lease covered by the contract has terminated.
[6] Reserves depleted.
[7] Reserves depleted. No workover possibilities remain.
[8] Depletion of the reservoir and leases have expired.

[FR Doc.77-30209 Filed 10-17-77;8:45 am]

[6170-01]

FIFTH ANTHRACITE COAL CONFERENCE

Notice of Conference

Notice is hereby given that the fifth Anthracite Coal Conference will be held on Tuesday and Wednesday, October 25 and 26, 1977, beginning 9 a.m. at DOE, Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C. This meeting is a follow-up to the fourth Anthracite Coal Conference held on October 6, 1977, at the Department of Energy in Washington, D.C. The urgency of holding this fifth conference results from DOE's responsibility to study ways of improving coal production utilization. The importance of convening this conference stems from a priority commitment made by the President to find ways of improving coal production and utilization, without endangering the public health or degrading the environment. In support of this commitment the DOE was charged with the responsibility for studying methods to increase the production of anthracite.

The objectives of the Anthracite Coal Conference are to make recommendations to the DOE with respect to the increased utilization of anthracite coal as a readily available energy source and the maintenance of fair and reasonable consumer prices for supplies of anthracite.

Analysis and development of policy recommendations to this end must be completed by the end of October.

The agenda for this conference will be a vote on all recommendations formulated by the subgroup reports, resulting from the October 6 meeting. The conference members will then prioritize all recommendations for the final report to Secretary Schlesinger.

This meeting will be open to the public. The Chairman is empowered to conduct this 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 will be permitted to do so, either before or after the meeting.

Further information concerning this meeting may be obtained from Beth Nelson, Room 3502, DOE, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-6230.

A transcript of the conference will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, DOE, 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 October 12, 1977.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc.77-30301 Filed 10-17-77;8:45 am]

[6170-01]

FEDERAL ENERGY REGULATORY COMMISSION

Delegations and Assignments of Certain Matters by the Secretary of Energy

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: Notice is hereby given of delegations and assignments of certain matters by the Secretary of Energy (Secretary) to the Federal Energy Regulatory Commission, in accordance with Sections 642 and 402(e) of the Department of Energy Organization Act, 91 Stat. 565 (1977).

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Nancy E. Williams, Department of Energy, Office of General Counsel, Washington, D.C. 20545, 202-566-2454.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) was established by the Department of Energy Organization Act (the "Act"), which was made effective October 1, 1977, by Executive Order 12009, dated September 13, 1977 (42 FR 46267, September 15, 1977). The Act consolidated in DOE various energy functions previously performed by several federal agencies, so that federal energy policy and programs may be effectively coordinated and administered. The Act transfers to, and vests in, DOE and the independent collegial body within DOE, the Federal Energy Regulatory Commission, the functions of the former Federal Energy Administration, the Energy Research and Development Administration, the Federal Power Commission (FPC), and certain functions previously performed by the Interstate Commerce Commission (ICC), the Department of the Interior, the Department of Housing and Urban Development, the Department of the Navy, the Department of Commerce, and the Naval Reactor and Military Application Programs established under the Atomic Energy Act of 1954.

Sections 401-407, 503, and 504 set forth the jurisdiction and authorities of the Federal Energy Regulatory Commission (the "Commission"). These sections describe those functions previously performed by the FPC and the ICC that are transferred to, and vested in, the Commission by the Act. These sections also describe the role of the Commission in DOE rulemaking proceedings, its role with respect to appeals of Remedial Orders issued by the Secretary, and its role with respect to denials of adjustments issued by the Secretary.

In addition to jurisdiction over the functions transferred to, and vested in, the Commission by the Act, Section 402 (e) provides that the Commission will have jurisdiction over other matters that the Secretary may assign to it, after public notice is given of such assignment:

> In addition to the other provisions of this section, the Commission shall have jurisdiction over any other matter which the Secretary may assign to the Commission after public notice * * *.

Section 642 of the Act gives the Secretary a general power of delegation:

> Except as otherwise expressly prohibited by law, and except as otherwise provided in this Act, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions within the Department as he may deem to be necessary or appropriate.

Pursuant to these provisions of the Act, public notice is hereby given that the Secretary delegates as of October 1, 1977, and assigns, effective upon publication of this notice, to the Commission, the authority to carry out several functions which by the Act are transferred to, and vested in, the Secretary. The assignment is in the form of a delegation, in accordance with all delegations of authority made by the Secretary. The delegation is set forth below in its entirety.

Pursuant to this delegation, the Commission will henceforth have authority to perform the functions under the authorities statutory listed.

Pursuant to the delegation, the Commission may exercise its authority with respect to functions relating to the collection of data via reports or other means only after appropriate consultation with the Administrator of the Energy Information Administration (EIA) within DOE. Such consultation will insure coordination between the Commission and EIA so that a central, comprehensive, and unified energy data and information program is maintained to the greatest extent possible within DOE.

The delegation also contains a restricted delegation by the Secretary of his authority to regulate the exports or imports of natural gas under Section 3 of the Natural Gas Act. This limited delegation is to provide the Commission the authority to retain jurisdiction over several pending import cases up until the time of the timely filing of all briefs on and opposing exceptions to the initial decision of the presiding Administrative Law Judge in each case. These cases are transferred to the Commission for proceedings consistent with the joint rule issued October 1, 1977, by the Secretary and the Commission.

(Department of Energy Organization Act, Pub. L. 95-91; EO 12009, 42 FR 46267).

Issued in Washington, D.C., on October 6, 1977.

JOHN F. O'LEARY,
Acting Secretary.

DEPARTMENT OF ENERGY

[Delegation Order No. 0204-1]

TO THE FEDERAL ENERGY REGULATORY COMMISSION

Pursuant to the authority vested in me as Secretary of Energy ("Secretary") and by Sections 642 and 402(e) of the Department of Energy Organization Act (Pub. 95-91) (the "DOE Act"), there is hereby delegated and assigned to the Federal Energy Regulatory Commission ("FERC") the authority to carry out the functions under the following statutory authorities:

1. Part I of the Federal Power Act (Pub. L. 280, 66th Cong., 2d Sess.), to the extent that such authority is not transferred to, and vested in, FERC by Section 402(a)(1)(A) of the DOE Act: *Provided*, That this paragraph does not delegate functions under (i) Section 4(a) of the Federal Power Act as it relates to river basin appraisals and (ii) Section 24 of the Federal Power Act as it relates to the disposition of power site lands;

2. Section 203 of the Federal Power Act (relating to the disposition, merger or consolidation of facilities and the acquisition of securities);

3. Section 204 of the Federal Power Act (relating to the issuance of securities and the assumption of liabilities);

4. Section 206(b) of the Federal Power Act (relating to the investigation and determination of the cost of production or transmission of electric energy), as FERC determines appropriate to perform its vested or delegated functions;

5. Section 207 of the Federal Power Act (relating to adequate and sufficient interstate service);

6. Section 209 of the Federal Power Act (relating to use of boards composed of State representatives and cooperation with State commissions);

7. Section 304 of the Federal Power Act (relating to annual and periodic or special reports), as FERC determines appropriate to perform its vested or delegated functions;

8. Section 305 of the Federal Power Act (relating to officers or directors benefitting from the sale of issued securities and to interlocking directorates);

9. Section 311 of the Federal Power Act (relating to investigations regarding the generation, transmission, distribution, and sale of electric energy), as FERC determines appropriate to perform its vested or delegated functions;

10. Sections 1(b) and 1(c) of the Natural Gas Act (Pub. L. 688, 75th Cong., 2d Sess.) (relating to certain exemptions from the provisions of the Natural Gas Act);

11. Section 3 of the Natural Gas Act with respect to the decision of pending cases assigned to FERC by rule;

12. Section 5(b) of the Natural Gas Act (relating to the investigation and determination of the cost of production or transportation of natural gas), as FERC determines appropriate to perform its vested or delegated functions;

13. Section 10 of the Natural Gas Act (relating to annual and periodic or special reports), as FERC determines appropriate to perform its vested or delegated functions;

14. Section 12 of the Natural Gas Act (relating to officers or directors benefitting from the sale of issued securities);

15. Section 19 of the Natural Gas Act (relating to rehearings on orders);

16. The Interstate Commerce Act (49 U.S.C. § 1, et seq.) and other statutes which formerly vested authority in the Interstate Commerce Commission or the chairman and members thereof, as such statutes relate to the transportation of oil by pipeline, to the extent that such statutes are not transferred to, and vested in, FERC by Section 402(b) of the DOE Act: *Provided*, That this paragraph does not include any of the authority under Section 11 of the Clayton Act (15 U.S.C. § 21);

17. To issue orders, and take such other action as may be necessary and appropriate, to direct the Energy Information Administration to gather energy information pursuant to the Federal Energy Administration Act of 1974 or the Energy Supply and Environmental Coordination Act of 1974 to the extent necessary or appropriate to the exercise of regulatory functions vested in or delegated to the Federal Energy Regulatory Commission; and

18. The authority to take such other action as the Secretary or his authorized delegates may, from time to time, authorize.

Except as provided in Paragraph 11, this Order does not include the authority to carry out the functions delegated herein to the extent such functions are vested in the Secretary pursuant to his authority to regulate the exports or imports of natural gas or electricity, under Section 402(f) of the DOE Act: *Provided*, That the Secretary may from time to time delegate to FERC such other authority under Section 3 of the Natural Gas Act as may be determined appropriate.

The authority delegated to FERC may be further delegated, in whole or in part, as may be appropriate.

FERC shall consult with the Administrator of the Energy Information Administration ("EIA") with respect to the exercise of functions under paragraphs 4, 7, 9, 12, 13, and 17, as EIA considers appropriate.

All actions pursuant to any authority delegated by this Order taken prior to and in effect on the date of this Order are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Order, unless or until rescinded, amended or superseded.

This Order is effective October 1, 1977.

JAMES R. SCHLESINGER,
Secretary of Energy.

[FR Doc.77-30480 Filed 10-14-77;12:05 pm]

[6170-01]

Economic Regulatory Administration

[FPC Docket No. CP-74-160, et al.; ERA Docket No. 77-001-LNG]

PACIFIC INDONESIA LNG CO., ET AL.

Amendment to Notice of Oral Argument and Intent To Act on Proposal To Import Liquefied Natural Gas Into The United States From Indonesia

On October 6, 1977, the Economic Regulatory Administration (ERA) issued a notice that the ERA will hear oral argument in the Pacific Indonesia LNG Co. (Pac Indonesia) proceeding, to be held Room 323, U.S. Courthouse, 312 North Spring Street, Los Angeles, Calif., on October 20, 1977, commencing at 9 a.m., and to continue the following day at the same time and location if necessary. This notice appears in the FEDERAL REGISTER for Thursday, October 13, 1977 (42 FR 55133).

The ERA hereby amends the October 6, 1977, notice by advising all parties to this proceeding that the location for the oral argument has been changed to the Board Hearing Room, second floor of the Rapid Transit District Building, 425 South Main Street, Los Angeles, Calif. 90013.

HAZEL R. ROLLINS,
Acting Deputy Administrator, Economic Regulatory Administration.

OCTOBER 14, 1977.

[FR Doc.77-30514 Filed 10-14-77;2:24 p.m.]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21313; RM-2646; RM-2717]

AM STEREOPHONIC BROADCASTING

Order Extending Time for Filing Comments and Reply Comments

PREAMBLE

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in the proceeding concerning AM stereophonic broadcasting. Petitioner, Consumer Electronics Group of the Electronic Industries Association, states the additional time is needed so that the test program report being developed by the National AM Stereophonic Radio Committee can be completed.

DATES: Comments must be received on or before December 21, 1977, and reply comments must be received on or before January 23, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: October 7, 1977.

Released: October 11, 1977.

1. On June 22, 1977, the Commission adopted a Notice of Inquiry, 42 F.R. 34910, in the above-entitled proceeding. The dates for filing comments and reply comments are October 15, and November 15, 1977, respectively.

2. On September 29, 1977, the Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG") filed a request seeking an extension of time to and including December 21, 1977, for filing comments.

3. EIA/CEG states that the National AM Stereophonic Radio Committee ("NAMSRC") test program, which the Commission's Notice of Inquiry found would be of great assistance if technical rules for AM stereo are to be developed, has progressed substantially. However, it adds, several steps, e.g., organization of data presentation, drafting text to describe test procedures, drafting answers to the numerous questions propounded by the Commission, review of the draft report by the NAMSRC Steering Committee, and publication of the final report, must be completed. EIA/CEG states that these steps are needed in order to make the test data meaningful and useful to the Commission. EIA/CEG anticipates publication of the final report on or about December 1, 1977. It therefore requests the additional time so that interested parties will be able to review the NAMSRC test results before filing comments.

4. We are of the view that the additional time is warranted in order to assure development of a sound and comprehensive record on which to base a decision in this proceeding. *Accordingly, it is ordered,* That the dates for filing comments and reply comments in Docket 21313 are extended to and including December 21, 1977 and January 23, 1978, respectively.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 77-30296 Filed 10-17-77; 8:45 am]

[6712-01]

[Report No. I-397]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

OCTOBER 11, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

MI 714-DSE-P/L-77 Comcast Corp., Flint, Mich. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 42°59'22" N., Long. 83°38'26" W. Rec. freq: 3700-4200 MHz. Emission (none listed). With a 6 meter antenna.

CA 715-DSE-MP-77 Western Union Telegraph Co., Sky Valley, Calif. (KE28). Modification of construct permit to change the size of the antenna to a 13 meter diameter antenna instead of the 10 meter one originally applied for.

CA 716-DSE-P/L-77 Hughes Aircraft Co., transportable. Authority for a developmental, transportable, receiver-only earth station, which will be utilized for educational, training, demonstration and test purposes and will provide information of value. Rec. freq: 3700-4200 MHz. Emission (none listed). With a 4.5 meter antenna.

[FR Doc.77-30298 Filed 10-17-77;8:45 am]

[6712-01]

[Docket No. 21409; File Nos. BR-385, BRH-512, BRCT-31; FCC 77-676]

ROY H. PARK BROADCASTING OF VIRGINIA, INC.

Designating Applications for Consolidated Hearing on Stated Issues

Adopted: October 3, 1977.

Released: October 7, 1977.

1. By Memorandum Opinion and Order released August 12, 1975, 54 FCC 2d 995 (1975), the Commission granted the 1972 renewal application of Roy H. Park Broadcasting of Virginia, Inc. (Park or WTVR) for Station WTVR-TV, Richmond, Va.; granted the 1972 renewal applications of Park for Stations WTVR-AM-FM, Richmond, Va., subject to an equal employment opportunity (EEO) reporting condition; and denied the petition to deny those applications filed by the Black Broadcasting Coalition et al. (Coalition or petitioners).[1] In its appeal to the U.S. Court of Appeals, District of Columbia Circuit, the Coalition renewed its challenge of WTVR's ascertainment methods and employment policies. On April 20, 1977, the Court reversed and remanded that Order, mandating a full hearing both on petitioners' allegations of discrimination and on licensee's affirmative action efforts; and remanded the ascertainment aspects of the case for Commission determination whether a hearing is required regarding those aspects. *Black Broadcasting Coalition of Richmond* v. *FCC*, 556 F. 2d 59 (D.C. Cir. 1977), *reh. denied*, June 17, 1977, *as amended on denial of rehearing*, July 20, 1977. Accordingly, this Order designates for hearing certain issues pursuant to the Court's mandate.[2] See 556 F. 2d at 65.

2. On appeal, the Coalition challenged both the adequacy of licensee's first ascertainment, submitted as a part of its renewal applications, and the Commission's decision to allow its amended survey to be filed—which survey the Coalition had contested in a motion to strike, which we denied. The Court stated the record indicated the Commission erroneously found the Coalition had failed to allege WTVR submitted its amendment in "bad faith," and thus we never reached the issues of whether (a) WTVR's first ascertainment was inadequate, and (b) WTVR consciously had acted in bad faith in performing its ascertainment survey during the license term. Id. at 61 n. 2.

3. We have reexamined the ascertainment aspects of the record consistent with the Court's instructions. However, we do not believe a substantial and material question of fact has been raised which would require exploration at hearing. The controversy over the ascertainment issue centers around whether licensee's original ascertainment of com-

[1] The Coalition concurrently filed a market-wide EEO petition against 17 Richmond, Va., broadcast facilities, including the WTVR stations. That petition was resolved by the Commission in *17 Stations in Richmond, Va.*, 54 FCC 2d 943 (1975). This Order pertains to that document only insofar as it analyzed and disposed of the complaint against the WTVR stations.

[2] On September 12, 1975, the 1975 renewal applications of WTVR-FM-TV were granted by delegated authority pursuant to § 0.281 of the rules, 47 CFR 0.281. On October 1, 1975, WTVR(AM)'s application was, however, placed on deferred status pending resolution of certain engineering matters. Accordingly, inasmuch as the Court's action vacates our grant of WTVR's renewal applications, we consider the 1975 grants for WTVR-FM-TV vacated as well (see para. 8, infra).

munity problems was conducted in such a manner as to constitute the "bad faith" referred to by the Court in *Stone* v. *FCC*, 466 F. 2d 316, reh. denied, 466 F. 2d 331 (D.C. Cir. 1972). There, the Court indicated that it would be "* * * unreasonable and harmful to the public interest for the FCC to acquiesce in a pattern * * *" of permitting an applicant to wait for a petition to deny before amending its ascertainment showing. The Court went on to state that "If in the future an individual licensee persists in waiting for a Petition to Deny, or withholds ascertainment findings of its own to remedy its prospective efforts, this could amount to bad faith and should not be countenanced." 466 F. 2d at 332.

4. In our Order we stated "* * * petitioners have failed to allege such conduct by Park." 54 FCC 2d at 997. We regret our choice of the word "allege", for we were well aware petitioners made such an allegation in their motion to strike the amended ascertainment. Indeed, our awareness of this particular allegation is demonstrated by our discussion of the "bad faith" argument in the text of the Order immediately preceding the quoted sentence above. Rather, the Commission's conclusion was directed toward petitioners' failure to demonstrate such "bad faith" so as to raise a substantial and material question of fact for resolution at hearing.

5. In this regard, licensee's initial survey was, in our view, a demonstrably adequate attempt to comply with the requirements of our "Primer on Ascertainment of Community Problems by Broadcast Applicants", 27 FCC 2d 650 (1971). Licensee contacted 53 community leaders of whom 8 were Black, listed its ascertained community problems, and proposed programming to meet those ascertained problems. Thus, licensee took sufficient steps to comply with the "Primer" so as to remove its ascertainment efforts from the purview of subjective bad faith contemplated by "Black Broadcasting," supra; and there is no other evidence to cast doubt on our conclusion in this regard. Even more important, however, is our understanding of the Court's language in *Stone*, concerning a licensee's "pattern" of behavior in persisting in waiting for a petition to deny to be filed or withholding ascertainment findings to remedy its prospective ascertainment efforts. We construe the Court's language as pertaining to a period of time encompassing, at the least, more than one license period. Such is not the case here where petitioners' allegations were confined to the 1972 license renewal applications.

6. Having found licensee's initial ascertainment was not filed in "bad faith" even though it may have been defective—indeed, licensee admitted it undertook its second survey in part to meet the ascertainment allegations raised in the petition to deny—we did not reach and need not reach now the adequacy of licensee's initial survey. Hence, the Commission did not err in accepting the amended survey. See *Stone*, supra. Furthermore, since the amended survey deliberately was not challenged by petitioners and was found to have complied with our ascertainment requirements, we again conclude licensee's ascertainment of community problems was sufficient and adequate. As in *Stone*, supra, we rather view petitioners' participation concerning the ascertainment aspects of this proceeding as successful public intervention which we welcome as being effective in forcing licensee to conform its prospective ascertainment efforts to the Commission's standards. See 466 F. 2d at 332.

7. In regard to the employment allegations, we concluded a hearing was unwarranted, but we did impose EEO reporting requirements as a condition to our grant of WTVR–AM–FM's renewal applications. However, the Court stated we looked only to WTVR's post-license-term employment statistics rather than license-term statistics, which it held to be "clearly outside the 'zone of reasonableness.'" (Footnote omitted.) 556 F. 2d at 61. In contrast to our finding that Park's centrally managed affirmative action program was consistent with our rules and had achieved acceptable employment consequences at WTVR–TV, but not at WTVR–AM–FM, the Court held that program to be passive in relation to all three stations. Further, the Court held petitioner's allegations regarding two instances of employment discrimination by licensee—one involving a refusal to hire and the other a firing—"remained contested and unsatisfied." Id. at 62. Thus, in accordance with the Court's mandate (see para. 1, supra), appropriate issues will be designated as specified below.[3]

8. *Accordingly, it is ordered*, That the Commission's Memorandum Opinion and Order, released August 12, 1975, 54 FCC 2d 995 (1975), hereby is withdrawn and the orders of that date, as well as the subsequent grants of the 1975 renewal applications of Stations WTVR–FM–TV, hereby are vacated.[4]

9. *It is further ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309 (e), the above-captioned applications are designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine whether Roy H. Park Broadcasting of Virginia, Inc., has met the requirements of the Commission's equal employment opportunity rules and policies in the formulation and implementation of its non-discrimination and affirmative action programs, with respect to Stations WTVR–AM–FM–TV;

(2) To determine whether, in light of the evidence adduced pursuant to the foregoing issue, grant of the above-captioned license renewal applications would serve the public interest, convenience and necessity; and

(3) To determine, in the event issue (2) is resolved favorably to licensee, what sanctions, if any, should be imposed upon licensee to eliminate past discriminatory practices and to insure compliance with our equal employment opportunity rules in the future.

10. *It is further ordered*, That the Black Broadcasting Coalition, the Richmond, Virginia branch of the National Association for the Advancement of Colored People, the Richmond Crusade of Voters, the Richmond Chapter of the National Association of Black Social Workers, the Virginia Council on Human Relations, and the Virginia Crusade of Voters, are made parties to the hearing ordered herein.

11. *It is further ordered*, That, in accordance with Section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence with respect to issue (1) regarding the formulation and implementation of WTVR's nondiscrimination and affirmative action programs shall be upon licensee, since that information is peculiarly within its knowledge, and, regarding specific allegations of licensee discrimination, shall be upon the Black Broadcasting Coalition et al.; and with respect to issues (2) and (3), that burden shall be upon licensee; and that the burden of proof with respect to all issues shall be upon licensee.

12. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the parties respondent, pursuant to § 1.221(c) of the Commission's rules, 47 CFR 1.221(c), in person or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and present evidence on the issues specified in this Order.

13. *It is further ordered*, That Roy H. Park Broadcasting of Virginia, Inc. shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of

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[3] As set forth at issue (1), infra, we intend the scope of the hearing to encompass all aspects of the Court's analysis of WTVR's compliance with our EEO rules. See 556 F. 2d at 61–4. We do wish to note, however, that the Court discussed at length the fact that licensee apparently had no systematic training program. 556 F. 2d at 63–4, n. 19. While we believe training efforts are closely related to a licensee's overall EEO performance, we never have held training programs to be mandatory. See "Nondiscrimination in the Employment Policies and Practices of Broadcast Licensees," 60 FCC 2d 226 (1976); "Metromedia, Inc.," 55 FCC 2d 609 (1975). We of course would be concerned, however, if a licensee represented it in fact had a training program and then failed to live up to these representations.

[4] Our action in this respect thus vacates so much of the Memorandum Opinion and Order in 17 Stations in Richmond, Virginia, supra, as pertains to our analysis and disposition of that complaint against the WTVR stations.

such notice as required by § 1.594(g) of the rules.

14. *It is further ordered,* That the Secretary of the Commission shall send a copy of this Order, by Certified Mail—Return Receipt Requested, to each of the parties to this proceeding.

FEDERAL COMMUNICATIONS COMMISSION,[5]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-30297 Filed 10-17-77;8:45 am]

[Docket No. 20771]

REVISION OF INTERNATIONAL RADIO REGULATIONS

Inquiry Concerning Preparation for a General World Administrative Radio Conference of International Telecommunication Union; Extension of Reply Comment Period

AGENCY: Federal Communications Commission.

ACTION: Extension of time for filing of reply comments to late filed comments of National Aeronautics and Space Administration.

SUMMARY: Fifth Notice of Inquiry in Docket 20271. The date for filing reply comments to the late filed comments of National Aeronautics and Space Administration has been extended until October 21, 1977.

DATES: Date for reply comments: on or before October 21, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert L. Cutts; Chief, International and Operations Division, Office of Chief Engineer, 202-632-7025.

Adopted: October 7, 1977.

Released: October 7, 1977.

1. On May 20, 1977, the Commission adopted the Fifth Notice of Inquiry in the above-styled proceedings (42 FR 27755). The date for filing comments was established as August 1, 1977, and the reply comment date was August 22, 1977.

2. On July 14, 1977 a petition was filed seeking to extend the comments and reply comment deadlines.[1] These deadlines were subsequently extended to August 15, 1977 and September 2, 1977, respectively.

3. On October 6, 1977, the Commission received comments from NASA, endorsed by the Office of Telecommunications Policy, which address substantive issues contained in the Fifth Notice of Inquiry in this proceeding. In view of the above, we believe that an extension of time for reply comments limited to issues addressed in the NASA comments is appropriate. Therefore, we will extend the time for filing reply comments to the NASA comments to October 21, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
RAYMOND E. SPENCE,
Acting Chairman, ECC WARC Steering Committee.

[FR Doc.77-30295 Filed 10-17-77;8:45 am]

[5] Chairman Wiley not participating; Commissioner Fogarty concurring in the result.

[1] See 42 FR 38423, July 28, 1977.

[6712-01]

[Report No. 1081]

RULE MAKING PROCEEDINGS FILED

Petitions for Reconsideration of Actions In

OCTOBER 11, 1977.

Docket or RM No.	Rule No.	Subject	Date received
20149	Pts 89 and 91	Amendment of pts 89 and 91 of the Commission's rules and regulations to make available four 173 MHz splinter frequencies to the local government and manufacturers radio services for telemetry and remote control operations. Filed by Carole C. Harris, attorney for Utilities Telecommunications Council.	Sept. 21, 1977

NOTE.—Oppositions to petitions for reconsideration must be filed on or before Nov. 2, 1977. Replies to an opposition must be filed within 10 d after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Acting Secretary.

[FR Doc.77-30400 Filed 10-17-77;8:45 am]

[6712-01]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Notice of Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 70, "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment".

Notice of 9th Meeting.

Wednesday, November 9, and Thursday, November 10, 1977—10 a.m. each day (All Day Meetings).

Conference Room (Second Floor), U.S. Coast Guard Marine Inspection Office, Battery Park Building, Battery Park at South Ferry, New York, N.Y.

AGENDA

1. Call to Order; Chairman's Report.
2. Confirmation of Secretary; Adoption of Agenda.
3. Acceptance of SC-70 Summary Records.
4. Reports on Work Assignments.
5. Approval of Receiver Specifications.
6. Other Business.
7. Establishment of Possible Meeting Date.

Captain Alfred E. Fiore, Chairman, SC-70, U.S. Merchant Marine Academy, Kings Point, N.Y. 11024; phone: 516-482-8200.

To comply with the advance notice requirements of Pub. L. 92-463, a comparatively long interval of time occurs between publication of this notice and 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,
WILLIAM J. TRICARICO,
Acting Secretary.

[FR Doc.77-30401 Filed 10-17-77;8:45 am]

[6714–01]

FEDERAL DEPOSIT INSURANCE CORPORATION

[Reg. Z]

TRUTH-IN-LENDING

Joint Notice of Proposed Statement of Enforcement Policy

CROSS REFERENCE: For a notice of proposed statement of policy, Regulation Z, issued jointly by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration, see FR Doc. 77–30402 appearing in Part IV of this issue of the FEDERAL REGISTER.

[6720–01]

FEDERAL HOME LOAN BANK BOARD

[Reg. Z]

TRUTH-IN-LENDING

Joint Notice of Proposed Statement of Enforcement Policy

CROSS REFERENCE: For a notice of proposed statement of policy, Regulation Z, issued jointly by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration, see FR Doc. 77–30402 appearing in Part IV of this issue of the FEDERAL REGISTER.

[6210–01]

FEDERAL RESERVE SYSTEM

JACOBUS CO.

Acquisition of Bank

The Jacobus Company, Wauwatosa, Wis. and its subsidiary, Inland Heritage Corporation, Wauwatosa, Wis., have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 99.3 percent of the voting shares of American Menomonee Falls Bank, Menomonee Falls, Wis. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 4, 1977.

Board of Governors of the Federal Reserve System, October 7, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77–30306 Filed 10–17–77;8:45 am]

[6210–01]

[Reg. Z]

TRUTH-IN-LENDING

Joint Notice of Proposed Statement of Enforcement Policy

CROSS REFERENCE: For a notice of proposed statement of policy, Regulation Z, issued jointly by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration, see FR Doc. 77–30402 appearing in Part IV of this issue of the FEDERAL REGISTER.

[1610–01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt and Approval of Report Proposal

A request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on September 26, 1977. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission (FCC) requested emergency clearance of a one-time questionnaire to be sent to Broadcast Service Licensees in the Kansas City, Mo., and Kansas City, Kans. areas. The questionnaire will be used to obtain information concerning the effects on broadcast station operations of the September 12, 1977, flood in the Kansas City area.

The survey will aid FCC in planning their Emergency Broadcast System. Upon completion, a report will be prepared and issued to broadcast stations in the Kansas City area pointing out possible improvements that can be made regarding operations during future emergencies.

Emergency clearance of this questionnaire was requested in order that respondents may respond as accurately as possible while the events are still fresh in their minds.

The General Accounting Office granted clearance of the questionnaire on September 30, 1977, under number B–180227 (S77031).

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77–30398 Filed 10–17–77;8:45 am]

[1610–01]

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on October 12, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before November 7, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

NUCLEAR REGULATORY COMMISSION

The NRC is requesting an extension without change clearance of Form 313, Application for Byproduct Material License; and Form 313a, Application for Byproduct Material License-Medical, Supplement A-Human Use. Form 313 is used to apply for specific license to possess and use byproduct material (radioactive material yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material). Form 313a is filed if the use of byproduct material in human (the internal or external administration of byproduct material, or the radiation therefrom) is proposed. NRC estimates approximately 6,000 applications will be filed on Form 313 with reporting burden averaging one hour per response and approximately 875 applications will be filed on Form 313a with reporting burden averaging 15 minutes per application.

The NRC is requesting clearance of a revision to the Monthly Operating Report which is filed by licensees and contains information regarding (1) Average Daily Unit Power Level, (2) Operating Data and (3) Unit Shutdowns and Power Reductions. The revision to the Monthly Operating Report will add a requirement that information regarding spent fuel storage capability be submitted as part of the report. Respondents will be notified by letter of the new requirement. NRC estimates respondents will be approximately 65 licensees and reporting burden will increase from one hour to one and a half hours for the entire report due to the new requirement.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77–30399 Filed 10–17–77;8:45 am]

[1610–01]

REGULATORY REPORTS REVIEW

Transfer of Clearance Responsibility

The Department of Energy Organization Act (Pub. L. 95–91) results in transferring the clearance responsibility for forms and questionnaires of the Federal Energy Administration (FEA) and the Federal Power Commission (FPC) from the General Accounting Office (GAO) to the Office of Management and Budget (OMB) under the Federal Reports Act. The Federal Energy Administration and the Federal Power Commission will no longer be identified as independent Federal regulatory agencies and subject to 44 U.S.C. 3512. They will now be part of the new Department of Energy.

On September 13, 1977, President Carter signed Executive Order No. 12009 activating the Department of Energy on October 1, 1977. Therefore, beginning on October 1 the forms and questionnaires of the new Department will be subject to the review and clearance of OMB under sections 3502 to 3511 of Title 44 of the U.S. Code.

In the future, notices announcing the request for clearance of new, revised, or extension of existing forms and questionnaires of the Department of Energy will be found under the Management and Budget Office in the FEDERAL REGISTER. The FEA forms still under review by GAO on September 30, 1977, will be transferred to OMB for final action. Comments received by GAO on these forms will receive consideration prior to final action by OMB.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77–30397 Filed 10–17–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Renewals

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the following advisory committees:

Epidemiologic Studies Review Committee
Paraprofessional Manpower Development Review Committee
Psychiatric Nursing Education Review Committee
Psychiatry Education Review Committee
Psychology Education Review Committee
Social Work Education Review Committee

Authority for these committees will expire December 31, 1977, unless the Secretary formally determines that continuance is in the public interest.

Dated: Ocober 12, 1977.

FRANCIS N. WALDROP,
Deputy Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77–30316 Filed 10–17–77;8:45 am]

[4110–03]

Food and Drug Administration

[Docket No. 75N–0232]

FLAVORING SUBSTANCES

Additional Flavoring Substances in Gras Review; Extension of the Effective Date for Compliance With Bulk Flavor Ingredient Declaration Requirements

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Fifty flavoring substances are added to the agency's safety review of substances that are generally recognized as safe (GRAS), and the agency extends the effective date for compliance with a regulation for these flavorings ingredients. The flavors are listed in the Flavor and Extract Manufacturers' Association (FEMA) GRAS List No. 10 (published in Food Technology January 1977).

DATE: Compliance with bulk labeling requirements by July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20051), the Food and Drug Administration (FDA) announced that, as part of its GRAS review program, Scientific Literature Reviews (SLR's) were being prepared on several chemical classes of flavoring ingredients listed in §§ 182.10, 182.20, 182.30, 182.40, 182.50, 182.60, and 21 CFR Part 172 (Subpart F), or flavoring ingredients otherwise submitted to the agency.

In the FEDERAL REGISTER of February 3, 1976 (41 FR 4954), FDA also extended until July 1, 1979 the effective date for compliance with bulk labeling requirements of § 101.22(g)(2) (21 CFR 101.22 (g)(2)) for those flavor ingredients that are listed as GRAS in a reliable industry association list and are included by FDA in its review of GRAS food ingredients. The notice also announced a procedure under which FDA would accept additional substances for incorporation into its safety review. The procedure provided for the inclusion of additional flavoring ingredients if the SLR for each chemical class of flavors is appropriately amended before the safety evaluation begins. In this way, all available data for each chemical class of flavors will be included and evaluated at the same time. If individual flavor ingredients cannot be added to the SLR's by these provisions, extension of the effective date for compliance with bulk labeling requirements and exemptions from specific ingredient listing as specified in § 101.22(g)(2) will not be granted except by FDA approval of food additive or GRAS affirmation petitions for the ingredients.

In accordance with this procedure, FEMA published its GRAS List No. 10 in January (Food Technology, Vol. 31, No. 1, January 1977), which comprised 50 flavoring substances. FEMA has included 30 of these ingredients in already-completed SLR's. The Commissioner has received a written commitment from FEMA stating that the remaining 20 flavoring substances will be appended to SLR's currently being drafted by them. The 50 flavoring ingredients that constitute the FEMA GRAS List No. 10 are the following:

Bis-(2,5-dimethyl-3-furyl) disulfide
2,3-Butanedithiol
1-Butanethiol
Candelilla wax (wax from stems and branches of *Euphorbia cerifera*)
o-Cresol
2,5-Dimethyl-3-thiofuroylfuran
2,5-Dimethyl-3-thioisovalerylfuran
2,8-Dithianon-4-en-4-carboxaldehyde
1,2-Ethanedithiol
o-(Ethoxymethyl) phenol
Ethyl *trans*-2-butenoate
Ethyl maltol
Ethyl 2-methylpentanoate
Ethyl 2-methyl-4-pentenoate
Ethyl octadecanoate
2-Ethyl-1,3,3-trimethyl-2-norbornanol
Ethyl undecanoate
trans-3-Heptenyl acetate
trans-3-Heptenyl 2-methylpropanoate
1,6-Hexanedithiol
cis-4-Hexenal
3-Hexenyl 2-methylbutanoate
3-Hexenyl 3-methylbutanoate
Hexyl 2-methylbutanoate
Hexyl 3-methylbutanoate
Linalyl phenylacetate
2-Mercapto-3-butanol
2,3- or 10-Mercaptopinane
Methyl benzyl disulfide
3-Methylbutyl 2-methylbutanoate
2-Methylbutyl 3-methylbutanoate
3-Methylbutyl 2-methylpropanoate
Methyl 3-hydroxyhexanoate
α-Methyl-δ-hydroxypropyl α-methyl-δ-mercaptopropyl sulfide
4-Methyl-2-pentenal
2-Methyl-4-pentenoic acid
2-Methyltetrahydrothiophen-3-one
1,9-Nonanedithiol
1,8-Octanedithiol
1-Octen-3-one
trans-2-octen-1-yl acetate
trans-2-octen-1-yl butanoate
Octyl 2-furoate
2-Phenyl-4-pentenal
1,2-Propanedithiol
Propanethiol
o-Propylphenol
Pyrrolidine
3,5,5-Trimethylhexanal
2,4,5-Trimethyl-Δ-3-oxazoline

The Commissioner has determined that the 30 ingredients included in completed SLR's have been properly added to the safety review, and he accepts the FEMA commitment to add the 20 remaining ingredients to the SLR's now in draft. The effective date of their compliance with § 101.22(g)(2) will, therefore, be extended to July 1, 1979.

The Commissioner has determined that amendment of the existing SLR's must be accomplished in the aforesaid manner for any additional flavoring ingredients for which exemption to specific ingredient listing is desired. Additional FEDERAL REGISTER notices will be issued for subsequent industry GRAS flavor lists that are to be included in the FDA GRAS review.

Dated: October 4, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-30172 Filed 10-17-77;8:45 am]

[4110-03]

[Docket No. 77F-0305]

UNION CARBIDE CORP.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Union Carbide Corp. has filed a petition proposing that the food additive regulations be amended to provide for the use of certain polyoxyalkylene glycols and glycol ethers as components of lubricants with incidental food contact.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3225) has been filed by Union Carbide Corp., Tarrytown, NY 10591, proposing that § 178.3570 Lubricants with incidental food contact (21 CFR 178.3570), be amended to provide for the use of α-butyl-*omega*-hydroxypoly(oxypropylene), α-butyl-*omega*-hydroxypoly(oxyethylene) poly(oxypropylene), and α-hydro-*omega*-hydroxypoly(oxyethylene)poly(oxypropylene) as components of lubricants with incidental food contact.

The environmental impact analysis report ond other relevant materials have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 7, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-30173 Filed 10-17-77;8:45 am]

[4110-03]

[Docket No. 75F-0335]

WITCO CHEMICAL CORP.

Withdrawal of Petition for Food Additives

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of a petition proposing safe use of (octadecylsiloxy)(dimethylsiloxy) polysiloxane as a component of defoamers intended for use in processing sugar beets and yeast.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 171.7), Witco Chemical Corp., Organics Division, 400 N. Michigan Ave., Chicago, Ill. 60611, has withdrawn its petition (FAP 5A3032), notice of which was published in the FEDERAL REGISTER of December 4, 1975 (40 FR 56710), proposing that § 173.340 *Defoaming agents* be amended to provide for the safe use of (octadecylsiloxy)(dimethylsiloxy) polysiloxane as a component of defoamers intended for use in processing sugar beets and yeast.

Dated: October 7, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-30174 Filed 10-17-77;8:45 am]

[4110-03]

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Pathology Subcommittee of the Science Advisory Board.	Nov. 4, 1 p.m., National Center for Toxicological Research, Building 15, Jefferson, Ark.	Open public hearing/open committee discussion 1 p.m. to 3:30 p.m.; Ruth S. Magee, National Center for Toxicological Research, Jefferson, Ark. 72079, 501-541-4528.

General function of the committee. Advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing/open committee discussion. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Status of program by Dr. Frith and a round table discussion by staff and subcommittee members.

Committee name	Date, time, and place	Type of meeting and contact person
2. Contraceptive and Other Vaginal Drug Products Panel.	Nov. 4, 9 a.m., conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.; Nov. 5, 9 a.m., Holiday Inn, 8120 Wisconsin Ave., Bethesda, Md.	Open public hearing Nov. 4, 9 a.m. to 10 a.m.; open committee discussion Nov. 4, 10 a.m. to 4:30 p.m., Nov. 5, 9 a.m. to 4:30 p.m.; Armond M. Welch, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the executive secretary before November 1, 1977 and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and ad-

dresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committe discussion. The panel will review data submitted to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
3. Ophthalmic Drugs Advisory Committee.	Nov. 7, 9 a.m., conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 3:30 p.m.; Mary K. Bruch, (HFD-140), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4310.

General function of the committee. Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in diseases and disorders of the eye.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of anti-infective steroid safety/effectiveness decisions; guidelines for the investigation of ophthalmic steroid similar to marketed products; and update os antiviral drugs for ophthalmic use, betamethasone, and intra-ocular lenses.

Committee name	Date, time, and place	Type of meeting and contact person
4. Pathology Device Classification Panel.	Nov. 7 and 8, 9 a.m., Rm. 1409, FB-8, 200 C St. SW., Washington, DC.	Open public hearing Nov. 7, 9 a.m. to 10 a.m.; open committee discussion Nov. 7, 10 a.m. to 4:30 p.m., Nov. 8, 9 a.m. to 4:30 p.m.; Thomas M. Tsakeris, (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data for the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of pathology diagnostic products to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by October 24, 1977 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. Presentations will be made by Dr. Lewis Coriell, representing the Institute of Medical Research, and Mr. Edward Lennette, representing the California Department of Health. Both speakers will discuss the problems of various aspects of commercially available cell and tissue culture products.

Immediately following presentations, the panel will begin classification of the assigned devices from the pathology device classification list. The following product groups will be considered for classification: Automated systems, cell and body fluids collection devices, and cell and tissue culture products.

Committee name	Date, time, and place	Type of meeting and contact person
5. FDA/NIDA Drug Abuse Research Advisory Committee.	Nov. 10, 9 a.m., conference room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; John A. Scigliano, Ph. D., (HFD-123), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3504.

General function of the committee. Advises the Food and Drug Administration on action to be taken with respect to investigational use of substances with abuse potential. Advises the National Institute on Drug Abuse on supplies of substances for clinical studies and on quantities of substance for animal and in vitro studies. Advises FDA and NIDA on development of broad outlines for studies of substances with abuse potential and on new methods and tests in animals and man by which the dependence liability of investigational drugs may be estimated.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the minutes of the August 11, 1977, meeting; report of actions; reviews of research protocols; report of subcommittee on toxicity of THC; status of parental THC preparations.

Committee name	Date, time, and place	Type of meeting and contact person
6. Allergenic Extracts Panel.	Nov. 11 and 12, 9 a.m., room 130, 6110 Executive Blvd., Rockville, Md.	Open public hearing Nov. 11, 9 a.m. to 10 a.m.; open committee discussion Nov. 11, 10 a.m. to 5:30 p.m., Nov. 12, 9 a.m. to adjournment; Clay Sisk, (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-5455.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Edit draft statements on allergenic extracts, poison ivy-oak-sumac extracts, and alum-precipitated allergenic extracts.

Committee name	Date, time, and place	Type of meeting and contact person
7. Anti-Infective Agents Advisory Committee.	Nov. 14 and 15, 9 a.m., conference room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Nov. 14, 9 a.m. to 10 a.m.; open committee discussion Nov. 14, 10 a.m. to 3 p.m., Nov. 15, 9 a.m. to 12 m.; Mary K. Bruch, (HFD-140), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4310.

General function of the committee. Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in infections diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of tissue accumulation of Gentamicin and other aminoglycoside antibiotics; usefulness and adverse reactions of long-acting sulfas (Sulla and Midicel); drug-induced arthropathy in young animals with nalidixic acid and related drugs; and FDA update of actions on status of antiviral drug testing guidelines, Gentamicin Intrathecal, and Sisomicin.

Committee name	Date, time, and place	Type of meeting and contact person
8. Orthopedic Device Classification Panel.	Nov. 14 and 15, 9 a.m., room 503/507A, South Portal Bldg., 200 Independence Ave. SW., Washington, D.C.	Open public hearing Nov. 14, 9 a.m. to 10 a.m.; open committee discussion Nov. 14, 10 a.m. to 5 p.m., Nov. 15, 9 a.m. to 5 p.m.; James G. Dillon, Ph.D., (HFK-410), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to (1) classification of flexible total wrist prostheses, total shoulder prostheses, battery powered surgical instrument systems; and (2) exemption (in total or in part) of Class I orthopedic devices from registration requirements to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by November 1, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The deliberations will concern the specific subjects listed as topics for the open public hearing. The panel will also conduct a general review of previous classification recommendations, including a clarification of all tentative labeling recommendations.

In addition, the panel will discuss topics to be addressed at future meetings.

Time permitting, the panel will review orthopedic device definitions as proposed by the FDA and the Orthopedic Surgical Manufacturers Association.

Committee name	Date, time, and place	Type of meeting and contact person
9. Pulmonary-Allergy and Clinical Immunology Advisory Committee.	Nov. 14 and 15, 9 a.m., conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Nov. 14, 9 a.m. to 10 a.m.; open committee discussion Nov. 14, 10 a.m. to 5 p.m., Nov. 15, 9 a.m. to 5 p.m.; I. David Wolfson, (HFD-160), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3500.

General function of the committee. Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearings. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. FDA Action Report by FDA staff; report on the findings and implementation of same for the Panel on Review of Cough, Cold, Allergy, Bronchodilator and Antiasthmatic Drugs by Panel Administrator; review of the final draft of the Bronchodilator Clinical Testing Guidelines by FDA staff; review of proposed draft of labeling guidelines for theophylline products by FDA staff; discussion of the proposed protocol for Vanceril Inhaler (NDA 17-573) (beclomethasone dipropionate) concerning flow-volume studies in humans by FDA staff and the drug sponsor; and NDA 17-853 (Proventil) presentation of findings from chronic oral oncogenicity study by FDA staff and drug sponsor.

Committee name	Date, time, and place	Type of meeting and contact person
10. Controlled Substances Advisory Committee.	Nov. 16, 9 a.m., conference room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing/open committee discussion 9 a.m. to 5 p.m.; Edward C. Tocus, Ph.D., (HFD-120), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3504.

General function of the committee. Advises the Commissioner regarding the scientific and medical evaluation of all information gathered by the Department of Justice and the Department of Health, Education, and Welfare with regard to safety, effectiveness, and abuse potential of drugs or other substances classified as stimulants, sedatives, hypnotics, or analgesics, and recommends actions to be taken with regard to control of such substances.

Agenda—Open public hearing/open committee discussion. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Discussion of proposed controls on Triazolam, Butorphanol, Marihuana, and Lomotil.

Committee name	Date, time, and place	Type of meeting and contact person
11. Antiperspirant Panel.	Nov. 17 and 18, 9 a.m., conference room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Nov. 17, 9 a.m. to 10 a.m.; open committee discussion Nov. 17, 10 a.m. to 4:30 p.m., Nov. 18, 9 a.m. to 4:30 p.m.; Armond M. Welch, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the executive secretary before November 14, 1977, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
12. Obstetrics and Gynecology Advisory Committee.	Nov. 17 and 18, 9 a.m., conference rooms G and H, Parklawn Bldg. 5600 Fishers Lane, Rockville, Md.	Open public hearing Nov. 17, 9 a.m. to 10 a.m.; open committee discussion, Nov. 17, 10 a.m. to 5 p.m., Nov. 18, 9 a.m. to 5 p.m.; A. T. Gregoire, Ph.D., (HFD-130), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3510.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of obstetrics and gynecology.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Evaluation of Oxytocic Agents for labor induction; discussion of guidelines for clinical evaluation of systemic contraceptives; oral contraceptives labeling; FDA action report; intermittent estriol therapy in premenopausal women (IND 11-475); and an intrauterine drug delivery system (IND 13-489).

Committee name	Date, time, and place	Type of meeting and contact person
13. Antimicrobial Panel.....	Nov. 18 and 19, 9 a.m., conference room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. (Nov. 18), Holiday Inn, 8120 Wisconsin Ave., Bethesda, Md. (Nov. 19).	Open public hearing Nov. 18, 9 a.m. to 10 a.m.; open committee discussion Nov. 18, 10 a.m. to 4:30 p.m., Nov. 19, 9 a.m. to 4:30 p.m.; Armond M. Welch, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the executive secretary before November 15, 1977, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted to the over-the-counter (OTC) review's call for data for the panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
14. Pediatric Subcommittee of the Psychopharmacological Agents Advisory Committee.	Nov. 21, 9 a.m., conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; Julius J. Cinque, HFD-120), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3800.

General function of the committee. Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of depression in childhood; pediatric guidelines (final edited copy); proposed publications on stimulants and growth suppression; and final report on the rights of children as research subjects (the National Commission for the Protection of Human Subjects (NCPHS)).

Committee name	Date, time, and place	Type of meeting and contact person
15. Science Advisory Board...	Nov. 28 and 29, 8:30 a.m., Holidome Inn, North Little Rock, Ark.	Open public hearing Nov. 28, 8:30 a.m. to 9:30 a.m.; open committee discussion Nov. 28, 9:30 a.m. to 4:30 p.m., Nov. 29, 8:30 a.m. to 12 30 p.m.; Ruth S. Magee, National Center For Toxicological Research, Jefferson, Ark. 72079, 501-541-4528.

General function of the committee. Advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of master plan; RECAP (Research Coordination and Assurance Program); preliminary data on 2-AAF; neuroscience proposed projects; immunology status report and proposed projects; subcommittee reports; and NAS report.

Committee name	Date, time, and place	Type of meeting and contact person
16. Dentifrices and Dental Care Agents Panel.	Nov. 30 and Dec. 1, 9 a.m., conference room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Nov. 30, 9 a.m. to 10 a.m.; open committee discussion Nov. 30, 10 a.m. to 4:30 p.m., Dec. 1, 9 a.m. to 4:30 p.m.; Armond M. Welch, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the executive secretary before November 25, 1977, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The panel will review data submitted to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open commitee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will faciliate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: October 12, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-30318 Filed 10-17-77;8:45 am]

[4110-03]

[Docket No. 77N-0333]

HEARING AIDS

Applications for Exemption From Preemptions of State and Local Requirements

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice invites State and local governments to file applications for exemption from preemption for requirements governing professional and patient labeling and conditions for sale of hearing aids by November 17, 1977. Several States have already filed applications for exemption and other States and certain interested persons have requested advisory opinions with respect to the preemption of State hearing aid requirements. Because the issues in these applications are similar or related, the Food and Drug Administration (FDA) intends to publish a single FEDERAL REGISTER document that will, for each applying State or local government, propose to grant or to deny exemptions from preemption for existing State and local hearing aid requirements and, if necessary, to hold a single oral hearing to consider issues raised by that proposal.

DATE: Applications by November 17, 1977.

ADDRESS: Applications to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Joseph M. Sheehan, Bureau of Medical Devices (HFK-70), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION: Section 521(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360k(a)) (the act) provides for preemption of State and local requirements applicable to medical devices intended for human use that are different from or in addition to requirements applicable under the

act. Section 521(b) provides that FDA may, by regulation issued after notice and an opportunity for an oral hearing, exempt a State or local medical device requirement from preemption under such conditions as the Commissioner may prescribe if the requirement is (1) more stringent than Federal requirements applicable to the device under the act, or (2) required by compelling local conditions and compliance with it would not cause the device to be in violation of any requirement applicable under the act.

The Commissioner has determined that section 521 of the act preempts State and local requirements governing the safety or effectiveness of medical devices only when a particular FDA requirement becomes applicable to a particular device by operation of the act. Final FDA regulations governing the labeling and conditions for sale of hearing aids under §§ 801.420 and 801.421 (21 CFR 801.420 and 801.421) were published in the FEDERAL REGISTER of February 15, 1977 (42 FR 9286). These regulations became effective on August 25, 1977. Since that effective date, all State and local regulations governing the safety or effectiveness of hearing aids that are different from or in addition to the FDA regulations are preempted.

The Commissioner has also determined that Congress did not intend section 521 of the act to preempt certain types of State and local requirements. Specifically, with respect to hearing aids, these include: (1) Requirements with respect to the licensing of hearing aid dispensers, audiologists and physicians, (2) requirements governing the labeling and conditions for sale of hearing aids that are substantially identical to the Federal requirements, and (3) requirements established by Federal, State, or local agencies to control the expenditures of public funds for purchasing hearing aids and hearing health care services for the hearing impaired.

Several governments have already filed applications for exemption from preemption for their hearing aid requirements. These include: Minnesota, Kentucky, West Virginia, Maine, and the District of Columbia. Also, other States and certain interested persons have requested advisory opinions concerning the preemption of hearing aid requirements. Advisory opinions have been requested concerning the hearing aid requirements of Vermont, New York, Arizona, Oregon, Colorado, and North Carolina. These applications and requests for advisory opinions are on file in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

As stated above, under section 521(b) of the act, the Commissioner must propose a regulation granting or denying an exemption from preemption and provide an opportunity for written comment and an opportunity for an oral hearing on the proposed regulation. Because the issues raised by all these applications for exemption are similar or related, the Commissioner has determined that it would be advantageous for all concerned to propose a single regulation granting or denying exemption for each particular State or local requirement, and to hold a single hearing covering all applications for exemption from preemption for hearing aid requirements. Although the application will be considered as part of a single proceeding, each individual application will be judged on its merits and the circumstances applicable to the particular jurisdiction.

Those State and local governments that have not filed an application for exemption from preemption for their hearing aid requirements and that wish to do so are requested to file an application by November 17, 1977. Submissions made subsequently will be considered, in order received, after the proceeding is concluded.

Proposed procedures for the consideration of applications for exemption from preemption were published in the FEDERAL REGISTER of June 14, 1977 (42 FR 30383). The agency is following the procedures set out in this proposal as a guideline for the processing of applications for exemption. State and local governments should refer to this proposal when filing applications.

After all of the applications for exemption have been reviewed, the Commissioner will publish in the FEDERAL REGISTER a proposed regulation to grant or to deny exemptions from preemption in each case. At the same time, the Commissioner will publish in the FEDERAL REGISTER a notice of an opportunity for interested persons to request an oral hearing on any aspect of the proposed regulation. If an oral hearing is requested, a notice of the hearing will be published in accordance with § 15.20 (21 CFR 15.20). After the hearing, the Commissioner will review the written comments and the transcript of the hearing, if any, and publish in the FEDERAL REGISTER a regulation granting or denying exemption from preemption in each case.

Dated: October 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-30319 Filed 10-17-77;8:45 am]

[4110-03]

[Docket No. 76N-176]

NUCLEAR MEDICINE EVALUATION OF DISEASES OF THE THYROID GLAND

Intent To Propose Voluntary Recommendations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is considering the issuance of voluntary recommendations on the use of nuclear medicine techniques for the evaluation of diseases of the thyroid gland, one of the organs frequently studied with such techniques. A report has been submitted to FDA that includes recommendations on radionuclides and the minimizing of radiation explosure to the thyroid gland without compromising clinical information. Public comment is invited on these recommendations before their issuance and promotion by the agency for general use by practitioners. Interested individuals or organizations desiring to receive further relevant information are invited to be placed on a distribution list.

DATE: Comments by January 16, 1978.

ADDRESSES: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

For copies of the report and to have your name placed on the distribution list:

Division of Compliance, Bureau of Radiological Health (HFX-440), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Gail D. Schmidt, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: On May 19 and 20, 1975, the Food and Drug Administration (FDA) held a public meeting to discuss the production of iodine-123 and its application in diagnostic nuclear medicine. To further define the issues raised at that meeting and to develop recommendations for their resolution, a task force of selected government and public representatives participated in two subsequent public meetings held October 8, 1975, and May 18 and 19, 1976. This task force has submitted its report, "The Developing Role of Short-Lived Radionuclides in Nuclear Medicine," and a copy is on file with the Hearing Clerk, Food and Drug Administration. This report summarizes the historical background of the development and utilization of short-lived, accelerator-produced radionuclides for nuclear medicine, reviews the more recent evaluation and development of these radionuclides and provides specific recommendations on the evaluation of diseases of the thyroid gland. The report prefaces its recommendations with these remarks:

> The thyroid gland is one of the organs frequently studied with nuclear medicine techniques. Over the past several decades, increased attention has been drawn to the association between ionizing radiation and the late development of nodules and cancer of the thyroid gland. Although no association has been reported between diagnostic doses of radiopharmaceuticals and thyroid nodules or cancer, it is prudent to minimize radiation exposure to the thyroid when clinical information will not be compromised.
>
> Newer radionuclides and techniques yield better diagnostic information with the delivery of lower radiation doses than techniques commonly used in previous decades. Therefore, recommendations are offered to encourage techniques that lower radiation dose in thyroid studies with the most commonly used radiopharmaceuticals—^{131}I sodium iodide, ^{99m}Tc sodium pertechnetate, ^{123}I sodium iodide.

It is further recommended that this guidance should be implemented through

educational programs and cooperative action with professional organizations, manufacturers and distributors of radiopharmaceuticals, and Federal and State radiation control agencies. FDA is considering whether adoption of this guidance as voluntary recommendations would enhance its implementation and be of benefit to the public health.

The task force recognized that the goal of minimizing radiation exposure to the thyroid without compromising clinical information can be accomplished in three ways: (a) employment of in vivo radionuclide studies of the thyroid only when clearly indicated for specific conditions; (b) utilization of radionuclides delivering the lowest radiation dose (i.e., iodine-123 and technetium 99m); and (c) when it is necessary to use iodine-131, reduction of the administered dose to the minimum required to obtain useful information.

The recommendations under consideration specify diagnostic procedures where radioiodine should not be used as well as conditions where radioiodine is most appropriate. In addition, recommendations are provided for those circumstances where technetium-99m sodium pertechnetate is a suitable substitute for iodine-123 or iodine-131 as sodium iodide. Appropriate instrumentation and dosages for each radiopharmaceutical are suggested.

Interested persons are invited to participate in this effort to develop national guidance to minimize the radiation dose in nuclear medicine by submitting their written data, views, or arguments. Also, individuals may request that their names be placed on a distribution list to receive further relevant information. Comments and supporting data would be of particular importance concerning the following:

1. Indication of those thyroid diagnostic studies where radioactive iodine should not be used.

2. Circumstances and conditions: (a) Where radioiodine thyroid uptake testing is important and useful; (b) where thyroid imaging with radioiodine is appropriate; (c) where technetium-99m is a suitable substitute for iodine-123 or iodine-131 in thyroid imaging purposes; and (d) where technetium-99m is less satisfactory than iodine-123 or iodine-131 for thyroid imaging.

3. The magnitude of administered dose of radioactive pharmaceuticals necessary for specific thyroid diagnostic studies.

4. Suitable in vitro tests that eliminate the need for in vivo administration of radiopharmaceuticals for certain thyroid studies.

5. Instrumentation requirements to obtain high quality diagnostic information with minimum amounts of administered radioactivity.

Written comments or data should be sent (in quadruplicate and identified with the docket number found in brackets in the heading of this document) to the office of the Hearing Clerk (HFC-20), Food and Drug Administration, at the above address, on or before January 16, 1978. All comments received will be considered to the fullest possible extent in formulating any proposed recommendations. Information submitted will be available for public inspection in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the authority of sections 301, 310, and 311 of the Public Health Service Act (42 U.S.C. 241, 242o, and 243) and the authority delegated to the Commissioner (21 CFR 5.1).

Dated: October 12, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-30462 Filed 10-17-77;8:45 am]

[1505-01]

[Docket No. 76N-03.53; DESI 9760 and 12180]

CERTAIN ANTILIPEMIC DRUGS

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 77-25409 appearing at page 44278 in the issue for Friday, September 2, 1977, in column three, 15 lines from the bottom of the page, the date 60 days after publication in the FEDERAL REGISTER is November 1, 1977.

[1505-01]

[Docket No. 77N-0089; DESI 6290]

CERTAIN ANTIHISTAMINIC PREPARATIONS FOR ORAL OR RECTAL ADMINISTRATION

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 77-25653 appearing at page 44275 in the issue for Friday, September 2, 1977, make the following corrections:

(1) On page 44276, near the top of the first column, in the listing "a" under "7", the word "Pyribenzame" should have read "Pyribenzamine".

(2) In the second column, the third line up from the bottom of the first incomplete paragraph, "41 CFR" should have read "41 FR".

[4110-83]

Health Resource Administration

ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory Body scheduled to assemble during the month of November 1977.

Name: Component Integration and Organizational Structure Technical Consultant Panel to the Cooperative Health Statistics Advisory Committee.

Date and time: November 3-4, 1977, 9 a.m.

Place: HEW—North Building, Room 4169, 300 Independence Avenue SW., Washington, D.C. 20201.

Open for entire meeting.

Purpose: The Panel advises the Director, National Center for Health Statistics, regarding policy, practices, and proeedures which will assist in developing the Cooperative Health Statistics System as a basic continuing resource which can in its totality, meet new and emerging needs for health data. Major issues to be addressed by the Technical Consultant Panel include: (1) the effective integration of data from two or more components and sources to assist in decisionmaking in the health care field, and (2) the identification of model organizational structures for the Cooperative Health Statistics System at Regional, State, and local levels which will assure building on existing capabilities and full cooperation of public and private data users and producers.

Agenda: Review analysis of Status of Single Contract Vehicle—Federal and State perspective; review Federal Statistical Mandates and State program activities; review a State Statistical Services proposal. To finalize the report of this Technical Consultant Panel for submission to the Director, NCHS.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact Mr. James A. Smith, Room 2-12, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-7122.

Agenda items are subject to change as priorities dictate.

Dated: October 12, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77-30416 Filed 10-17-77;8:45 am]

[4110-39]

National Institute of Education

INFORMATION AND DATA ACQUISITION ACTIVITY

Collection; Opportunity for Comments

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Institute of Education is proposing an information and data acquisition activity which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Direc-

tor of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

This data acquisition activity as described below is also subject to review by the HEW Education Data Acquisition Council.

Written comments on the proposed activities are invited. Comments should refer to the form number and must be received on or before November 17, 1977, and should be addressed to Administrator, National Center for Education Statistics, Attn.: Management Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Ave., SW., Wash., D.C. 20202.

Further information may be obtained from Kent Sullivan, Basic Skills Group, National Institute of Education, 202-254-5766.

Dated: October 13, 1977.

RICHARD S. WERKSMAN,
Forms Clearance Officer,
National Institute of Education.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

"National Metric Needs Assessment."

2. AGENCY/BUREAU/OFFICE

DHEW/National Institute of Education/Basic Skills Group/Learning Division.

3. AGENCY FORM NUMBER

NIE 186.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"It is therefore declared that the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system." (Metric Conversion Act of 1975, Sec. 3, 15 U.S.C. 205b, Pub. L. 94-168.)

"Counseling and consultation by the Secretary of Health, Education and Welfare; the Secretary of Labor; the Administrator of the Small Business Administration; and the Director of the National Science Foundation, with educational associations, State and local educational agencies, labor education committees, apprentice training committees, and other interested groups, in order to assure (i) that the metric system of measurement is included in the curriculum of the Nation's educational institutions and (ii) that teachers and other appropriate personnel are properly trained to teach the metric system of measurement." (Metric Conversion Act of 1975, Sec. 6, 15 U.S.C. 205e, Pub. L. 94-168.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

5. HOW INFORMATION COLLECTED WILL BE USED

Results of this assessment will provide the United States Metric Board and educational decision-makers at the Federal, state and local levels with the following three kinds of information:

The current status of metric education: availability of materials and training programs.

Estimates of future requirements for materials, personnel, and programs to meet goals for full conversion to the metric system.

Description of the capacity of institutions to expand to meet the discrepancy between current status and projected requirements.

Four major reports will be produced from results of the study:

A monograph describing the current role of the institutions of higher education in the training of teachers in metric education and their capacity to expand to meet future needs.

A monograph which treats current efforts by State Education Agencies in metric education and their future needs with particular emphasis on the coordination of training and curriculum development.

A monograph describing current efforts conducted by Local Education Agencies in metric education and an analysis of their future needs in providing broad-based education that will be needed to smooth the transition to the metric system.

A monograph which will outline policy options which the Federal government may consider in the facilitation of broad-based metric education.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of Collection: Fall, 1977.
c. Frequency: 1 time.

8. RESPONDENTS

a. Type: State Education Agencies.
b. Number: (56) universe.
c. Estimated Average Hours per Respondent: 3.3.
a. Type: Local Education Agencies.
b. Number: (242) sample.
c. Estimated Average Hours per Respondent: 2.2.
a. Type: Colleges and Universities.
b. Number: (150) sample.
c. Estimated Average Hours per Respondent: 3.3.

9. INFORMATION TO BE COLLECTED

Respondent Type—State Education Agencies

Section One. Background Information.
Sec. Two. Development and Evaluation of Metric Elucation Curricula.
Sec. Three. Pre-Service Training of Teachers.
Sec. Four. In-Service Training.
Sec. Five. Special Issues in Metric Education.
Sec. Six. General Trends in Metric Conversion.

Respondent Type—Local Education Agencies

Section One. Basic Descriptive Information.
Sec. Two. Planning for Metric Conversion.
Sec. Three. Curriculum in Metric Education.
Sec. Four. In-Service Teacher Training.
Sec. Five. Special Trends in Metric Conversion.

Respondent Type—Colleges and Universities

Section One. Basic Descriptive Information.
Sec. Two. Planning for Meric Conversion.
Sec. Three. Metric Education and Pre-Service Training.
Sec. Four. Metric Education and In-Service Training.
Sec. Five. Development of Metric Curricula for the Schools.
Sec. Six. Special Issues in Metric Education.
Sec. Seven. General Trends in Metric Education.

[FR Doc.77-30391 Filed 10-17-77;8:45 am]

[4110-08]

National Institutes of Health

NATIONAL ADVISORY ALLERGY AND INFECTIOUS DISEASES COUNCIL

Amended Notice of Meeting

Notice is hereby given of changes in the meeting date, place, and times of the "closed" and "open" portions of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, which was published in the FEDERAL REGISTER on August 30, 1977 (42 FR 43669).

In the absence of authority for expenditure of FY 78 funds by the National Institute of Allergy and Infectious Diseases, the scheduled meeting of the NAAIDC on October 12-14 has been postponed to October 31 and November 1, 1977. The Council was to have met in Conference Room 10 in Building 31C but has been changed to meet in Conference Room D in the Westwood Building. This meeting will be open to the public on October 31 from 8:30 a.m. until 12:30 p.m., and on November 1 from 8:30 a.m. until 12:30 p.m., and will be closed to the public on October 31 from 1:30 p.m. until recess, and on November 1 from 1:30 p.m. until adjournment.

Dated: October 13, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-30475 Filed 10-17-77;8:45 am]

[4110-08]

NATIONAL ADVISORY GENERAL MEDICAL SCIENCES COUNCIL

Second Amended Notice of Meeting

Notice is hereby given of a change in the meeting dates of the National Advisory General Medical Sciences Council.

This Council was to have convened at 9 a.m. on October 5-6, 1977, but has been changed to 9 a.m. on October 31 and November 1, 1977. The meeting will be held at the National Institutes of Health, Bethesda, Md. On October 31 the meeting will be held in Building One, Wilson Hall. On November 1 the meeting will be held in Building 31C, Conference Room 10.

The meeting will be open to the public on October 31 from 9 a.m. to 9:30 a.m., and again on November 1 from 9 a.m. to adjournment. The meeting will be closed to the public on October 31 from 9:30 a.m. to 3 p.m. for the review, discussion, and evaluation of grant applications.

The other information relating to the meeting as published in the FEDERAL REGISTER (42 FR 42382) Tuesday, August 23, 1977, and (42 FR 48396) Friday, September 23, 1977, remains unchanged.

Dated: October 12, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-30476 Filed 10-17-77;8:45 a.m.]

[4110-08]

CARDIOVASCULAR AND PULMONARY STUDY SECTION

Amended Notice of Meeting

Notice is hereby given of a change in the meeting place of the Cardiovascular and Pulmonary Study Section, Division

of Research Grants, which was published in the FEDERAL REGISTER on September 9, 1977 (42 FR 45382–84).

The Cardiovascular and Pulmonary Study Section was to have met at the Holiday Inn, Georgetown, D.C., but will meet at the Holiday Inn, Bethesda, Md., November 1–5, 1977, at 8:30 a.m., the same dates and time for which it was originally scheduled.

The meeting will be open to the public for approximately one hour at the beginning of the first session of the first day of the meeting.

Dated: October 12, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-30477 Filed 10-17-77;8:45 am]

[4110-08]

ETHICS ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the initial meeting of the Ethics Advisory Board in Washington, D.C., on November 18–19, 1977. Please contact Dr. Robert C. Backus, Executive Secretary (address and phone number below) for time and place of meeting. The entire meeting will be open to the public.

The mandate of the committee directs the Board to advise the Secretary with regard to ethical issues involving the programs and missions of the Department. It will advise on the ethics of Departmental policy especially in areas of research, development and related activities involving human subjects. This organizational meeting will be devoted to the development of plans for the accomplishment of these tasks. Attendance by the public will be limited to space available.

Dr. Robert C. Backus, Executive Secretary, Ethics Advisory Board, Westwood Building, Room 303, Bethesda, Md. 20034, phone 301–496–7005, will provide rosters, summaries of meetings, and substantive program information.

Dated: October 12, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-30478 Filed 10-17-77;8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Meeting

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Bilingual Education. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: November 4, 1977, Committee on Public Hearings, 9 a.m.–10 a.m.; November 4, 1977, Committee on Legislation, 10 a.m.–11 a.m.; November 4, 1977, Committee on Budget, 11 a.m.–12 m.; November 4, 1977, Committee on November 1 Report, 1:30 p.m.–1:30 p.m.; November 4, 1977, Committee on Non-Spanish Minority Languages, 2:30 p.m.-3:30 p.m.; November 5, 1977, Business Meeting, 9 a.m.–4:30 p.m.; November 7, 1977, Public Hearings (St. Paul, Minn.), 1:30 p.m.–5:30 p.m.

ADDRESS: Committee meetings will be held at: Reporter's Bldg., Room 412, 300 Seventh Street SW., Washington, D.C. 20202. Business meeting will be held at: The Hyatt Regency Washington, Conference Room, 400 New Jersey Ave., Washington, D.C. 20001. The public hearings will be held at: 1 Stern, Civic Center, St. Paul, Minn.

FOR FURTHER INFORMATION CONTACT:

Dr. Gloria Becerra, Program Delegate, Office of Bilingual Education, Reporter's Bldg., Room 421, Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, 202–447–9227.

The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 880b–11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

On November 4, 1977, five of the council's standing committees will meet: Committee on Public Hearings—discussion on the hearings to be held in St. Paul, Minn., in conjunction with the National Indian Education Association Conference (9 a.m.–10 a.m.); Committee on Legislation—discussion on additional recommendation on Title VII (10 a.m.–11 a.m.); Committee on Budget—Update Report of FY 1977 expenditures (11 a.m.–12 p.m.); November 1 Report—discussion and Review of the Final Draft of the Report to Congress (1:30 p.m.–2:30 p.m.); Committee on Non-Spanish Minority Languages—discussion on Position Papers (2:30 p.m.–3:30 p.m.).

The proposed agenda for the Council on November 5, 1977 includes:

(1) Committee Reports.
(2) FY 1978 Work Plans.
(3) Review of Final Draft of Report to Congress with Contractor.

The following procedures shall be observed during the public hearings:

(1) Witnesses shall be heard on a first come basis;

(2) Witnesses shall limit their testimony to twenty minutes: ten to fifteen minutes of formal presentation followed by five or ten minutes of questioning from Council members;

(3) Two or more persons from the same organization shall designate one person to speak for the group;

(4) Witnesses shall present a written synopsis of their oral presentation. Witnesses who do not provide such a synopsis will be heard after all who have written synopses are heard;

(5) Witnesses who have testified at previous hearings will be heard after all others;

(6) Witnesses may address the Council in either English or in their native language. The written synopsis of the oral presentation must be submitted in English. Witnesses who have chosen to give testimony in their native language may submit their written synopsis in that language in addition to their synopsis in English; and

(7) All testimony shall be taped recorded.

Records will be kept of all Council proceedings and shall be available for public inspection 14 days after the meeting in Room 421, Reporter's Building, 300 Seventeenth Street SW., Washington, D.C. 20202. In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Signed at Washington, D.C., on October 12, 1977.

GLORIA V. BECERRA,
Program Delegate, Office of Bilingual Education.

[FR Doc.77-30406 Filed 10-17-77;8:45 am]

[4110-85]

Office of the Assistant Secretary for Health

NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Council meeting:

Name: National Professional Standards Review Council.

Date and Time: November 7, 1977 (10 a.m. to 5 p.m.); November 8, 1977 (9 a.m. to 1 p.m.).

Place: Auditorium (first floor), South Portal Building, 200 Independence Avenue SW., Washington, D.C.

Purpose of Meeting: The Council was established to advise the Secretary of Health, Education, and Welfare on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program.

Meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council

Chairman will allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to William D. Coughlan, Staff Director, National Professional Standards Review Council, Office of Quality Standards, Room 16A-09, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4990.

Dated: October 11, 1977.

WILLIAM B. MUNIER,
Executive Secretary, National Professional Standards Review Council.

[FR Doc.77-130414 Filed 10-17-77;8:45 am]

[4110-12]

Public Health Service

FOOD AND DRUG ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HFB (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (35 FR 3685-92, February 25, 1970, as amended by 39 FR 18702, May 29, 1974) is amended to reflect the establishment of the Division of Biologics Evaluation and functional changes to the Division of Compliance within the Bureau of Biologics, Food and Drug Administration.

Section HF-B, Organization and Functions, is amended in paragraph (r), Bureau of Biologics (HFB), as follows:

(1) Delete paragraph (r-2) in its entirety and substitute the following:

(r-2) *Division of compliance (biologics)* (HFBC). Plans, develops, and directs the Bureau's regulatory compliance programs to assure the safety, purity, potency, and efficacy of biological products.

Prepares standards for the manufacture and testing of biological products for publication in the FEDERAL REGISTER. Prepares procedural and interpretive regulations under the applicable sections of the Public Health Service Act and the Federal Food, Drug, and Cosmetics Act, as amended.

Develops compliance and surveillance programs for investigation of biological product manufacturers, for the inspection of licensed establishments and registered blood banks, and for investigations of violations of laws and regulations; conducts investigations and inspections and recommends regulatory action as necessary.

(2) Insert a new paragraph (r-8) following paragraph (r-7), Division of Bacterial Products (HFBE), to read as follows:

(r-8) *Division of biologics evaluation* (HFBH). Implements the agency's Bio-Research Monitoring Program for biologics intended for human use.

Develops standards for the conduct of clinical and preclinical investigations performed to demonstrate the safety and effectiveness of biologics.

Develops requirements for compliance programs in the area of preclinical and clinical biologics investigations.

Assigns, directs, and coordinates onsite inspections of sponsors and investigators of preclinical and clinical biologics studies, institutional review committees, and commercial clinical testing facilities in collaboration with FDA's field organization.

Reviews applications and data prior to approving the use of a biological product that has not been licensed; maintains surveillance of clinical use and develops information for use in licensing products.

Reviews data for licensing biological products (including human blood and blood products) and their manufacturers.

Coordinates preclinical and clinical biologics investigation activities within and outside the Bureau to promote maximum utilization of resources and consistency of policies.

Evaluates investigation reports and reports and recommends administrative and regulatory corrective measures as necessary.

Plans and conducts educational and informational activities with regard to standards for preclinical and clinical biologics investigatons.

Dated: October 3, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc. 77-30215 Filed 10-17-77; 8:45 am]

[4310-70]

DEPARTMENT OF THE INTERIOR

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 7, 1977. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by October 28, 1977.

RONALD M. GREENBERG,
Acting Keeper of the National Register.

ALABAMA

Mobile County

Mobile, *Emanuel Building (Bank of Mobile)*, 100 N. Royal St.

Montgomery County

Montgomery, *Thigpen, Dr. C. A., House*, 1412 S. Perry St.

ARIZONA

Maricopa County

Mesa, *Mesa Grande*, 10th and N. Date Sts.

CALIFORNIA

Marin County

Larkspur, *Green Brae Brick Yard*, 125 E. Sir Francis Drake Blvd.

San Diego County

San Diego, *Gaslamp Quarter Historic District*, roughly bounded by Broadway, Pacific Highway, 4th and 6th Sts.

Siskiyou County

Sawyers Bar vicinity, *White's Gulch Arrastra*, E of Sawyers Bar.

ILLINOIS

DeKalb County

Sycamore, *Sycamore Historic District*, irregular pattern along Main and Somonauk Sts.

IOWA

Johnson County

Iowa City, *Vogt House*, 800 N. Van Buren St.

MICHIGAN

Kalamazoo County

Kalamazoo, *East Hall*, Oakland Dr.

MISSOURI

Clay County

Kansas City, *Woodneath (Elbridge Arnold Homestead)*, 8900 NE. Flintlock Rd.

Jackson County

Kansas City, *Disney, Walt, House and Garage*, 3028 Bellefontaine Ave.

Kansas City, *McConahay Building*, 1121-1131 E. 31st St.

Kansas City, *Scarritt, William Chick, House*, 3240 Norledge Ave.

NEW YORK

Nassau County

Garden City, *Old Nassau County Courthouse*, 1550 Franklin Ave.

NORTH CAROLINA

Harnett County

Buies Creek, *Campbell, James Archibald, House*, U.S. 421.

Martin County

Jamesville, *Burras House*, U.S. 64.

Rowam County

Spencer, *Southern Railway Spencer Shops*, Salisbury Ave. between 3rd and 8th Sts.

Wake County

Raleigh, *Montford Hall*, 308 Boylan Ave.

WASHINGTON

Columbia County

Starbuck, *Bank of Starbuck*, Main and McNeil Sts.

Franklin County

Pasco, *Franklin County Courthouse*, 1016 N. 4th St.

Pacific County

Ocean Park vicinity, *Martin Site*, N. of Ocean Park.

Spokane County

Latah, *Ham-McEachern House*, Pine and 5th Sts.

Spokane, *Hyde Building and Annex*, W. 611½ Riverside Ave.

Spokane, *Spokane Flour Mill*, W. 621 Mallon Ave.

Thurston County

Olympia vicinity, *Medicine Creek Archeological Site*, E. of Olympia.

Walla Walla County

Waitsburg, *Waitsburg Historic District*, Main St.

Whitman County

Oakesdale, *Barron, J. C., Flour Mill*, 1st and Jackson Sts.

[FR Doc.77-30188 Filed 10-17-77;8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-36]

CERTAIN PLASTIC FASTENER ASSEMBLIES

Suspension of Investigation

Notice is hereby given that the United States International Trade Commission on September 29, 1977, affirmed the Presiding Officer's recommendation of September 27, 1977, and suspended Commission Investigation No. 337-TA-36 of Certain Plastic Fastener Assemblies effective November 1, 1977, until either the conclusion of trial in *Dennison Manufacturing Co.* v. *Ben Clements & Sons, Inc.*, 74 Civ. 979 (CES) in the United States District Court for the Southern District of New York or the resumption of District Court discovery on the issue of patent misuse, whichever occurs later.

Notice of institution of the investigation was published in the FEDERAL REGISTER on August 11, 1977 (42 FR 40786).

By order of the Commission.

Issued: October 13, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-30435 Filed 10-17-77;8:45 am]

[4510-27]

DEPARTMENT OF LABOR

Wage and Hour Division

[Administrative Order No. 652]

INDUSTRY COMMITTEES FOR VARIOUS INDUSTRIES IN PUERTO RICO

Postponement of Dates of Hearings

Administrative Order No. 651 for Industry Committees Nos. 143 and 144 for various industries in Puerto Rico (42 FR 36528) provides that the Committees are to commence their hearings on October 31, 1977, and November 7, 1977, respectively, with pertinent data to be filed 10 days before the hearings.

The House of Representatives and the Senate have each passed bills providing for future increases in wage rates under the Fair Labor Standards Act (FLSA), both in Pureto Rico and on the mainland. Differences between the bills have yet to be resolved. Although the provisions of these bills affecting the work of the Industry Committees are essentially the same, it is preferable for the Industry Committees to perform their work pursuant to enacted legislation and not pending legislation. Accordingly, I find that postponement in the dates of the hearings until after the final enactment of the FLSA amendment is justified.

Section 8(a) of the FLSA requires that wage rates in Puerto Rico which are below the mainland minimum must be reviewed by industry committees once during each biennial period, beginning with the biennial period commencing July 1, 1958. The last review of the industries to be considered by Industry Committees Nos. 143 and 144 took place in October and November 1975, during the biennial period ending June 30, 1976. Therefore, this postponement will be until no later than June 30, 1978.

Accordingly, pursuant to the authority vested in me under section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004) and 29 CFR 511, I hereby postpone until no later than June 30, 1978, the dates of the hearings of Industry Committees Nos. 143 and 144. The dates for the filing of prehearing statements are also postponed. New dates for the meetings of these Industry Committees will be announced by means of a new Administrative Order in the FEDERAL REGISTER.

Signed at Washington, D.C., on this 13th day of October 1977.

RAY MARSHALL,
Secretary of Labor.

[FR Doc.77-30455 Filed 10-17-77;8:45 am]

[7535-01]

NATIONAL CREDIT UNION ADMINISTRATION

[Reg. Z]

TRUTH-IN-LENDING

Joint Notice of Proposed Statement of Enforcement Policy

CROSS REFERENCE: For a notice of proposed statement of policy, Regulation Z, issued jointly by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration, see FR Doc. 77-30402 appearing in Part IV of this issue of the FEDERAL REGISTER.

[7555-01]

NATIONAL SCIENCE FOUNDATION

SUBCOMMITTEE ON LINGUISTICS OF THE ADVISORY COMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Linguistics of the Advisory Committee for Behavioral and Neural Sciences.

DATE AND TIME: November 10 and 11, 1977—9 a.m. to 5 p.m. each day.

PLACE: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Paul G. Chapin, Program Director for Linguistics, Room 320, National Science Foundation, Washington, D.C. 20550; telephone 202-254-6326.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in linguistics.

AGENDA: To review and evaluate research proposals and projects as part of the evaluation 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 and projects. 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.

OCTOBER 13, 1977.

[FR Doc.77-30305 Filed 10-17-77;8:45 am]

[7555-01]

SUBCOMMITTEE ON THE MATERIALS RESEARCH LABORATORIES OF THE ADVISORY COMMITTEE FOR MATERIALS RESEARCH

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Subcommittee on the Materials Research Laboratories of the Advisory Committee for Materials Research.

DATE AND TIME: November 7 and 8, 1977—9 a.m. to 5 p.m. each day.

PLACE: Room 642, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. R. J. Wasilewski, Head, Materials Research Laboratory Section, Room 408, National Science Foundation, Washington, D.C. 20550; telephone 202-632-7408.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support of research in Materials Research Laboratories.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals 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 the exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination as made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Com-

mittee 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.

OCTOBER 13, 1977.

[FR Doc.77-30281 Filed 10-17-77;8:45 a.m.]

[7555-01]

SUBCOMMITTEE ON MEMORY AND COGNITIVE PROCESSES OF THE ADVISORY COMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Memory and Cognitive Processes of the Advisory Committee for Behavioral and Neural Sciences.

DATE AND TIME: November 7 and 8, 1977—9 a.m. each day.

PLACE: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Joseph L. Young, Program Director for Memory and Cognitive Processes, Room 320, National Science Foundation, Washington, D.C. 20550; telephone 202-634-1583.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in Memory and Cognitive Processes.

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 and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552 b(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 determination by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

OCTOBER 13, 1977.

[FR Doc.77-30304 Filed 10-17-77;8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

PROCUREMENT SYSTEM FOR AUDIOVISUAL PRODUCTIONS

Proposed Procedure; Invitation for Public Comment

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Notice of public meeting and solicitation of comments on proposed Government-wide procurement system for motion pictures.

SUMMARY: On August 20, 1976, a proposed procurement system for purchasing audiovisual productions from private commercial sources was published in the FEDERAL REGISTER for public review and comment. Approximately 130 individuals, firms, associations, and Federal agencies responded to the FEDERAL REGISTER notice and offered comments and suggestions on the proposed procurement system.

All comments received in response to the August 20, 1976, FEDERAL REGISTER notice have been evaluated. Final policy recommendations regarding a proposed motion picture procurement system have been developed by a task group of the Federal Audiovisual Committee and have been submitted to the Office of Federal Procurement Policy (OFPP) for review and approval.

OFPP's standard practice, before approving major policies, is to solicit public comment on the policies. Accordingly, notice is hereby given that OFPP will hold a public meeting on November 16, 1977. The purpose of the meeting is to hear public views on the proposed procurement policy described in the following attachment (Attachment 1). The meeting will commence at 10 a.m. in Room 2010, New Executive Office Building, 726 Jackson Place NW., Washington, D.C. 20503. Entrance to the New Executive Office Building may be facilitated by telephoning 202-395-6194 in advance of the meeting.

Comments on the proposed procurement system may be presented orally at the public meeting or may be submitted in writing to the OFPP. Persons, organizations, and Government agencies desiring to make oral presentations at the public meeting on November 16, should provide written statements of their comments, with a request to be heard, to OFPP by November 14, 1977. Oral presentations should be limited generally to a summary of the views expressed in the written statements.

DATES: Comments must be received before November 14, 1977.

ADDRESS: Comments should be addressed to the Administrator for Federal Procurement Policy, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles W. Clark, Deputy Assistant Administrator for Commercial Products; telephone 202-395-6194.

SUPPLEMENTARY INFORMATION: Supplementary information regarding the proposed motion picture procurement is set forth in Attachment 1, below.

LESTER A. FETTIG,
Administrator.

ATTACHMENT 1

SUMMARY OF PROPOSED PROCUREMENT SYSTEM FOR MOTION PICTURE PRODUCTS

The proposed motion picture procurement system calls for competitive negotiated procurements. A lead agency will be tasked with the responsibility of administering and maintaining the system and will serve as a central source of information regarding the Government's motion picture production contracting program.

Contracts will be offered to all firms interested in doing motion picture work for the Government on the basis of unlimited competition. Notices will be placed in the Commerce Business Daily inviting all interested firms and persons to submit a 16mm sound sample film that they have produced within the last 3 years to the lead agency. The sample film, accompanied by a statement explaining the purpose of the film, the contract price, and sponsor of the film will be reviewed by an Interagency Film Review Board (IFRB). The IFRB will be chaired by the lead agency and will be comprised of members of the Federal Audiovisual Committee (FAC).

The FAC is an interagency committee chaired by the Office of Federal Procurement Policy, Office of Management and Budget. The Committee includes representatives from over 20 agencies. Its purpose is to advise and assist in the formulation of Government policy for audiovisual activities.

Each agency represented on the FAC may appoint one member to the IFRB. Films submitted to the IFRB will be evaluated on the basis of the following criteria:

a. Achievement of Purpose(s): Does the film accomplish stated purpose(s)? Was it appropriate for its intended audience? Was the manner of presentation appropriate? What was the audience's impression of the film? 0-20 points.

b. Creativity: Does the film provide a fresh or innovative way of understanding the message? 0-25 points.

c. Continuity: Does the film develop in a logical or understandable manner? 0-15 points.

d. Technical Quality: Do the following qualities in the film exhibit technical competence? Direction; Writing; Photography; Editing; Artwork/Animation; Narration; Music and Sound; Special Effects. 0-40 points.

A minimum of five IFRB members must participate in the evaluation of each film. Producers submitting films receiving an average composite score of 70 or more will be placed on a Qualified Producers List (QPL) and awarded a contract. Producers submitting films that receive an average composite rating of less than 70 will be promptly notified and afforded an opportunity to submit a second film. The meetings of the IFRB during which sample films are reviewed will be open to the public. The public, however, will not participate in the formal evaluation of the films.

The QPL will always be open and producers may continue to submit films until they qualify for placement on the QPL. All films, however, will be evaluated on a first-in first-out basis. To lessen the initial crush of film review work at the outset of IFRB operations,

a "grandfather arrangement" is proposed. Under the "grandfather arrangement" any FAC member may certify that they have reviewed one or more films of specific producers during the last three years and found the films to be of good quality and thereby recommend the producer for inclusion on the QPL. Producers, who are certified for initial inclusion on the QPL under the "grandfather arrangement" will be required to submit a sample film to the IFRB as soon as practicable but in no event later than one year from the date they are placed on the QPL.

Once qualified by the IFRB for inclusion on the QPL, a producer will remain qualified until an agency complains of unsatisfactory work or until the producer requests to be removed from the list. If an agency complains of unsatisfactory work, the IFRB will review the film and the factual situation resulting in the complaint. Where merited the IFRB may recommend removal of the firm from the QPL for a period of up to 1 year. Also, if a producer does not respond to five consecutive solicitations, he will be contacted and questioned as to whether he wishes to remain on the QPL.

Firms placed on the QPL will not be classified by subject matter or geographic areas except where requested by the producer. Copies of the QPL will be distributed to all using agencies and to interested persons requesting copies.

In using the QPL, agencies will not need to reissue standard contractual terms and conditions for each procurement. Using agencies will solicit proposals for their specific requirements from no less than five firms on the QPL (unless a sole source acquisition is justified in accordance with agency procurement regulations). The exact number of firms on the QPL, above five, from which proposals will be solicited for specific films will be determined by the agency in light of their particular requirement. As a general guide, however, agencies should not solicit proposals from more than 20 firms for films costing less than $100,000.

When an agency identifies a need to have a film produced, it will contact the lead agency and request a specific number of names from the QPL. Names of qualified producers will be provided by the lead agency in increments of five on a rotational basis. For every five names that the procuring agency requests, it will be permitted to pick a maximum of two additional names from the QPL. The names provided to the agency plus the names picked by the agency will be placed at the bottom of the list at the time they are referred.

In soliciting proposals for specific films from firms listed on the QPL agencies must first determine whether scripting will be separated from production. This is a judgmental determination involving two approaches to film making. The first approach is that a clear separation can be made in some films between scripting and production and that any producer can produce a satisfactory film from a completed script. Agencies using this method will obtain a script and then obtain competition for the production effort based on the script and detailed production specifications.

The second approach holds that production of some films (from initial research through treatment, scripting and production) is a continuous process and requires the continuity of one creative individual from start to finish. Agencies using this approach may competitively award one or more contracts for treatments or treatments and scripts and then subsequently award the production effort to the firm whose treatment or treatment and script are determined to be most advantageous to the Government.

Both of the above approaches are valid and are accommodated within the presently proposed system. The proposed system provides that when an agency determines that scripting for a particular requirement should be accomplished as part of the production contract, the agency will solicit proposals for the treatment or treatment and script from a specific number of producers listed on the QPL. Proposals for the treatments and scripts will be evaluated by the agency on the basis of the following data which will be submitted by each interested producer:

a. The producer and proposed personnel team which will be used in a production effort (should production subsequently be undertaken) and resumes/qualifications statements for each including: Scriptwriter(s); Producer/Director; Editor; Cinematographer.

b. A brief narrative describing the firm's understanding of the purpose and subject matter of the proposed film.

c. The identification of any similar past efforts by the same team.

d. Sample Film(s). One or two sample films recently produced by the proposed team or the producer. (Total running time: not to exceed 60 minutes.)

e. Sample of previous treatment or script if specifically requested by agency.

Awards for the development of treatments or treatments and scripts will be made to one or more producers submitting proposals. These awards will be made at a pre-established fixed price determined by the Government and included in the solicitation. When received, the treatments or treatments and scripts, containing prices for the proposed production, will be evaluated and the award for the production work may be made to the firm most advantageous to the Government price and other factors considered.

When an agency determines that scripting for a particular film should be separated from production, the agency will obtain and approve a script. Genrally, scripts can be obtained by negotiation directly with writers under existing small purchase authorities. Procedures for affecting small purchases are set forth in the Subpart 1–3.6 of the Federal Procurement Regulations and Section 3, Part 6 of the Armed Services Procurement Regulation. The Federal Supply Schedule Contract No. IG 733, Part III, "Visual Arts and Graphics," should not be used to obtain scripts for motion picture productions.

When obtained, the script should be used as part of the agency's solicitation to obtain production proposals from producers on the QPL. Production proposals submitted by producers will be evaluated on the basis of:

a. The producer and proposed personnel team to be used in the production effort and resumes/qualification statements for: Producer/Director; Editor; Cinematographer.

b. The identification of any similar past efforts by the same team.

c. Sample Film(s). One or two recent sample films produced by the proposed team or the producer. (Total running time: not to exceed 60 minutes.)

d. The proposed production price.

The production award will be made to the producer submitting the best proposal price and other factors considered.

The above proposed evaluation criteria are intended as the prime technical criteria that agencies will consider in evaluating production proposals. Individual agency contracting officers, however, will continue to determine a particular firm's responsibility prior to making a production award. Accordingly, financial and other data may be requested from the firm at the option of the contracting officer.

Procurement made pursuant to grants and to Section 8(a) of the Small Business Act will be handled in accordance with existing regulations and will not use the proposed system.

Copies of the contract proposed for use between the lead agency and firms on the QPL may be obtained by telephoning Charles W. Clark, Office of Management and Budget on (202) 395–6194. Sample solicitations to be used by agencies in soliciting proposals for treatments, treatments and scripts and productions may also be obtained by contacting Mr. Clark.

[FR Doc.77–30302 Filed 10–17–77;8:45 a.m.]

[8025–01]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 02/02–0236]

NEW JERSEY VENTURE CAPITAL, INC.

Application for a License to Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1977)), under the name of New Jersey Venture Capital, Inc. (Applicant), for a license to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant was incorporated under the laws of the State of New Jersey on December 10, 1976, and it will commence operations with a capitalization of $500,000, of which $275,000 will be contributed by First Peoples National Bank of New Jersey, Fidelity Bank and Trust Company of New Jersey, and Commerce Bank of New Jersey through the purchase of common stock. The remaining $225,000 will be provided by the sale of limited partnership interests in New Jersey Venture Capital, Ltd., a limited partnership organized under the laws of New Jersey, the net proceeds of which will be utilized to buy preferred stock of the Applicant.

The proposed officers and directors of the Applicant (each of whom are also affiliated with one of the above named banks) are:

Vernon W. Hill, II, 47 Fries Lane, Cherry Hill, N.J., president and director.
Jerome S. Goodman, 1753 County Club Dr., Cherry Hill, N.J., secretary and director.
Raymond Silverstein, 1449 Georgian Dr., Moorestown, N.J., treasurer and director.

The Applicant's office will be located at 900 Kings Highway, Cherry Hill, N.J. 08033, and it will conduct operations primarily in southern New Jersey and serve the new small businesses developing in that area.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA regulations.

Notice is hereby given that any person may, on or before November 2, 1977, sub-

mit written comments on the Applicant to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Wash., D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Cherry Hill, N.J.

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

Dated: October 7, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-30292 Filed 10-17-77;8:45 am]

[8025-01]

[License No. 09/12-0034]

TECHNOLOGY CAPITAL

Surrender of License to Operate as a Small Business Investment Company

Notice is hereby given that Technology Capital, 601 California Street, San Francisco, California 94108, has surrendered its License No. 09/12-0034, issued June 19, 1961.

Technology Capital has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations promulgated thereunder, the surrender of the license of Technology Capital is hereby accepted and it is no longer licensed to operate as a small business investment company.

Dated: October 7, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-30293 Filed 10-17-77;8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

RESEARCH ADVISORY COMMITTEE

Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2) Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on November 30 and December 1, 1977, at the Pan American Health Organization Building, 23rd Street and Virginia Avenue NW., Conference Room "C", to review, appraise, and make recommendations to the Administrator, Agency for International Development, concerning projects proposed for A.I.D. central research funding in the field of food and nutrition and health and population. The meeting will begin at 9 a.m. and adjourn at 5:30 p.m. each day. The meeting is open to the public. Dr. Erven J. Long, Associate Assistant Administrator, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information contact Dr. Erven J. Long, 1601 N. Kent Street, Arlington, Va. 22209, or call area code 202-235-2243.

Dated: October 11, 1977.

ERVEN J. LONG,
A.I.D. Representative, Research Advisory Committee.

[FR Doc.77-30415 Filed 10-17-77;8:45 am]

[4710-01]

[Pub. Notice CM-7/123]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The November 1 meeting of the Panel on Bulk Cargoes of the working group on subdivision and stability, a part of the Subcommittee on Safety of Life at Sea (SOLAS) of the Shipping Coordinating Committee (SHC), will take place at 10 a.m., Tuesday, November 1, 1977, in Suite 2757 of the National Cargo Bureau, Inc., One World Trade Center, New York, N.Y. 10048. The notice of this meeting, published in the October 11, 1977, FEDERAL REGISTER (vol. 42, No. 196, page 54898), erroneously stated that the meeting would occur on Monday.

Other details remain as set forth in the previous notice.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

OCTOBER 12, 1977.

[FR Doc.77-30420 Filed 10-17-77;8:45 am]

[4810-33]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

NATIONAL ADVISORY COMMITTEE ON BANKING POLICIES AND PRACTICES

Notice of Meeting

A meeting of the National Advisory Committee on Banking Policies and Practices will be held October 27, 1977, at the Sheraton Park Hotel, Washington, D.C. The meeting will be from 8:45 to 3 p.m. with a lunch break from 12:15 to 1:15 p.m. The meeting will be open to the public and interested persons will be admitted on a first come basis.

Topics to be discussed will include NOW Accounts, Consumers and Banking, New Examination Procedures, and and other areas of concern to the industry.

Persons or groups planning to make statements, please submit three copies to Mr. Robert A. Baer, Jr., Office of the Comptroller of the Currency, Washington, D.C. 20219, prior to October 24, 1977.

Dated: October 12, 1977.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc.77-30315 Filed 10-17-77;8:45 am]

[4830-01]

Internal Revenue Service

[Delegation Order No. 38 (Rev. 5)]

DELEGATION OF AUTHORITY

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Authority is delegated to certain Internal Revenue Service officials to establish and maintain imprest funds for change making purposes. The text of the delegation order appears below.

EFFECTIVE DATE: October 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles H. Jenkins, Jr., A:F:S, 1111 Constitution Avenue NW., Room 3326, Washington, D.C. 20224, 202-566-6851 (not toll free).

CHARLES H. JENKINS, Jr.,
Chief, Financial Systems Branch.

Date of issue: October 19, 1977.

Effective date: October 19, 1977.

DESIGNATION OF CASHIERS FOR CHANGE-MAKING PURPOSES

Pursuant to authority vested in the Commissioner, Internal Revenue Service, by Treasury Department Order No. 152 (Revised), dated October 15, 1959, there is hereby delegated to the officials designated below, the authority to determine the need for imprest funds for change-making purposes, and the locations at which such funds are required; to request the designation of officers and employees whose duties so require to serve as cashiers with authority to hold cash for change-making purposes; to request the revocation of such designations; to request the amount of advance to be carried by each such cashier.

Fiscal Management Officer.
Assistant Fiscal Management Officer.
Chief, Financial Operations Branch, Fiscal Management Division.
Chief, Accounting Section, Fiscal Management Division.
Regional Commissioners.
Assistant Regional Commissioner (Administration).
Chiefs, Fiscal Management Branches.
Chiefs, Fiscal Sections, Fiscal Management Branches.

The authority delegated herein may not be redelegated.

This Order supersedes Delegation Order No. 38 (Rev. 4), issued February 26, 1976.

WILLIAM E. WILLIAMS,
Acting Commissioner.

OCTOBER 11, 1977.

[FR Doc.77-30442 Filed 10-17-77;8:45 am]

[4830-01]

[Delegation Order No. 28 (Rev. 4)]

DELEGATION OF AUTHORITY

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Authority is delegated to certain Internal Revenue Service officials

to designate officers and employees to certify vouchers to disbursing officers for payment from appropirated funds. The text of the delegation appears below.

EFFECTIVE DATE: October 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles H. Jenkins, Jr., A:F:S, 1111 Constitution Avenue NW., Room 3326, Washington, D.C. 20224, 202–566–6851 (not toll free).

CHARLES H. JENKINS,
Chief, Financial Systems Branch.

Date of issue: October 14, 1977.

Effective date: October 14, 1977.

DESIGNATION OF OFFICERS AND EMPLOYEES AS AUTHORIZED CERTIFYING OFFICERS

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 140 (Revision No. 3), dated December 19, 1955, there is hereby delegated to the following officials the authority (1) to designate officers and employees to certify vouchers to disursing officers for payment from funds under their jurisdiction and to revoke the designation of officers and employees to certify such vouchers, and (2) to make certifications and give notices under regulations of the Treasury Department governing the documentation required for certifying vouchers to the Division of Disbursement, Bureau of Government Financial Operations.

Fiscal Management Officer.
Assistant Fiscal Management Officer.
Chief, Financial Operations Branch, Fiscal Management Division.
Regional Commissioners.
Assistant Regional Commissioners (Administration).
Chiefs, Fiscal Management Branches.

A copy of each document redelegating the authority delegated herein must be furnished to the Chief Disbursing Officer, Treasury Department.

This Order supersedes Delegation Order No. 28 (Rev. 3) issued September 3, 1965.

JEROME KENNEDY,
Commissioner.

SEPTEMBER 30, 1977.

[FR Doc.77-30443 Filed 10-17-77;8:45 am]

[4830-01]

[Delegation Order No. 59 (Rev. 8)]

DELEGATION OF AUTHORITY

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Authority is delegated to certain Internal Revenue Service officials to establish and maintain imprest funds for investigative purposes. The text of the delegation order appears below.

EFFECTIVE DATE: October 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles H. Jenkins, Jr., A.E.S., 1111 Constitution Avenue NW., Room 3326, Washington, D.C. 20224, 202–566–6851 (not toll free).

CHARLES H. JENKINS, Jr.,
Chief, Financial Systems Branch.

Date of issue: October 14, 1977.

Effective date: October 14, 1977.

DESIGNATION OF CASHIERS FOR INVESTIGATIVE PURPOSES

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 152 (Revised), dated October 15, 1959, there is hereby delegated to the officials named below the authority to determine the need for imprest funds for investigative purposes, and the locations at which such imprest funds are required; to request the designation of officers and employees to serve as cashiers with authority to hold cash for investigative purposes; to request the revocation of such designations; and to request the amount of advance to be carried by each such cashier:

Fiscal Management Officer.
Assistant Fiscal Management Officer.
Chief, Financial Operations Branch, Fiscal Management Division.
Chief, Accounting Section, Fiscal Management Division.
Regional Commissioners.
Assistant Regional Commissioners (Administration).
Chiefs, Fiscal Management Branches.
Chiefs, Fiscal Sections, Fiscal Management Branches.

The authority delegated herein may not be redelegated.

This Order supersedes Delegation Order No. 59 (Rev. 7), issued June 9, 1976.

JEROME KENNEDY,
Commissioner.

SEPTEMBER 30, 1977.

[FR Doc.77-30444 Filed 10-17-77;8:45 am]

[4810-22]

Customs Service

COLUMBUS, NEW MEXICO, CUSTOMS PORT OF ENTRY

Withdrawal of Notice of Change in Hours of Service

OCTOBER 17, 1977.

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of withdrawal.

SUMMARY: This notice cancels the announcement that the hours of service at the Customs port of entry at Columbus, New Mexico, would be reduced from the current 24 hours a day to 16 hours a day. The Customs Service has determined that a reduction in the hours of service would not be in the public interest.

EFFECTIVE DATE: October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Schenarts, Operations Officer, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, 202–566–8151.

SUPPLEMENTARY INFORMATION: On September 15, 1977, the Customs Service published a notice in the FEDERAL REGISTER (42 FR 46452), announcing a reduction in the hours of service at the Customs port of entry at Columbus, New Mexico, from the current 24 hours a day to 16 hours a day. The new hours of service, from 8:00 a.m. to Midnight, were to have become effective on September 30, 1977. However, to reduce the impact the change in hours of service may have caused, on October 3, 1977, the Customs Service published a notice in the FEDERAL REGISTER (42 FR 53695), delaying the effective date until October 17, 1977.

After further consideration, the Customs Service has determined that a reduction in the hours of service at the port would not be in the public interest. Accordingly, the reduction in hours of service scheduled to become effective October 17, 1977, is cancelled. The Custom Service will continue to maintain 24-hour service at Columbus, N. Mex.

G. R. DICKERSON,
Acting Commissioner of Customs.

[FR Doc.77-30568 Filed 10-17-77;11:38 am]

[1410-03]

NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

MEETING

A meeting of the National Commission on New Technological Uses of Copyrighted Works (CONTU) will be held at 9:30 a.m. on Friday, October 21, 1977, in Room 2222 of the Rayburn House Office Building, Washington, D.C. The meeting will be devoted entirely to testimony relating to photocopying. The meeting will be open to the public.

Full transcripts of the meeting will available for purchase from the National Technical Information Service in December, 1977. Ordering information may be obtained from the Commisison.

All members of the public, including representatives of groups concerned, are invited to submit written comments relating to any matters under the Commission's consideration. All such comments should be addressed to Dolores K. Dougherty, Administrative Officer, National Commission on New Technological Uses of Copyrighted Works, Washington, D.C. 20558.

ARTHUR J. LEVINE,
Executive Director, National Commission on New Technological Uses of Copyrighted Works.

[FR Doc.77-30570 Filed 10-17-77;12:02 pm]

[7035-01]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 13, 1977.

An application, as summarized below, has been filed requesting relief from the

requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before November 2, 1977.

FSA No. 43445—*Joint Rail-Water Container Rates—Ace Lines Limited.* Filed by Ace Lines Limited, (No. 3), for itself and interested rail carriers. Rates on general commodities, from rail carriers terminals on the U.S. Atlantic and Gulf Coast points, to ports in Australia and New Zealand.

Grounds for relief—Water competition.

Tariff—Ace Lines Limited tariff I.C.C. No. 3, F.M.C. No. 8.

Rates are published to become effective on November 5, 1977.

FSA No. 43446—*Joint Water-Rail Container Rates—Korea Shipping Corporation, Ltd.* Filed by Korea Shipping Corporation, Ltd., (No. 103), for itself and interested rail carriers. Rates on general commodities, between ports in Japan and Korea, and rail stations on the U.S. Atlantic Coast.

Grounds for relief—Water competition.

FSA No. 43447—*Perlite Rock to Points in Southwestern Territory.* Filed by Southwestern Freight Bureau, Agent (No. B-710), for interested rail carriers. Rates on perlite rock, crude, not further processed than broken, crushed or ground, in carloads, as described in the application, from Antonito and Florence, Colorado, to points in southwestern territory.

Grounds for relief—Rate relationship.

Tariff—Supplement 308 to Southwestern Freight Bureau, Agent, tariff 270-F, I.C.C. No. 4832. Rates are published to become effective on November 13, 1977.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-30428 Filed 10-17-77;8:45 am]

[7035-01]

[Notice No. 132TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

October 12, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 1222 (Sub-No. 44TA), filed September 27, 1977. Applicant: THE REINHARDT TRANSFER CO., 1410 Tenth Street, Portsmouth, Ohio 45662. Kinker, 314 W. Main Street, P.O. Box sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic products*, from Channahon, Ill., to points in Indiana, for 180 days. Supporting shipper(s): Louis A. Stock, Traffic Manager, Eastern, Central Division, Dow Chemical U.S.A., P.O. Box 36000, Strongsville, Ohio 44136. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 1183 (Sub-No. 2TA) (Correction), filed September 8, 1977, published in the Federal Register issue of September 23, 1977, and republished as corrected this issue. Applicant: EDGEWATER BULK TRUCK CO., P.O. Box 877, 530 Duncan Ave., North Arlington, N.J. 07302. Applicant's representative: Charles J. Irwin, 744 Broad St., Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof, fish oil and vegetable oil*, in bulk, in tank vehicles, from the plant and storage facilities of Archer Daniels Midland Co., Bayway, N.J.; to points in Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, Virginia, and Washington, D.C., for 180 days. Supporting shipper: Archer Daniels Midland Co., 4666 Faries Parkway, Decatur, Ill. 62525. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Newark, N.J. 07102. The purpose of this republication is to indicate the correct spelling of Bayway, N.J., in lieu of Bayonne, N.J., which was previously published in error.

No. MC 2392 (Sub-No. 104TA), filed September 29, 1977. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248, West Omaha Station, Omaha, Nebr. 68127. Applicant's representative: Keith D. Wheeler, P.O. Box 14248, West Omaha Station, Omaha, Nebr. 68124. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Resins*, in bulk, in tank vehicles, from Midland, Mich., to Omaha, Nebr., and (2) *vinyl acetate*, in bulk, in tank vehicles, from Longview, Tex., to Omaha, Nebr., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Nashua Corp., Rick Samson, Materials Manager, 3838 South 108th Street, Omaha, Nebr. 68144. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 41404 (Sub-No. 133TA), filed September 26, 1977. Applicant: ARGO-COLLIER TRUCK LINES CORP., P.O. Box 440, Fulton Highway, Martin, Tenn. 38237. Applicant's representative: Mark L. Horne (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products, and food ingredients* in vehicles equipped with mechanical refrigeration, from the plant and storage facilities of Archer Daniels Midland Co. at Decatur, Ill., to Tecas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Archer Daniels Midland Co., 4666 Faries Parkway, P.O. Box 1470, Decatur, Ill. 62525. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis Tenn. 38103.

No. MC 43269 (Sub-No. 65TA) (Partial Correction), filed July 11, 1977, published in the Federal Register issue of August 5, 1977, and republished as corrected this issue. Applicant: WELLS CARGO, INC., 1775 East 4th Street, Reno, Nev. 89512. Applicant's representative: David N. Inwood, P.O. Box 1511, Reno Nev. 89505.

Note.—The purpose of this partial correction is to indicate the correct No. MC 43269 (Sub-No. 65TA), in lieu of No. MC 43268 (Sub-No. 65TA), which was published in error. The rest of the publication remains the same.

No. MC 59640 (Sub-No. 60TA), filed September 21, 1977. Applicant: PAULS TRUCKING CORP., 3 Commerce Drive, Cranford, N.J. 07016. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plans, N.J. 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tea, coffee, coffee filters, bags, and food products*, for the account of Greenwich Mills Co., of Se-

caucus, N.J., from Secaucus, N.J., to Virginia Beach, Va., Washington, D.C., and points in Massachusetts, Maryland, New York, and Pennsylvania, under a continuing contract, or contracts, with Greenwich Mills Co., for 180 days. Supporting shipper(s): Greenwich Mills Co., 520 Secaucus Road, Secaucus, N.J. 07094. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 111401 (Sub-No. 502TA), filed September 21, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock, P.O. Box 632, Enid, Okla. 73701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Antifreeze*, in bulk, in tank vehicles, from Abbeville, La., to Atlanta Ga.; Dallas, Tex.; Irving, Tex.; Oklahoma City, Okla.; Memphis, Tenn.; and Albuquerque, N. Mex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jim Winterhalter, Inc., 5726 Green Springs, Houston, Tex. 77066. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 Northwest Third Street, Oklahoma City, Okla. 73102.

No. MC 111401 (Sub-No. 504TA), filed September 18, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock, P.O. Box 632, Enid, Okla. 73701. Authority sought to operate as *a common carrier*, by motor vehicle, over irregular routes, transporting: *Dimethylamines, aqueous solution, flammable liquid*, in bulk, in tank vehicles, from Pace (Pensacola), Fla., to Brownsville, Tex., in foreign commerce only, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Air Products and Chemicals, Inc., P.O. Box 538, Allentown, Pa. 18105. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office and Court House Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 114301 (Sub-No. 90TA), filed September 30, 1977. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, Md. 21921. Applicant's representative: Maxwell A. Howell, 1511 K Street NW., Washington, D.C. 20423. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Solar salt*, from Wilmington, Del., to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): William F. Lucci, Distribution Manager, International Salt Co., 30 Buxton Farm Road, Stamford, Conn. 06905. Send protests to: William . L Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 114569 (Sub-No. 192TA), filed September 29, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins, P.O. Box 418, New Kingstown, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products* (except in bulk), from the plantsite of Farmers Cheese, at or near New Wilmington, Pa., to points in the state of Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Farmers Cheese Coop. Association, R.D. No. 1, New Wilmington, Pa. 16142. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Building, Harrisburg, Pa. 17108.

No. MC 115311 (Sub-No. 246TA), filed September 29, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Kim G. Meyer, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, paneling and wallboard*, from the plantsite of Plywood Panels, Inc., in Norfolk, Va., to points in Alabama, Georgia, South Carolina, North Carolina, Kentucky, Ohio, Indiana, Illinois, West Virginia, Michigan, and Tennessee, for 180 days. Supporting shipper(s): Plywood Panels, Inc., 3747 Village Avenue, Norfolk, Va. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 115841 (Sub-No. 554TA), filed September 30, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, Tenn. 37922. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from the facilities of the Stroh Brewery Co. at Detroit, Mich., to (1) the facilities of the Merrill Wholesale Corp. at China Grove, N.C.; and (2) the facilities of Quality Beers, Inc., at Hickory, N.C.; and (3) the facilities of Boggs Two Distributing Co. at North Wilkesboro, N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Merrill Wholsesale Corp. at China Grove, N.C., (2) Quality Beers, Inc., at Hickory, N.C., and (3) Boggs Distributing Co., at Johnson City, Tenn. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A–422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 117370 (Sub-No. 31TA), filed September 30, 1977. Applicant: STAFFORD TRUCKING, INC., 2155 Hollyhock Lane, Box 403, Elm Grove, Wis. 53122. Applicant's representative: Nancy J. Johnson, 4506 Regent Street, Suite 100, Madison, Wis. 53122. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bags, from the facilities of Martin-Marietta Aggregates, located at or near Portage, Wis., to Morris, Sauk Centre, Alexandria, Fergus Falls, and Thief River Falls, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Martin-Marietta Aggregates, 110 East Main Street, Rockton, Ill. 61072 (Donald P. Schwabe). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 118959 (Sub-No. 155TA), filed September 29, 1977. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, Mo. 63701. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials and supplies* (other than in bulk), from Drew, Miss., to points in Minnesota, Iowa, Missouri, Arkansas, Louisiana, and all states west thereof (except Alaska and Hawaii), for 90 days. Supporting shipper(s): Bird & Son, Inc., Washington Street, East Walpole, Mass. 02032. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 123069 (Sub-No. 20TA), filed September 30, 1977. Applicant: ALLER & SHARP, INC., 817 West 5th Avenue, Columbus, Ohio 43212. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Kokomo, Ind., to all points in Ohio, for 180 days. Supporting shipper(s): Hearst Magazines, 224 West 57th Street, New York, N.Y. 10019. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 124078 (Sub-No. 748TA), filed September 21, 1977. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nickel oxide sinter and nickel granules*, in bulk, in tank vehicles, from the International Bounda-

ries of Michigan and New York states, to Pittsburgh, Washington, and Houston, Pa., for 180 days. Supporting shipper(s): The International Nickel Co., Inc., One New York Plaza, New York, N.Y. 10004 (John J. Begley). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 43202.

No. MC 124266 (Sub-No. 4TA), filed September 29, 1977. Applicant: NELSON GWILLIM, R.R. No. 2, P.O. Box 144, Carlinville, Ill. 62626. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from the facilities of Falstaff Brewing Corp., at Fort Wayne, Ind., to Carlinville, Lincoln, and Springfield, Ill., under a continuing contract, or contracts, with Starr Bros., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Harr Starr III, President, Starr Bros., Inc., 113–115 South Plum Street, Carlinville, Ill. 62626. Send protests to: District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 126539 (Sub-No. 32TA) (Correction), filed August 30, 1977, published in the FEDERAL REGISTER issue of September 23, 1977, and republished as corrected this issue. Applicant: KATUIN BROS., INC., 102 Terminal Street, Dubuque, Iowa 52001. Applicant's representative: Carl E. Munson, 469 Fischer Building, Dubuque, Iowa 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of C. F. Industrial located at or near Albany, Ill., to points in Illinois, Iowa, Minnesota, and Wisconsin, for 180 days. Supporting shipper(s): CENEX, P.O. Box 43089, St. Paul, Minn. 55164. Midland Cooperative, Inc., 2021 East Hennepin Avenue, Minneapolis, Minn. 55413. FS Services, Inc., 17101 Towanda, Bloomington, Ill. 61701. CF Industries, Inc., Salem Lake Drive, Long Grove, Ill. 60047. Land O'Lakes Agricultural Services, 2827 Eighth Avenue South, Fort Dodge, Iowa. 50501. Send Protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa, 50309. The purpose of this republication is to indicate that in the FEDERAL REGISTER dated September 23, 1977, this application was published partially in error.

No. MC 128555 (Sub-No. 18TA) (Correction), filed August 19, 1977, published in the FEDERAL REGISTER issue of September 19, 1977, and republished as corrected this issue. Applicant: MEAT DISPATCH INC., 2103 17th Street East, Palmetto, Fla. 33561. Applicant's representative: S. Michael Richards, 44 North Avenue, P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Texarkana, Ark., Port Edwards, Wisconsin Rapids, Brokaw, and Green Bay, Wis., to Rochester, N.Y., under a continuing contract or contracts with Economy Paper Co., for 180 days. Supporting shipper(s): Economy Paper Co., 1175 East Main Street, Rochester, N.Y. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW., 53rd Terrace, Miami, Fla. 33166. The purpose of this republication is to indicate the correct territorial description.

No. MC 129455 (Sub-No. 28TA), filed September 21, 1977. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, N.J. 07652. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ceiling tile* for the account of L. Grossman's, a division of Evans Products Co., from Macon, Ga., to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, restricted to store-door delivery service, under a continuing contract, or contracts, with L. Grossman's, a division of Evans Products Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): L. Grossman's, a devision of Evans Products Co., 200 Union Street, Braintree, Mass. 02184. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 134405 (Sub-No. 40TA), filed September 28, 1977. Applicant: BACON TRANSPORT CO., P.O. Box 1134, Ardmore, Okla. 73401. Applicant's representative: O. G. Bacon, P.O. Box 1134, Ardmore, Okla. 73401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon black*, in sealed bins, from the facilities of Ashland Chemical Co., at or near United, La., to Ardmore, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ashland Chemical Co., P.O. Box 2219, Columbus, Ohio 43216. Send protests to: Joe Green, District Superviser, Room 240, Old Post Office and Court House Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 139495 (Sub-No. 264TA) (Correction), filed September 2, 1977, published in the FEDERAL REGISTER issue of September 23, 1977, and republished as corrected this issue. Applicant: NATIONAL CARRIERS, INC., 1501 East Eighth Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: James E. McCarty (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polystyrene shapes and forms, and disposable plastic tableware*, from the plantsite and warehouse of Mobil Chemical Co. located at or near Temple, Tex., to points in Arkansas, Colorado, Georgia, Illinois, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mobil Oil Corp., 8350 North Central Expressway, No. 522, Dallas, Tex. 75206. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202. The purpose of this republication is to indicate that in the FEDERAL REGISTER dated September 23, 1977, this application was published partially in error.

No. MC 140829 (Sub-No. 65TA) (Partial Correction), filed August 30, 1977, published in the FEDERAL REGISTER issue of September 23, 1977, and republished as corrected this issue. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106.

NOTE.—The purpose of this partial correction is to indicate applicant's correct No. MC 140829 (Sub-No. 65TA), in lieu of No. MC 140829 (Sub.-No. 56TA), which was previously published in error. The rest of the publication remains the same.

No. MC 142780 (Sub.-No. 1TA) (Correction), filed July 29, 1977, published in the FEDERAL REGISTER issue of August 19, 1977, and republished as corrected this issue. Applicant: MARINE DISTRIBUTORS OF VIRGINIA, INC., 1505 Sherbrook Road, Chesapeake, Va. 23323. Applicant's representative: Blair P. Wakefield, Suite 1001, First & Merchants Bank Bldg., Norfolk, Va. 23510. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Boats*, in *straight loads or in mixed loads with their parts, equipment, and supplies therefor*, from the plant site of Coloso Boat Corp., Dania, Fla., to points in the states of Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, and Virginia under a continuing contract, or contracts, with Coloso Boat Corp., for 180 days. Supporting shipper: Coloso Boat Corp., 1980 Tiger Tail Road, Dania, Fla. 33004. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10–502, Federal Bldg., 40 North Eighth Street, Richmond, Va. 23240. The purpose of this republication is to include (5) five more states to the destination description.

No. MC 143530TA (Correction), filed July 28, 1977, published in the FEDERAL REGISTER issue of August 24, 1977, and republished as corrected this issue. Applicant: WOLF'S TOWING, INC., Rt. 80 and Rt. 51, Peru, Ill. 61354. Applicant's

representative: John S. Duncan III, 654 First Street, La Salle, Ill. 61301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks, tractors, and trailers*, in wrecker service, from points in Iowa, Indiana, Missouri, Wisconsin, and Minnesota, to Peru, La Salle, Cedar Point, and Dixon, Ill., for 180 days. Supporting shipper(s): Schwerman Trucking Co., John Hubinsky, Vice President, Western Division, P.O. Box 1601, Milwaukee, Wis. 53201. Zellmer Truck Lines, Inc., Henry Zellmer, President, P.O. Box 343, Granville, Ill. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604. The purpose of this republication is to correct the commodity description and add 4 cities to the territorial descriptions.

No. MC 143656 (Sub-No. 1TA) (Correction), filed September 7, 1977, published in the FEDERAL REGISTER issue of September 23, 1977, and republished as corrected this issue. Applicant: GOLD LEAF TRUCKING CO., 2927 Retnag Road, Petersburg, Va. 23803. Applicant's representative: William H. Robinson, Jr., 1400 Ross Building, Richmond, Va. 23219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Wakefield and McKenny, Va., to points in Virginia, Ohio, West Virginia, Pennsylvania, Maryland, Massachusetts, New Hampshire, New Jersey, Tennessee, New York, Connecticut, Delaware, Rhode Island, District of Columbia, Kentucky, Maine, and Vermont, under a continuing contract, or contracts, with Continental Forest Industries, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Donald E. Leitch, Manager of Transportation, Continental Forest Industries, P.O. Box 8969, Savannah, Ga. 31402. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Room 10-502, Federal Bldg., 400 North Eighth Street, Richmond, Va. 23240. The purpose of this republication is to indicate that in the FEDERAL REGISTER dated September 23, 1977, this application was published partially in error.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-30429 Filed 10-17-77;8:45 am]

[7035-01]

JAMES E. MARTIN

Statement of Changes in Financial Interests

Pursuant to subsection 302(c), Part III, Executive Order 10647 (20 FR 8769) "Providing for the appointment of certain persons under the Defense Production Act of 1950, as amended," I hereby furnish for filing with the Division of the Federal Register for publication in the FEDERAL REGISTER, the following information showing any changes in my financial interests and business connections as heretofore reported and published (41 FR 44904, dated October 13, 1976; and 42 FR 29590, dated June 9, 1977).

SAME AS PRIOR REPORT

Dated: October 7, 1977.

[FR Doc.77-30434 Filed 10-17-77;8:45 am]

[7035-01]

[Notice No. 503]

ASSIGNMENT OF HEARINGS

Correction

OCTOBER 13, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 143142, Garfield and Sargent, Inc., now assigned October 31, 1977, at Boston, Mass., will be held on the Fifth Floor, 150 Causeway Street, instead of October 13, 1977.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-30425 Filed 10-17-77;8:45 am]

[7035-01]

[No. 502]

ASSIGNMENT OF HEARINGS

OCTOBER 13, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 123407 (Sub-No. 348), Sawyer Transport, Inc., now assigned October 13, 1977, in Chicago, Ill., is cancelled and application dismissed.

MC-C 9749, Curtis, Inc., et al.—Investigation and Revocation of Certificates now being assigned December 13, 1977, for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC-F 13194, Pacific Intermountain Express—Purchase (Portion)— Best-Way Transportation and MC-F 13204 System 99—Purchase (Portion)—Best-Way Transportation now assigned November 29, 1977, at Phoenix, Ariz., is postponed indefinitely.

MC 128273 (Sub-No. 253), Midwestern Distribution, Inc., now assigned October 21, 1977, at Dallas, Tex., is being postponed indefinitely.

MC 119789 (Sub-No. 326), Caravan Refrigerated Cargo, Inc., now assigned November 1, 1977, at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut Street.

MC 118159 (Sub-No. 196), National Refrigerated Transport, Inc., now assigned November 3, 1977, at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut Street.

MC 134323 (Sub-No. 94), Jay Lines, Inc., now assigned November 7, 1977, at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut Street.

MC 114632 (Sub-No. 96), Apple Lines, Inc., now assigned November 8, 1977, at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut Street.

MC 114632 (Sub-No. 106), Apple Lines, Inc., MC 134755 (Sub-No. 94), Charter Express, Inc., and MC 139973 (Sub-No. 21), now assigned November 10, 1977 at Kansas City, Mo., will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 128273 (Sub-No. 256), Midwestern Distribution, Inc., now assigned December 5, 1977, at San Francisco, Calif., is postponed indefinitely.

MC 139495 (Sub-No. 232), National Carriers, Inc., now assigned November 1, 1977, at New Orleans, La., will be held in En Banc Courtroom, Room 209, Fifth Circuit, U.S. Court of Appeals, 600 Camp Street.

MC 126844 (Sub-No. 36), R.D.S. Trucking Co., and MC 107515 (Sub-No. 1056), Refrigerated Transport Co., Inc., now assigned November 2, 1977, at New Orleans, La., will be held in En Banc Courtroom, Room 209, Fifth Circuit, U.S. Court of Appeals, 600 Camp Street.

MC 115311 (Sub-No. 214), J & M Transportation Co., Inc., now assigned November 3, 1977, at New Orleans, La., will be held in En Banc Courtroom, Room 209, Fifth Circuit, U.S. Court of Appeals, 600 Camp Street.

MC 123048 (Sub-No. 352), Diamond Transportation System, Inc., now assigned November 7, 1977, at New Orleans, La., will be held in En Banc Courtroom, Room 209, Fifth Circuit, U.S. Court of Appeals, 600 Camp Street.

MC 113651 (Sub-No. 210), Indiana Refrigerated Lines, Inc., now assigned November 1, 1977, at Chicago, Ill., will be held in Room 204-A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 135539 (Sub-No. 6), Farm Service & Supplies, Inc., now assigned November 2, 1977, at Chicago, Ill., will be held in Room 204-A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 141693 (Sub-No. 1), Gregory Lee Jencen, d.b.a. Agrarian Way Of Wisconsin, now assigned November 3, 1977, at Chicago, Ill., will be held in Room 204-A, Everett McKinley Dirksen Building, 219 Souh Dearborn Street.

MC 4405 (Sub. No. 550), Dealers Transit, Inc., and MC 108119 (Sub-No. 56), E. L. Murphy Trucking Co., now assigned November 7, 1977, at Chicago, Ill., will be held in Room 204-A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 720(Sub-No. 27), Bird Trucking Co., Inc., and MC 30844 (Sub-No. 576), Kroblin Refrigerated Xpress, Inc., now assigned November 8, 1977, at Chicago, Ill., will be held in Room 204-A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 139193 (Sub-No. 47), Roberts & Oake, Inc., MC 139193 (Sub-No. 48), Roberts & Oake, Inc., and MC 139193 (Sub-No. 49), Roberts & Oake, Inc., now assigned November 9, 1977, at Chicago, Ill., will be held in Room 204-A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 134755 (Sub-No. 99), Charter Express, Inc., and MC 114569 (Sub-No. 175), Shaffer Trucking, Inc., now being assigned February 16, 1977 (2 days) at Kansas City, Mo., in a hearing room to be later designated.

MC 82492 (Sub-No. 149), Michigan & Nebraska Transit Co., Inc., now being assigned February 14, 1978 (2 days) at Kansas City, Mo., in a hearing room to be later designated.

MC 135797 (Sub-No. 73), J. B. Hunt Transport, Inc., now being assigned February 13, 1978 (1 day) at Kansas City, Mo., in a hearing room to be later designated.

MC 118535 (Sub-No. 100), Tiona Truck Line, Inc., now being assigned February 10, 1978 (1 day) at Kansas City Mo., in a hearing room to be later designated.

MC 113678 (Sub-No. 667), Curtis, Inc., now being assigned February 9, 1978 (1 day) at Kansas City, Mo., in a hearing room to be later designated.

MC 116004 (Sub-No., 43), Texas Oklahoma Express, Inc., now being assigned February 8, 1978 (1 day) at Kansas City, Mo., in a hearing room to be later designated.

MC 19227 (Sub-No. 235), Leonard Bros. Trucking Co., Inc., now being assigned February 7, 1978 (1 day) at Kansas City, Mo., in a hearing room to be later designated.

MC 110683 (Sub-No. 112), Smith's Transfer Corp., now assigned October 13, 1977, at Frankfort, Ky., is canceled and transferred to Modified Procedure.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-30426 Filed 10-17-77;8:45 am]

[7035-01]

[No. 501]

ASSIGNMENT OF HEARINGS

Correction [1]

OCTOBER 13, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 121644 Sub No. 2 S & W Freight Lines, Inc., now being assigned for continued hearing November 14, 1977 (1 week) at Sheraton North Lake Inn, I-285 & La Vista Road in Tucker (Atlanta), Georgia.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-30427 Filed 10-17-77;8:45 am]

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[1] This corrects the misspelled city *Tucker (Atlanta), Georgia,* instead of *Turkcer* (Atlanta), Georgia.

[7035-01]

[Notice No. 133TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 13, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provided that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 921 (Sub-No. 30TA), filed September 20, 1977. Applicant: DEAN TRUCK LINE, INC., P.O. Drawer 631, Fulton Drive, Corinth, Miss. 38834. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require special equipment), (1) Between Birmingham, Ala., and Fulton, Miss.: From Birmingham over U.S. Highway 78 to Fulton, Miss., and return over the same route, and (2) Between Birmingham, Ala., and Iuka, Miss.: From Birmingham over U.S. Highway 31 to junction Alabama Highway 157, thence over Alabama Highway 157 to junction U.S. Highway 72 south of Muscle Shoals, Ala., thence over U.S. Highway 72 to Iuka, Miss., and return over the same route, for 180 days. Supporting shipper(s): There are approximately 54 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, Tenn. 38103.

No. MC 117686 (Sub-No. 182TA), filed September 13, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clothing and wearing apparel, and all component parts used in the manufacture thereof* (except in bulk), from Los Angeles, Calif., and Seattle, Wash., to Minneapolis, Minn.; and (2) *Clothing and wearing apparel, and all component parts used in the manufacture thereof, and materials supplies and equipment*, used in the manufacture and sale of clothing and wearing apparel (except in bulk), (a) from Hamilton and Guin, Ala., and New Albany, Miss., to Minneapolis, Minn.; Memphis, Tenn.; and Winfield, La.; and (b) from Crossville, Tenn., to Minneapolis, Minn.; (c) from Memphis, Tenn., to points in California; (d) from Paris, Tex., and Winfield, La., to Memphis, Tenn., and Arkadelphia, Ark.; (e) from Minneapolis, Minn., to points in Alabama, California, Georgia, Florida, and Washington; and (3) *Yarn*, from Gastonia, Belmont, and Albemarle, N.C., and Thomaston, Ga., to Minneapolis, Minn. Restriction: Parts I and II above are restricted to traffic originating at the plant site and storage facilities of the Munsingwear Company and destined to the above named destinations, for 180 days. Supporting shipper(s): Dave K. Hill, Traffic Manager, Munsingwear, Inc., 718 Glenwood Avenue, Minneapolis, Minn. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 125951 (Sub-No. 23TA), filed September 15, 1977. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, Nebr. 68106. Applicant's representative: Bruce A. Bullock, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic liquors, and wine* (except in bulk) and *display and advertising materials*, from Owensboro, Frankfort, and Louisville, Ky.; Lawrenceburg, Ind.; Pekin, Plainfield, and Chicago, Ill.; Schenley and Philadelphia, Pa.; and Hammondsport and New York, N.Y.; including points in their commercial zones, to Omaha, Nebr., and (2) *malt beverages*, from Chicago, Ill., and New York, N.Y., including points in their commercial

zones, to Omaha, Nebr., restricted to traffic destined to the facilities of Nebraska Wine & Liquors, Inc., at Omaha, Nebr., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Harold G. Lukas Comptroller, Nebraska Wine & Liquors, Inc., 9444 J Street, Omaha, Nebr. 68127. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 126822 (Sub-No. 43TA), filed September 27, 1977. Applicant: WESTPORT TRUCKING CO., 812 South Silver, P.O. Box 401, Paola, Kans. 66071. Applicant's representative: Arthur J. Cerra, 2100 Ten Main Center, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal hides and pelts and nonprocessed wool*, from points in Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, South Dakota, and Wisconsin, to points in California, Connecticut, Kentucky, Maine, Maryland, Massachusetts, Michigan, New York, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Tennesee, Texas, Vermont, Virginia, and West Virginia, for 180 days. Applicant states it does not intend to tack or interline. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. Aschiem & Co., Inc., 7 South Dearborn Street, Chicago, Ill. 60603. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Building and U.S. Courthouse, 444 SE. Quincy, Topeka, Kans. 66683.

No. MC 127527 (Sub-No. 18TA), filed September 26, 1977. Applicant: HELEN REAGAN, d.b.a. SOUTHEAST TRUCKING CO., 8418 Tallmadge Road, Ravenna, Ohio 44266. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority south to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dock levelers*, from Cudahy, Wis., to points in Ohio on or north of U.S. Highway 40 and on or east of U.S. Highway 23. Restriction: The operations authorized herein are limited to transportation service performed under a continuing contract or contracts with Timbers & Associates, Inc., for 180 days. Supporting shipper(s): Timbers & Associates, Inc., 7260 Industrial Park Boulevard, Mentor, Ohio 44060. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 128988 (Sub-No. 99TA), filed August 30, 1977. Applicant: JO/KEL, INC., 159 South Seventh Avenue, P.O. Box 1249, City o f Industry, Calif. 91749. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tile and materials, supplies and equipment* utilized in the manufacture, distribution, installation, and maintenance of tile, from the plantsites and warehouse facilities utilized by Kentile Floors, Inc., located at or near Chicago, Ill., to points in Arizona, California, Idaho, Nevada, Utah, and Washington, restricted to a transportaton service to be performed, under a continuing contract, or contracts, with Kentile Floors, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kentile Floors, Inc., 58 Second Avenue, Brooklyn, N.Y. 11212. Send protests: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 134323 (Sub-No. 99TA), filed September 24, 1977. Applicant: JAY LINES, INC., 720 N. Grand Street, Amarillo, Tex. 79120. Applicant's representative: Gailyn Larsen, 521 South 14th, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive care and maintenance supplied* (except commodities in bulk), from the plantsite and storage facilities utilized by Union Carbide Corp. at or near Holland and Owasso, Mich., to Torrence, Calif., Milwaukie, Oreg.; Dallas, Tex.; Atlanta, Ga.; Chicago, Ill.; Cleveland, Ohio; Hackensack, N.J.; and Kansas City, Mo., under a continuing contract, or contracts, with Union Carbide Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395, Herring Plaza, Amarillo, Tex. 79101.

No. MC 136008 (Sub-No. 86TA), filed September 30, 1977. Applicant: JOE BROWN CO., INC., 8005 South I-35, Suite 102, Ardmore, Okla. 73401. Applicant's representative: John Tipsword, 8005 South I-35, Suite 102, Oklahoma City, Okla. 73149. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Barite*, from Galveston, Tex., and Potosi, Mo., to points in Oklahoma and Kansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dresser Industries, Inc., P.O. Box 6504, Houston, Tex. 77005. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office and Court House Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 136220 (Sub-No. 45TA), filed September 21, 1977. Applicant: ROY SULLIVAN, d.b.a. SULLIVAN TRUCKING CO., P.O. Box 2164 Ponca City, Okla. 74601. Applicant's representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum dross fines* in bulk, in dump vehicles, from the facilities of Vulcan Materials Co. at or near Benton, Ark., to Houston, Tex., and to the facilities of Exomet Corp. at or near Marshall, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Vulcan Materials Co., One Metroplex Drive, Birmingham, Ala. 35209. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 Northwest Third Street, Oklahoma City, Okla. 73102.

No. MC 140452 (Sub-No. 7TA), filed September 29, 1977. Applicant: ROSE BROS. TRUCKING, INC., R.R. 31, Box 9, Terre Haute, Ind. 47803. Applicant's representative: John J. Thar, 5101 Madison Avenue, Indianapolis, Ind. 46227. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in dump vehicles, from the mine of Black Beauty Coal Co., Inc., in or near Velpen, Pike County, Ind., to Newton Station, Newton, Jasper County, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Black Beauty Coal Co., Inc., P.O. Box 312, Evansville, Ind. 47702. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 140468 (Sub-No. 5TA), filed September 22, 1977. Applicant: DONALD R. BAJEMA AND GERALD O. BAJEMA, d.b.a. RIVERVIEW DAIRY FARMS, 2777 Hillside Drive NW., Grand Rapids, Mich. 49504. Applicant's representative: Martin J. Leavitt and David E. Jerome, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, except in bulk, in vehicles equipped with mechanical refrigeration, from the plantsite of Sealtest Foods, Division of Kraftco Corp., at Lansing, Mich., to the retail outlets of Sealtest Foods, in Bowling Green, Byran, Fayette, Jerry City, Toledo, Waterville, and West Unity, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kraft Inc. Dairy Group, Lansing, Mich. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 140849 (Sub-No. 13TA), filed September 28, 1977. Applicant: ROBERTS TRUCKING CO., INC., U.S. Highway 271 South, P.O. Drawer G, Poteau, Okla. 74953. Applicant's representative: Prentiss Shelley, P.O. Drawer G, Poteau, Okla. 74953. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic articles* weighing less than two ponnds per cubic foot (except

transportation of commodities in bulk, in tank vehicles), from Oklahoma City, Okla., to points in the states of Alabama, Georgia, Florida, Mississippi, Louisiana, Kentucky, Tennessee, North Carolina, South Carolina, and Virginia, under a continuing contract, or contracts, with Alprod Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Alprod Corp., 1530 West Main, Oklahoma City, Okla. 73106. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 141914 (Sub-No. 20TA), filed September 22, 1977. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, Okla. 74332. Applicant's representative: Kathrena J. Franks, Route 1, Box 108A, Big Cabin, Okla. 74332. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint and paint materials, stains, varnishes, protective coating materials, athletic field surfacing materials and the component materials, contained therein and advertising materials related thereto* in mechanically refrigerated equipment, between the plantsite of California Products Corp., Cambridge, Mass., on the one hand, and, on the the other, all points in the United States (except Hawaii and Alaska), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): California Products Corp., 169 Waverly Street, Cambridge, Mass. 02139. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 Northwest Third Street, Oklahoma City, Okla. 73102.

No. MC 142268 (Sub-No. 27TA), filed September 22, 1977. Applicant: GORSKI BULK TRANSPORT, INC., R.R. No. 4, Harrow, Ontario, Canada. Applicant's representative: Lottie Gorski, 843 Central Avenue, Windsor, Ontario, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic liquors*, in bulk, in tank vehicles, from Laredo, Tex., to Schenley, Pa., and Lawrenceburg, Ind., and (2) alcoholic *liquors and wine*, in bulk, in tank vehicles, between points in California, on the one hand, and, on the other, points in Indiana, Kentucky, Pennsylvania, and Tennessee, for 180 days. Supporting shipper(s): Schenley Distillers, Inc., 36 East Fourth Street, Cincinnati, Ohio 45202, James W. Haigood, Assistant General Traffic Manager. Send protests to: Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, Mich. 48226.

No. MC 142547 Sub-No. 4TA), filed July 28, 1977. Applicant: GORDON FOWLER AND LETA MAE FOWLER, d.b.a. G & L FOWLER, Route 1, Box 687, Willamina, Oreg. 97396. Applicant's representative: Earle V. White, 2400 SW. Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pellets, compressed waste*, in bulk, from the plantsite of Woodex, Inc., at or near Brownsville, Oreg., to the plant of U & I Sugar Co., at or near Toppenish, Wash., under a continuing contract, or contracts, with Woodex, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Woodex, Inc., P.O. Box 762, Eugene, Oreg. 97401. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, Oreg. 97204.

No. MC 142612 (Sub-No. 2TA), filed September 12, 1977. Applicant: LONNIE KEENER, Box 551, Sublette, Kans. 67877. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Building, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Irrigation pipe and irrigation equipment*, from Garden City and Sublette, Kans., to points in Oklahoma west of U.S. Highway 81 and north of Interstate Highway 40, points in Texas north of Interstate Highway 40, points in Colorado south of Interstate Highway 70 and east of Interstate Highway 25 and points in Nebraska west of U.S. Highway 281 and York, Nebr., and *plastic pipe and plastic pipe accessories*, from Garden City and Ulysses, Kans., to points in Colorado, Nebraska, Oklahoma, Texas, New Mexico, Wyoming, and Arkansas, and also *commodities* used in the manufacture of plastic pipe and plastic pipe accessories, from Dallas and Houston, Tex., to Garden City, Kans., under a continuing contract, or contracts, with Geis Irrigation Co., Inc., and with Peerless Plastics, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Geis Irrigation Co., Inc., Box 429, Sublette, Kans. 67877. Peerless Plastics, Inc., 1600 West Mary Street, Garden City, Kans. 67846. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 143399 (Sub-No. 1TA), filed September 7, 1977. Applicant: WILLIAM L. AMMAN, d.b.a. HIGHLAND TRANSPORTATION SERVICE, 49 Cardinal Lane, Highland, Ill. 62249. Applicant's representative: Edward D. McNamara, Jr., 907 South 4th Street, Springfield, Ill. 62703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, seeds, confectionery products, and snack foods*, moving in vehicles equipped with mechanical temperature control devices, from the plant sites and storage facilities of the Sunmark Cos., at St. Louis, Mo., to Pittsburgh, Temple, and Philadelphia, Pa., Carlstadt, Jersey City, and Pennsauken, N.J., and New York, N.Y.; Norwood, Readville, Somerville, Boston, and Westboro, Mass.; Landover, Md., and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A. M. Brennecke, Traffic Manager, The Sunmark Co., P.O. Box 14483, St. Louis, Mo. 63178. Send protests to: District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 143719 (Sub-No. 1TA), filed September 23, 1977. Applicant: GROVER BISHOP WIGINGTON, R.F.D. No. 5, Stuart, Va. 24171. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfinished rubber sheets*, from the plant site of Easthampton Rubber Thread Co., Division of J. P. Stevens Co,. Inc., at or near Stuart, Va., to the plant site of United Elastic Co., Division of J. P. Stevens Co., Inc., at or near Westfield, N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Easthampton Rubber Thread Co., Division of J. P. Stevens & Co., Inc., P.O. Box 389, Stuart, Va. 24171. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 143736 (Sub-No. 1TA), filed September 27, 1977. Applicant: BACH, BELCHER & COCHRAN TRUCKING, INC., d.b.a. B. B. & C TRUCKING, 9630 Highway 80 West, Fort Worth, Tex. 76116. Applicant's representative: Harry F. Horak, 5001 Brentwood Stair Road, Room 109, Fort Worth, Tex. 76112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, plastic sheets, and reground plastic*, from Dallas, Tex., to Chicago, Ill.; Kansas City, Mo.; and Newbury, Ohio; and *plastic granules and plastic scrap*, from Ottawa and Joliet, Ill.; Newbury, Ohio; and Parkersburg, W. Va., to Dallas, Tex., under a continuing contract, or contracts, with Alchem Plastics Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Alchem Plastics Corp., 9040 Viscount Row, Dallas, Tex. 75247. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 143740TA, filed September 19, 1977. Applicant: DENNY TRUCK LINES, INC., 893 Ridge Road, Webster, N.Y. 14580. Applicant's representative: Francis P. Barrett, Barrett & Barrett, 60 Adams Street, P.O. Box 238, Milton, Mass. 02187. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds and pre-mixed windshield washer anti-freeze solvent preparations*, from Rochester, N.Y., to Dover, Wilmington, Laurel, and Newark, Del., Baltimore, Salisbury, Annapolis, Essex, and Landover, Md.; Carlstadt, Newark, Trenton, Paramus, Englewood, Union, Fairlawn, Edison, South Plainfield, Hackensack, N.J.; and Nazareth, Harrisburg, Pittsburgh, Philadelphia, Scranton, Sunbury,

Northumberland, Allentown, Emmaus, York, Export, Sharon, and Wilkes-Barre, Pa., under a continuing contract, or contracts, with Kleen Brite Chemical Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kleen Brite Chemical Co., Inc., 10 Moore Street, P.O. Box 485, Rochester, N.Y. 14602. Send protests to: Morris H. Gross, District Supervisor, U.S. Courthouse and Federal Building, 100 S. Clinton Street, Room 1259, Syracuse, N.Y. 13202.

No. MC 143761 (Sub-No. 1TA) filed September 22, 1977. Applicant: JOHN W. SMOOT, P.O. Box 445, Mount Jackson, Va. 22842. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from Winchester, Va., and points in its commercial zone, to points in Texas and Louisiana, under a continuing contract, or contracts, with Rubbermaid Commercial Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rubbermaid Commercial Products, Inc., 3124 Valley Avenue, Winchester, Va. 22601. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, D.C. 20423.

No. MC 143764 (Sub-No. 1TA), filed September 26, 1977. Applicant: P.T.L. TRUCKING, INC., Box 58, Route 1, Barboursville, W. Va. 25504. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from mine sites near Craigsville and Summersville, W. Va. to Daleville and Roanoke, Va., and from mine sites near Beckley, W. Va., to Portsmouth, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kenneth R. Stultz, President, Kyova Coal Co., 816 Seventh Avenue, Huntington, W. Va. 25701: Sampy D. Hardin, Jr., Secretary, Roanoke Coal Sales, Inc., P.O. Box 12785, Roanoke, Va. 24028. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, W. Va. 25301.

No. MC 143766 (Sub-No. 1TA), filed September 26, 1977. Applicant: PELCO, INC., Breakneck Bridge Road, Portersville, Pa. 16051. Applicant's representative: Nick A. Frisk, Jr., 113 Fifth Street, Ellwood City, Pa. 16117. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass tubs and showers, luggage and luggage components, and the supplies and materials* used in manufacturing the aforesaid products, between Ellwood City, Pa., and points in Massachusetts, New York, New Jersey, Pennsylvania, Maryland, Ohio, Indiana, Michigan, Minnesota, Illinois, Missouri, Georgia, South Carolina, Virginia, Wisconsin, West Virginia, North Carolina, and Connecticut, under a continuing contract, or contracts, with Airway Industries, Inc., and Mohawk Fiberglass Mfg., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Airway Industries, Inc., Ellwood City, Pa. 16117. Mohawk Fiberglass Mfg., Inc., Rochester, Pa. 15074. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 143771 (Sub-No. 1TA), filed September 29, 1977. Applicant: NORTHERN MICHIGAN TRANSIT, INC., 1068 O'Rourke Boulevard, Gaylord, Mich. 49735. Applicant's representative: James R. Davis, 1018 Michigan National Tower, Lansing, Mich. 48933. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, rough and finished, from the port of entry on the United States-Canada Boundary lines at Sault Ste. Marie, Mich., to various points in Michigan, restricted to traffic originating at Missanabie, Ontario, Canada, under a continuing contract, or contracts, with Austin Lumber, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Austin Lumber (Dalton) Ltd., Missanabie, Ontario, Canada. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 143789TA, filed September 29, 1977. Applicant: MARTIN TRANSFER & STORAGE, INC., 505 Broad Street, P.O. Box 3008, East Dublin, Ga. 31021. Applicant's representative: C. E. Walker, 8 11th Street, Columbus, Ga. 31902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* except commodities in bulk, in shipper or railroad-owned trailers, having a prior or subsequent movement by rail, between Dublin, Vidalia, and Helena, Ga., on the one hand, and, on the other, Bleckley, Burke, Crisp, Coffee, Dodge, Emanuel, Jeff Davis, Jones, Laurens, Montgomery, Pulaski, Telfair, Tift, Toombs, Treutlen, Twiggs, Wheeler, and Wilkinson Counties, Ga., for 180 days. Supporting shipper(s): Roper Lawn Products, 12052 Middleground Road, Savannah, Ga. 31406. Wheeler Stores, Kellam Road, Dublin, Ga. 31021. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-30421 Filed 10-17-77;8:45 am]

[7035-01]

[Notice No. 240]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 18, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77350. By application filed October 7, 1977, FASTWAY TRANSPORTATION, INC., 151D Morristown Road, Matawan, N.J. 07747, seeks authority to temporarily lease the operating rights of BECKERS MOTOR TRANSPORTATION, INC., Box 383, Matawan, N.J. 07747, under section 210a(b). The transfer to Fastway Transportation, Inc., of the operating rights of Beckers Motor Transportation, Inc., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-30422 Filed 10-17-77;8:45 am]

[7035-01]

[Notice No. 239]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 18, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77349. By application filed October 6, 1977, MONROE CONTRACTORS EQUIPMENT, INC., 1640 Penfield Road, Rochester, N.Y. 14625, seeks authority to temporarily lease a portion of the operating rights of WM. B. DUFFY CARTING CO., INC. (Bankrupt) by LOUIS A. RYEN, Trustee, 228 South Plymouth Ave., Rochester, N.Y. 14608, under section 210a(b). The transfer to Monroe Contractors Equipment, Inc., of a portion of the operating rights of Wm. B. Duffy Carting Co., Inc. (Bankrupt) by Louis A. Ryen, Trustee, is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-30423 Filed 10-17-77;8:45 am]

[7035-01]

[Notice No. 238]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 18, 1977.

Application filed for temporary authority under Section 210a(b) in connec-

tion with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–77348. By application filed October 11, 1977, CAROLINA ASSEMBLY & DISTRIBUTION CO., INC., d.b.a. CADCO, P.O. Box 1702, 1098 Berea Road, Columbia, S.C. 29202, seeks authority to temporarily lease the operating rights of CRANEL B. HERNDON, an individual, P.O. Box 605, 117 Hoover Street, Hampton, S.C. 29924, under section 210a(b). The transfer to Carolina Assembly & Distribution Co., Inc., d.b.a. CADCO, of the operating rights of Cranel B. Herndon, an individual, is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77–30424 Filed 10–17–77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

NOTICE OF ADDITION OF ITEM, DELETION OF ITEMS, AND CHANGE OF TIME IN THE OCTOBER 13, 1977, MEETING AGENDA

TIME AND DATE: 9:30 a.m., October 13, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1a. Dockets 25908 et al., Transatlantic Route Proceeding (OGC) (Memo No. No. 7492).

2. Docket 29044, Amendment of Part 252—"Provisions of Designated 'No-Smoking' Areas Aboard Aircraft Operated by Certificated Air Carriers" (Memo No. 7323-A, OGC).

3. Docket 26368 et al., Petition for reconsideration of Board decision (Order 77-8-89) to review initial decision approving settlement of Part 252 violations in *Eastern Air Lines, Inc., Enforcement Proceeding* (Memo No. 7357-A, OGC).

5. Proposed Amendment of Separation of Functions Rule (Memo No. 7473, OGC).

6. Docket 29818, Notice of Proposed Rulemaking SPDR-55; Free and reduced-rate transportation of travel agents on ABC's, ITC's, and OTC's (Memo No. 6697-B, OGC).

8. Waivers for agent familiarization trips on OTC's ITC's, and ABC's to destinations within the Western Hemisphere (Memo No. 7466, BOR, BFR).

11a. Docket 31406, Joint application of Continental and Air Micronesia to provide free transportation to travel editors (Memo No. 7491).

20. Docket 28738, *Horbach-Modern Acquisition Proceeding* (Memo No. 6815-B, OGC).

SUPPLEMENTARY INFORMATION: At the October 11, 1977 meeting the Board voted to add the *Transatlantic Route Proceeding* to the agenda of the October 13, 1977 meeting so that the Board could consider the merits of the Staff's recommendation in the case. The President has requested that this case be expedited. Accordingly, the following Members voted that agency business requires the addition of item 1a to the October 13, 1977 meeting agenda and that no earlier announcement of this addition was possible:

Chairman Alfred E. Kahn.
Vice Chairman Richard J. O'Melia.
Member G. Joseph Minetti.
Member Elizabeth E. Bailey.

In order that the Board will have sufficient time to discuss the *Transatlantic Route Proceeding*, it is necessary that items 2, 3, 5, 6, 8, and 20 be deleted from the October 13, 1977 meeting agenda. Items 2 and 3 will be processed by notation. Items 5, 6, 8 and 20 will be rescheduled for discussion at a meeting in the near future. Accordingly, the following Members have voted that agency business requires the deletion of these items from the agenda of October 13, 1977 and that no earlier announcement of these deletions was passible.

Chairman Alfred E. Kahn.
Vice Chairman Richard J. O'Melia.
Member G. Joseph Minetti.
Member Elizabeth E. Bailey.

The joint application of Continental and Air Micronesia, Item 11a, was filed on September 16, 1977. The Board's staff analyzed the request and submitted its recommendation to the Board on October 11, 1977. The transportation is scheduled to commence October 14. Accordingly, the following Members have voted that agency business requires the addition of this item to the October 13, 1977 meeting on less than seven days notice and that no earlier announcement of this addition was possible:

Chairman Alfred E. Kahn.
Vice Chairman Richard J. O'Melia.
Member G. Joseph Minetti.
Member Elizabeth E. Bailey.

The Board also decided the meeting would begin at 9:30 a.m. instead of 10:00 a.m.

[S-1594-77 Filed 10-14-77;8:45 am]

2

[6320-01]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 2 p.m., October 7, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Docket 31363, Passenger Fares filed by Pan American, Trans World Airlines, Birtish Airlines et al., and the President's September 26, 1977, letter regarding them (President's letter dated September 26, 1977; Board's Notice in Docket 31363; letter to Chairman from Edward J. Driscoll, President National Air Carrier Association, dated September 29, 1977; letter to Chairman from Patrick W. Lee, counsel for Pan American in firm of Jones, Day, Reavis & Pogue, dated September 30, 1977; letter to Chairman from Reuben B. Roberton III, ACAP Legal Director dated September 29, 1977, re: North Atlantic Fares—OGC, OCA, OEA, BFR, BOR, BOE, BIA).

2. Dockets 31317, 31313, 31325, 31176, 31048, 31092, and 31453, Charter Liberalization including emergency relief (Memo No. 7470; Memo from Chairman to General Counsel and Directors of BOR, BE, BIA, BOE, OEA, OCA dated September 27, 1977, on Liberalization of Charter Rules; Memo from Assistant to General Counsel, International Affairs to the Board dated October 4, 1977, on Liberization of Charter Rules—Possible Options, OGC, OCA, OEA, BFR, BOR, BOE, BIA).

3. Docket 31158, Petition for investigation of TWA's charter cancellation rule by Hawaiian Holidays, Inc., and Adventure Holidays International Wholesale Tours, Inc. (Memo No. 7454, BFR).

4. Docket 30659, Institution of California-Nevada Low Fare Proceeding—PSA's Motion for immediate hearing and related pleadings (Memo No. 7433, BOR, BLJ, OGC, BFR, OEA).

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Items 1, 2, 3 and 4 above were items 1a, 1b, 2 and 5, respectively, on the October 6, 1977 meeting agenda. At the October 6, 1977 meeting, time did not permit discussion of these items. Because of other Board business, it was not possible for the Board to continue its meeting in afternoon session. So that the Board could discuss these items as promptly as possible the following Members voted at its October 6, 1977 meeting that agency business requires that the Board not fully consider these items at its October 6, 1977 meeting and that it meet on them on less than seven days' notice on October 7, 1977 and that no earlier announcement of this meeting was possible:

Chairman Alfred E. Kahn.
Vice Chairman Richard J. O'Melia.
Member G. Joseph Minetti.
Member Lee R. West.
Member Elizabeth E. Bailey.

[S-1595-77 Filed 10-14-77;8:45 am]

[6320–01]

3

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9 a.m., October 12, 1977.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: *United States Tour Operators Association et al.* v. *Trans World Airlines, Inc., et al.*, U.S. District Court for the Southern District of New York, Case No. 77 Civ. 911 (C.E.S.).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary.

SUPPLEMENTARY INFORMATION: The Bureau of Enforcement (BOE) wishes to discuss with the Board its litigative strategy in a pending court case in which BOE is participating on behalf of the Board. Matters connected with this case have arisen which significantly affect the Board's litigative posture, and which the Bureau feels should be brought to the Board's attention as soon as possible. Accordingly, the following Members have voted that agency business requires that the Board meet on less than seven days' notice and that earlier announcement of the meeting was not possible:

Chairman Alfred E. Kahn.
Vice Chairman Richard J. O'Melia.
Member G. Joseph Minetti.
Member Elizabeth E. Bailey.

Additionally, the following Members have voted that the meeting will be closed to public observation under 5 U.S.C. 552b(c)(10) and 14 CFR § 310b.5(10):

Chairman Alfred E. Kahn.
Vice Chairman Richard J. O'Melia.
Member G. Joseph Minetti.
Member Elizabeth E. Bailey.

EXPLANATION OF THE CLOSINGS

This meeting will concern the way in which the Bureau of Enforcement will conduct its participation on behalf of the Board in a pending court case. The discussion will specifically concern the litigative strategies open to the Board, disclosure of which would harm the Board's efforts in the case. Accordingly, the Board finds that public concern the Board's participation in a civil action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(10) and 14 CFR § 310b.5(10), and that the discussion will be closed.

PERSONS EXPECTED TO ATTEND

BOARD MEMBERS:

Chairman Alfred E. Kahn.
Vice Chairman Richard J. O'Melia.
Member G. Joseph Minetti.
Member Elizabeth E. Bailey.

ASSISTANTS TO BOARD MEMBERS:

Mr. Mike Roach.
Mr. Elias C. Rodriquez.
Mr. Ford Cole.
Mr. James Casey.
Mr. John Golden.
Mr. Robert Cohn.

OFFICE OF THE MANAGING DIRECTOR:

Mr. Dennis Rapp.
Mr. John Hancock.

BUREAU OF ENFORCEMENT:

Mr. Thomas McBride.
Mr. James Tello.
Mr. Christopher Browne.
Mr. Paul Bessel.

OFFICE OF THE SECRETARY:

Mrs. Phyllis T. Kaylor.
Ms. Deborah A. Lee.

REPORTER:

Alderson Reporting Co.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(10 and 14 CFR § 310b.5(10).

Dated: October 11, 1977.

JAMES C. SHULTZ,
General Counsel.

[S–1596–77 Filed 10–14–77;8:45 am]

[6351–01]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., October 21, 1977.

PLACE: 8th Floor Conference Room, 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jean Webb, 254–6314.

[S–1598–77 Filed 10–14–77;8:45 am]

[6712–01]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Follows 9:30 a.m. Open Meeting Thursday, October 13, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTER TO BE CONSIDERED:

Agenda	Item No.	Subject
•	•	• • • • • • •
Safety and special radio services	1	Amateur radio service licensees obtaining licenses and/or call signs without qualifications, in some cases with payment to Commission personnel.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given of this additional agenda item.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone N. 202–632–7260.

Issued: October 12, 1977.

[S–1589–77 Filed 10–13–77;2:58 pm]

[6712–01]

6

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 13, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTER TO BE CONSIDERED:

Agenda	Item No.	Subject
•	•	• • • • • • •
Common carrier...	6	Commission response to the Oct. 3, 1977, letter to the Chairman from Congressmen Van Deerlin and Frey concerning consideration of the telephone industry's "primary instrument" proposal.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given of this additional agenda item.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone No. 202–632–7260.

Issued: October 12, 1977.

[S–1590–77 Filed 10–13–77;2:58 pm]

[6712–01]

7

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, October 13, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following agenda items should be deleted.

Agenda	Item No.	Subject
Cable television	2	Petition for modification of Massachusetts Cablevision, Inc., Certificate of Compliance and/or Further Proceedings filed by Cape Code Cablevision Co., franchised cable operator at Falmouth, Mass.
	4	Petition for special relief filed by Springfield Television Broadcasting, Inc., licensee of Television Broadcast Station WRLP, Greenfield, Mass. (CSR-680). (Consideration of the above item is now scheduled for Oct. 27, 1977.)
Television	1	Application of Margaret S. Downey for a CP for a new 100-watt UHF translator in Springfield, Mass.; petitions to deny by 3 cable television systems (BPTT-3079). (Consideration of the above item is now scheduled for Oct. 27, 1977.)

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone No. 202–632–7260.

Issued: October 12, 1977.

[S–1591–77 Filed 10–13–77;2:58 pm]

[6715–01]

8

FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER No. S–1576.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, October 20, 1977, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

CHANGE IN MEETING: Please add—Under "Portions Open to the Public": 2 U.S.C. Section 455, Commission Memorandum No. 1487; EEO Plan. Under "Portions Closed to the Public": Compliance FOIA Appeal.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, Telephone: 202–523–4065.

MARJORIE W. EMMONS,
Secretary of the Commission.

[S–1593–77 Filed 10–13–77;3:08 pm]

[6740–02]

9

FEDERAL ENERGY REGULATORY COMMISSION.

OCTOBER 13, 1977.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: October 20, 1977, 10 a.m.

PLACE: 825 North Capitol Street NE.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda. (NOTE.—Items listed on the agenda may be deleted without further notice.)

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone 202–275–4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

GAS AGENDA, 5th MEETING—OCTOBER 20, 1977, REGULAR MEETING (10 A.M.)

G–1.—Docket No. CP75–362, El Paso Natural Gas Co.

G–2.—Docket No. RP72–6, El Paso Natural Gas Co.

G–3.—Dockets Nos. RP74–20 and RP74–83, United Gas Pipe Line Co.

G–4. Dockets Nos. RP73–107, RP74–90 and RP75–91, Consolidated Gas Supply Corp.

G–5.—Dockets Nos. RP71–125 and RP76–106 (PGA77–3 and AP77–1), Natural Gas Pipeline Company of America.

G–6.—Docket No. RP72–89, Columbia Gas Transmission Corp.

G–7.—Docket No. RP77–43, *City of Tallahassee, Florida, Complainant* v. *Florida Gas Transmission Company*, respondent.

G–8.—Docket No. RP76–144, *Fort Pierce Utility Authority et al., complainants* v. *Florida Gas Transmission Company, respondent.*

G–9.—Docket No. RI77–50, Venus Oil Co.

G–10.—Docket No. RI77–86, Anderson Oil Co.

G–11.—Docket No. RI77–116, Sun Oil Co. (Delaware).

G–12.—Pennzoil Co. FPC Gas Rate Schedule No. 10.

G–13.—Docket No. CI77–721, Harkins & Co. (operator), et. al. Docket No. CI77–758, Amerada Hess Corp.

G–14.—Docket No. CI77–724, C&K Petroleum Inc. et al.

G–15.—Docket No. CI77–635, Gulf Oil Corp.

G–16.—Docket No. CP75–295, Texas Gas Transmission Corp. Docket No. CI71–117, Edwin L. Cox (operator).

G–17.—Docket No. CP74–299, Kansas-Nebraska Natural Gas Co., Inc.

G–18.—Docket No. CP77–425, Algonquin Gas Transmission Co.

G–19.—Docket No. CP77–428, United Gas Pipe Line Co.

G–20.—Docket No. CP77–267, Mid Louisiana Gas Co. Transcontinental Gas Pipe Line Corporation.

GAS AGENDA, 5th MEETING—OCTOBER 20, 1977, REGULAR MEETING

CG–1.—Omit.

CG–2.—Docket Nos. RP72–155 and RP77–18, (PGA77–3), El Paso Natural Gas Co.

CG–3.—Docket No. CP74–314, El Paso Natural Gas Co.

Docket No. CP76–327, Northwest Pipeline Corp.

Docket No. CI77–526, Sun Oil Co., et al.

CG–4.—Docket No. CP77–589, United Gas Pipe Line Co.

CG–5.—Docket No. CP77–240, Transcontinental Gas Pipe Line Corp.

CG–6.—Docket No. CP70–7 (Phase II), Southern Natural Gas Co.

CG–7.—Docket No. CP77–342, Tennessee Gas Pipeline Co.

CG–8.—Docket No. CP70–7, Southern Natural Gas Co.

CG–9.—Docket No. CP77–502, Great Lakes Gas Transmission Co.

CG–10.—Docket No. CP77–285, Arkansas Louisiana Gas Co.

CG–11.—Docket No. CP77–555, Arkansas Louisiana Gas Co.

CG–12.—Docket No. CP77–530, Southern Natural Gas Co.

CG–13.—Docket No. CP77–393, Texas Gas Transmission Corp.

CG–14.—Docket No. CP77–416, Michigan Wisconsin Pipe Line Co.

CG–15.—Docket No. CP77–574, Mountain Fuel Supply Co.

CG–16.—Docket No. CP77–47, Columbia Gulf Transmission Co.

CG–17.—Docket No. CP76–473, Panhandle Eastern Pipe Line Co.

CG–18.—Docket No. CP77–415, El Paso Natural Gas Co.

CG–19.—Docket Nos. CP66–299 and CP73–238, Colorado Interstate Gas Co.

CG–20.—Docket Nos. RP74–6 and RP72–74, Southern Natural Gas Co. Docket Nos. RP74–6 and RP72–74 (Phase I and Phase II), Southern Natural Gas Co. Dockets Nos. RP77–3, RP77–12, and RP77–15, *Carolina Pipeline Company* v. *Southern Natural Gas Company*. Docket No. CP74–329, *Atlanta Gas Light Company* v. *Southern Natural Gas Company*.

CG–21.—Dockets Nos. AR64–1, et al., Hugoton-Anadarko area. Dockets Nos. AR61–2, et al., Southern Louisiana area. Dockets Nos. AR67–1, et al., other southwest area. Dockets Nos. AR64–2, et al. Texas Gulf area.

CG–22.—Dockets Nos. CP66–110, et al., CP70–19, et al., and CP71–222, et al., Great Lakes Transmission Co. Dockets Nos. G–18314, CP66–121 and CP70–25, Midwestern Gas Transmission Co. Docket No. CP70–22, Michigan Wisconsin Pipe Line Co. Docket No. CP74–187, Montana Power Co. Docket No. CP70–289, Inter-City Minnesota Pipe Line Ltd., Inc. Dockets Nos. CP77–341 and CP77–342, Northwest Pipeline Corp.

CG–23.—Docket Nos. G–10739, et al., Atlantic Richfield Co. (operator), et al.

CG–24.—Dockets Nos. G–4904, et al., Amoco Production Co. (operator), et al.

CG–25.—Docket No. G–3072, et al., Exxon Corp., et al.

POWER AGENDA, 5TH MEETING—OCTOBER 20, 1977, REGULAR MEETING

P–1.—(A) Docket No. ER77–591, Northern States Power Co. of Minnesota. (B) Dockets Nos. ER77–528 and ER77–616, Northern States Power Co. of Minnesota.

P–2.—Docket No. ER77–614, Union Electric Co.

P–3.—Docket No. ER77–450, Southern Indiana Gas & Electric Co.

P–4.—Docket No. ER76–714, Indiana & Michigan Electric Co.

P–5.—Docket No. ER77–452, Monongahela Power Co., The Potomac Edison Co., West Penn Power Co.

P–6.—Docket No. ER77–523, Puget Sound Power & Light Co.

P–7.—Docket No. ER77–203, Wisconsin Electric Power Co.

P–8.—(A) Docket No. ER77–493, Blackstone Valley Electric Co. Docket No. ER77–494 and ER77–480, Brockton Electric Power Co., Montaup Electric Power Co. (B) Docket No. ER77–494, Brockton Edison Co. Docket No. ER77–493, Blackstone Valley Electric Co. Docket No. ER77–480, Montaup Electric Co.

P–9.—Docket No. ER77–13, Pennsylvania Electric Co., et al.

P–10.—Docket No. ER76–205, Southern California Edison Co.

P–11.—Docket No. ER76–813, Jersey Central Power & Light Co.

P-12.—Docket No. ER77-48, Maine Public Service Co.
P-13, Docket No. ER76-659, Alabama Power Co.
P-14, Docket No. ER76-658, Iowa Power & Light Co.
P-15.—Docket No. ER76-823, Iowa Southern Utilities Co.
P-16.—Docket No. ER77-402, Philadelhpia Electric Co.
P-17.—Docket No. E-9592, *Roscoe E. Dean, Jr., and William D. Lovin, complainants* v. *Georgia Power Company, defendant.*
P-18.—Project No. 2494, Pugent Sound Power & Light Co.
P-19.—Project No. 2301, The Montana Power Co.

POWER AGENDA, 5TH MEETING—OCTOBER 20, 1977, REGULAR MEETING

CP-1.—Docket No. ER77-613, Louisville Gas & Electric Co.
CP-2.—Docket No. ER77-458, Southern California Edison Co.
CP-3.—Docket Nos. ER77-536 and ER77-537, Hartford Electric Light Company.
Docket No. ER77-539, Western Massachusetts Electric Co.
CP-4.—Docket No. ER77-607, New England Power Pool.
CP-5.—Docket No. ES77-47, Kentucky Utilities Co.
CP-6.—Docket No. ES77-52, Central Illinois Public Service Co.
CP-7.—Docket No. ES77-54, Iowa Southern Utilities Co.
CP-8.—Docket No. ES77-59, Gulf States Utilities Co.
CP-9.—Docket No. ID-1723, Frank N. Bien.
CP-10.—Docket No. ID-1549, Gerald P. Mahoney.
CP-11.—Docket No. ID-1812, James O. Trudeau.
CP-12.—Project No. 2197, Yadkin, Inc.
CP-13.—Docket No. E-7734, Mid-Continent Area Power Pool Agreement.
CP-14.—Docket No. ER77-402, Philadelphia Electric Co.

KENNETH F. PLUMB,
Secretary.

[S-1592-77 Filed 10-13-77;2:58 pm]

[7020-02]

10

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, October 25, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Investigation 332-82 (Chief Weight-Chief Value)—staff briefing.
5. Investigation 332-85 (Cattle and Beef)—staff briefing.
6. Petitions and complaints (if necessary).
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1597-77 Filed 10-14-8:45 am]

11

[6325-01]

CIVIL SERVICE COMMISSION.

TIME AND DATE OF MEETING: 9 a.m., Tuesday, October 25, 1977.

PLACE: Commissioners' Meeting Room, Room 5H09 (fifth floor), 1900 E Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: (1) Recommendations concerning participation in the discrimination complaint process by persons named as "alleged discriminating officials."

CONTACT PERSON FOR MORE INFORMATION:

Georgia Metropulos, Office of the Executive Assistant to the Commissioners, 202-632-5556.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[S-1603-77 Filed 10-17-77;10:38 am]

federal register

TUESDAY, OCTOBER 18, 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–3531]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Hartsselle, Morgan County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Hartselle, Ala. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review at City Hall, 200 Sparkman Street, Hartselle, Ala.

Send comments to: Mr. Willie R. Lott, Jr., City Manager, City of Hartselle, City Hall, P.O. Box 390, 200 Sparkman Street, Hartselle, Ala. 35640.

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 (100-year) flood elevations for the City of Hartselle, 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 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Shoal Creek	U.S. Highway 31	618
	At the confluence with Town Branch.	627
	Parker Rd.*	632
	do.**	635
Unnamed tributary No. 1 to Shoal Creek.	U.S. Highway 31	619
Unnamed tributary No. 2 to Shoal Creek.	Madison St.*	630
	do.**	633
	Footbridge (No. 2)*	633
	do.**	634
Unnamed tributary No. 3 to Shoal Creek.	Alabama Highway 36*	642
	do.**	646
	Ashworth St.	663
Unnamed tributary to unnamed tributary No. 3 to Shoal Creek.	Corporate limit-Roan St.	661
Town Branch	Louisville and Nashville R.R.	657
	Chestnut St.	668
	Georgia St.	675
Unnamed tributary No. 1 to Town Branch.	Corsbie St.*	666
	Stewart St.	678
	Longhorn Pass.	682
Unnamed tributary to unnamed tributary No. 1 to Town Branch.	Rooks St.	680
	Monroe St.	686

*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.77–30109 Filed 10–17–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3532]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Imperial Beach, Calif.

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 Imperial 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).

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, Imperial Beach, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Leebert L. Stites, City Hall, P.O. Box 427, Imperial Beach, Calif. 92032.

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 Imperial Beach, 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 § 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
Tijuana River	Eastern corporate limits.	17
	Western corporate limits.	3

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Adminis-

trator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-30110 Filed 10-17-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3533]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Norco, Calif.

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 Norco, 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).

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, 3954 Old Hamner, Norco, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Jerry Riley, City Hall, 3954 Old Hamner, P.O. Box 428, Norco, Calif. 91760.

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 Norco, 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 § 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
West Norco Channel.	Kips Korner Rd	576
	Parkridge Ave	574
Tributary "B"—South Norco Channel.	Hillside Ave	673
	Temescal Ave	663
	Corona Ave	637
Tributary "A"—South Norco Channel.	Hamner Ave	593
	Parkridge Ave	582
South Norco Channel.	3d St	656
	Temescal Ave	649
	2d St. and Corona Ave.	636
	Valley View Blvd	623
	Hamner Ave	609
	Mountain Ave	592
	1st St	584
	Parkridge Ave	581
	River Rd	579
Santa Ana River	Hamner Ave	592
	Adams Ave	588
North Norco Channel.	6th St	629
	Sierra Ave	627
	5th St	622
	4th St	616
	3d St	605
	Hamner Ave	598
	Mountain Ave	591
	Pacific Ave	585
	2d Ave	577
	Western Ave	576
	Parkridge Ave	576

(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.77-30111 Filed 10-17-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3534]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Norwich, New London County, Conn.

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 Norwich, New London 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).

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 Planning Office, City Hall, Room 304, 96 Broadway, Norwich, Conn. 06360.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify The Honorable Konstant W. Morell, Council President, City of Norwich, City Hall, Room 204, 96 Broadway, Norwich, Conn. 06360.

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 Norwich, 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 § 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
Thames River	0.17 mi downstream of confluence with Trading Cove Brook.	11
	At confluence with Yantic and Shetucket Rivers.	11
Trading Cove Brook.	160 ft downstream of West Thames St. (State highway 32 bridge).	11
	105 ft upstream of West Thames St.	26
	370 ft downstream of Connecticut Turnpike.	32
	210 ft upstream of the confluence of Goldmine Brook.	71
Great Plain Brook	At confluence with Trading Cove Brook.	29
	420 ft upstream of confluence with Trading Cove Brook.	38
	105 ft upstream of dam at downstream end of culvert for Melrose Park Rd.	72
		85
	1,750 ft upstream of Melrose Park Rd. (2d crossing).	86
	6,070 ft upstream of Melrose Park Rd. (2d crossing).	90
Ford Brook	At confluence with Trading Cove Brook.	29
	850 ft downstream of Salem Turnpike Rd.	60
	2,270 ft upstream of Salem Turnpike Rd.	60
	210 ft upstream of Old Salem Rd.	64
	3,325 ft upstream of Old Salem Rd.	68
	At New London Turnpike.	82
	At Newton St.	100
Goldmine Brook	At confluence with Trading Cove Brook.	69
	155 ft upstream of Salem Turnpike Rd.	78
Tributary F, 1,100 ft north of the confluence of the Thames River and Trading Cove Brook.	750 ft upstream of confluence of Thames River.	11
	At Albert St.	46
Shetucket River	At confluence with Spaulding Pond Brook.	11
	105 ft upstream of Greenville Dam.	37
	1,850 ft upstream of Norwich Avenue Bridge.	46
	265 ft upstream of Taftville Dam.	61
	265 ft upstream of Occum Dam.	66
	2,110 ft upstream of confluence with Byron Brook.	83
Spaulding Pond Brook.	55 ft upstream of Main St.	20
	160 ft upstream of Willow St.	36
	55 ft upstream of Chestnut St.	41
	145 ft upstream of Chestnut St.	52
	430 ft upstream of Chestnut St.	76
	240 ft downstream of Broad St.	82
	At Broad St.	102
	580 ft upstream of Broad St.	126
	635 ft upstream of East Baltic Ave.	133
	135 ft upstream of Moneguan Rd. No. 2.	157
Tributary D 3,700 ft south of the confluence of Shetucket River and Hunter Brook.	At confluence with Shetucket River.	36
	265 ft upstream of confluence with Shetucket River.	45
	At State Highway No. 12.	84
	At end of culvert 475 ft upstream of State Highway No. 12.	92
	At Saint Regis Ave.	93
Hunter Brook	At confluence with Shetucket River.	41
	At Hunter Rd., (upstream of dam).	45
	580 ft. upstream of Hunter Rd.	66
	1,000 ft upstream of Hunter Rd.	71
Tributary C 580 ft downstream of confluence of Shetucket River and Little River.	State Highway No. 97.	66
Tributary B confluent to Bobbin Mill Brook at Town St.	At confluence with Yantic River.	88
	At East Town St.	104
	1,135 ft upstream of East Town St.	143
	At Mediterranean Lane.	156
	80 ft above Mediterranean Lane.	160
Norwichtown Brook.	At confluence with Yantic River.	90
	850 ft above West Town St.	96
Yantic River	4,120 ft upstream from State Highway No. 82 bridge.	15
Yantic River	210 ft upstream of Mill Dam No. 2.	79
	530 ft upstream of Yantic Mill Dam.	103
	1,690 ft upstream of Willimatic Road Bridge.	120
Bobin Mill Brook	At confluence with Yantic River.	88
	1,270 ft upstream of confluence with Yantic River.	88
	635 ft upstream of East Town St.	120
	At Scotland Rd.	128

(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.77-30112 Filed 10-17-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3535]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Cromwell, Middlesex County, Conn.

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 Cromwell, 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).

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 Town Clerk's Office, Town Hall, 5 West Street, Cromwell, Connecticut 06416.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. J. Peter Mahony, First Selectman, Town of Cromwell, Town Hall, 5 West Street, Cromwell, Conn. 06416.

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 Cromwell, 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 § 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 location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	At confluence with Mattabassett River.	23
	2 mi upstream from confluence with Mattabassett River.	24
	3.5 mi upstream from confluence with Mattabassett River.	25
	At the Portland-Glastonbury boundary on east bank.	26
Mattabassett River	1.4 mi upstream from confluence with Connecticut River.	23
	Upstream of State Route 72, 1st crossing.	24
	At State Route 72, 2d crossing.	25
	Upstream of abandoned bridge 0.25 mi downstream of Pasco Hill Rd.	31
	Downstream of Pasco Hill Rd.	32
Cromwell Creek	Culvert at swamp, 1,000 ft upstream of Route 9.	25
	South St. culvert	26
	Downstream from West St. culvert.	28
	West St.	40
	950 ft downstream from new lane bridge.	54
	Downstream from new lane bridge.	67
Chestnut Brook	Downstream of State Route 9 culvert.	23
	800 ft upstream from State Route 9 culvert.	42
	1,105 ft upstream from State Route 9 culvert.	50
	Hicksville Rd.	71
	Downstream from pond, 900 ft above Hicksville Rd.	76
	Upstream of pond, 900 ft above Hicksville Rd.	93
	50 ft downstream from West St. culvert.	98
	Upstream of West St. culvert.	107
Shunpike Creek	Downstream of Shunpike Rd. culvert.	23
	Downstream of State Route 9 ramp D culvert.	26
	Upstream of State Route 9 ramp D culvert.	30
	370 ft upstream from State Route 9 ramp D culvert.	31
	Upstream of State Route 9 westbound culvert.	43
	Downstream of Evergreen Rd.	71
Willow Brook	Upstream of East View Dr.	26
	790 ft upstream from East View Dr. culvert.	31
Coles Rd. Brook	Downstream of State Route 72 bridge.	24
	Upstream of State Route 72 bridge.	26
	Downstream of Christian Hill Rd. Bridge.	27
	Downstream of North Rd.	59

(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.77-30113 Filed 10-17-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3536]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Old Saybrook, Conn.

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 Old Saybrook, 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).

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, 302 Main Street, Old Saybrook, Conn. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Ms. Barbara J. Maynard, First Selectwoman, Town of Old Saybrook, 302 Main St., Old Saybrook, Conn. 06475.

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 Old Saybrook, 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 § 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
Fishing Brook	Drive	18
	do	17
	Old Black Rd.	16
	I-95–Connecticut Turnpike.	16

(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.77-30114 Filed 10-17-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3537]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Indian River County, Fla.

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 Indian River County, 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 90 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 County Courthouse, 14th Avenue, Vero Beach, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable D. C. Smith, Circuit Judge, Indian River County, County Courthouse, 14th Avenue, Vero Beach, Fla. 32960.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Food 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 Indian River 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 § 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
Sebastian Creek	Florida East Coast RR.	6
South prong	Indian River County line.	6
	State Route 512	5
	Sebastian corporate limits.	5
Indian River	Indian River County–Brevard County line.	8
	Horseshoe Island	7
	Pine Island	6
	Junction of Indian River Shores and Vero Beach corporate limits with Indian River County corporate limits.	5
	Prang Island	5
	Round Island	5
Atlantic Ocean	East of State Route A1A.	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: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-30115 Filed 10-17-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3538]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Clayton County, Ga.

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 Clayton County, 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 90 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 elevation are available for review at Clayton County Courthouse, McDonough Street, Jonesboro, Ga.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Charles Griswell, Chief County Commissioner, Clayton County Courthouse, Room 211, McDonough Street, Jonesboro, Ga. 30236.

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 Clayton 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 § 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
Hurricane Creek	Turner Rd	782
	New Hope Rd	*800
	McDonough Rd	812
	Cardinal Rd	850
	Flicker Rd	879
Wallis Creek	Fitzgerald	794
	La Belle St	802
Flint River	McDonough Rd	783
	Flint River Rd	805
	Georgia Highway 138	812
	Valley Hill Rd	818
	Upper Riverdale Rd	*829
	West Lee's Mill Rd	*870
Camp Creek	Helmer Rd	*816
	Fairburn Rd. Highway 138.	*831
	Bethsalda Rd	*848
	Walker Rd	*858
	King Rd	*865
Sullivan Creek	West Lee's Mill Rd	*864
	Riverdale Rd	*913
Mud Creek	Lee's Mill Rd	*844
	Georgia Highway 331–Forest Parkway.	*873
Jesters Creek	Georgia Highway 3	816
	Battle Creek Rd	*825
	Morrow Industrial Blvd.	*846
	Holiday Blvd	*855
	Morrow Rd	*867
Panther Creek	Fielder Rd	*776
	Mt. Zion Blvd	*793
	Lake Harbin Rd	*817
Reeves Creek	Georgia Highway 138	*763
	Fielder Rd	*891
	Conkle Rd	825
	Mt. Zion Blvd	*865
Tar Creek	Katherine Rd	779
	Evans Dr	792
Upton Creek	Double Bridge Rd	**802
	U.S. Highway 23	*818
Little Cotton Creek	Homestead Rd	*749
	Rex Rd	*769
	Double Bridge Rd	*796
	Ellen Wood Rd	*811
Conley Creek	East Conley Rd	805
	Conley Dr	837
Beaver Dam Creek	Flint River Rd	823
Swamp Creek	Mundy's Mill Rd	793
	Brown Rd	*822
Pates Creek	Freeman Rd	785
	Freeman Rd. (above lake).	*864
Roberts Rd. tributary.	Roberts Rd	804

*Elevation taken from 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 Adminis-

trator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-30116 Filed 10-17-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3539]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Atchison, Atchison County, Kans.

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 Atchison, Atchison County, Kans. 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 City Clerk's Office, City Hall, 515 Kansas Avenue, Atchison, Kans. 66002.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable David R. Laurie, Mayor, City of Atchison, City Hall, 515 Kansas Avenue, Atchison, Kans. 66002.

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 Atchison, Kans., 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 § 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
Missouri River	U.S. Highway 59	792
	Rock Island R.R.	793
White Clay Creek	Tenth St.	814
	Fourteenth St.	818
Brewery Creek	Utah Blvd.	817
	Patriot St.	818

(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.77-30117 Filed 10-17-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3540]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Woodford County, Ky.

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 Woodford County, Ky. 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 County Courthouse, Versailles, Ky.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Judge Matt T. Blackard, County Courthouse, Versailles, Ky 403833.

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 Woodford 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 § 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
Lee Branch	U.S. Highway 421	778
	I-64	779
	Parrish hill	785
	U.S. Highway 62	787
	Dudley St.	792
	Louisville and Nashville R.R.	796
	Walkway	799
	East Stephens St.	799
	Private road	799
	do.	812
	Road	821
Glenns Creek	Louisville and Nashville R.R.	509
	do.	510
	Road	518
	Dead end road	579
	State Road 1659	601
	do.	666
	Dead end road	677
	State Road 1659	720
	do.	736
South Elkhorn Creek:	Paynes Depot Rd.	814
	Brown's Mill Rd.	816
	do.	817
	Old Frankfort Rd.	819

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

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-30118 Filed 10-17-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3541]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Virdalia, Concordia Parish, La.

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 Vidalia, Concordia Parish, La. 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, Vidalia, La.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor S. A. Murray, Jr., 409 Texas Street, Vidalia, La. 71373.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krim, 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 Vidalia, Concordia Parish, La., 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
Vidalia Canal	Downstream of U.S. Highways 65 and 84.	57
	Downstream of Laurel St.	63
Mississippi River	Downstream of northeast corporate limits.	77
	Downstream of Natchez-Vidalia Bridge.	77
	Upstream of southwest corporate limits.	77

(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.77-30119 Filed 10-17-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3542]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Lexington, Middlesex County, Mass.

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 Lexington, Middlesex County, 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).

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 Planning Office, Town Hall, 1625 Massachusetts Avenue, Lexington, Mass. 02173.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mrs. Margery M. Battin, Chairwoman, Board of Selectmen, Town of Lexington, Town Hall, 16225 Massachusetts Avenue, Lexington, Massachusetts 02173.

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 Lexington, Massachusetts, 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 § 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
Beaver Brook	Route 2	196
	Garrett Rd	202
Kiln Brook	Route 128	120
Mill Brook	Bow St	159
	Fotter Ave	172
	Boston and Maine RR.	173
Munroe Brook	Lilian Rd	165
	Bryant Rd	168
North Lexington Brook.	Hartwell Ave	119
	Route 128 interchange.	121
Vine Brook	North St	180
	Emerson Rd	183
	Brookwood Rd	184

(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.77-30120 Filed 10-17-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3543]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Braintree, Mass.

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 Braintree, 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).

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 John F. Kennedy Memorial Dr., Braintree, Mass.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Robert Sherman, Executive Secretary to the Selectmen, Town Hall, 1 John F. Kennedy Memorial Dr., Braintree, Mass. 02184.

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 Braintree, 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 § 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
Monatiquot River	Jefferson St.	104
	Route 37-Penn/ Central RR.	102
	Plain St.	101
	Penn/Central RR.	74
	Pearl St.	66
	Route 3.	65
	Union St.	65
	River St.	63
	Penn/Central RR.	58
	Middle St.	55
	Upper Adams St.	53
	Lower Adams St.	50
	Penn/Central RR.	39
	McCusker Dr.	30
	Pedestrian bridge	25
	Commercial St.	15
	Penn/Central RR.	11
	Shaw St.	11
	Quincy Ave.	11
Farm River	West St.	121
	Upper Lundquist Dr.	120
	Lower Lundquist Dr.	119
	Granite St.	117
	Old sluiceway	116
	Fond St.	110
Cochato River	Penn/Central RR.	108
	do.	108
	do.	107

(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.77-30121 Filed 10-17-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3544]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Newton, Mass.

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 Newton, 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).

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, 1000 Commonwealth Ave., Newton, Mass.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Theodore Mann, City Hall, 1000 Commonwealth Ave., Newton, Mass. 02159.

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 Newton, 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 § 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
Charles River	Nahanton St.	92
	Route 128 bridge	65
	Concord St.	40
	Bridge St.	18
	Corporate limits	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.77–30122 Filed 10–17–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3545]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Sims, Mich.

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 Sims, 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 Sims Township Hall, Au Gres, Mich. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Donald M. Tench, Township Supervisor, Township of Sims, Township Hall, Au Gres, Mich. 48703.

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 Sims, 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 § 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
Saginaw Bay	14th St. and Crescent Dr.	584
	Michigan Ave. and Tonkey Rd.	584

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

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–30123 Filed 10–17–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3546]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Chikaming, Mich.

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 Chikaming, 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 Township Hall, Township of Chikaming, Sawyer, Michigan.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Donald C. Peterson, Township Supervisor, Township of Chikaming, Township Hall, P.O. Box 157, Sawyer, Michigan 49125.

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 Chikaming, 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 § 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 "A"	Lake Shore Dr.	594
	Ravenswood Ave.	606
	Evergreen Rd.	607
	Terry Lane	610
	Tower Hill Rd.	614
	Red Arrow Highway	617
Tributary "B"	Prairie Rd.	594
	Forest Ave. extension	598
	Just downstream of Red Arrow Highway.	612
Tributary "C"	Ravina Rd.	592
	Birchwood Dr.	600
	Just upstream of Prairie Rd.	616
	Forest Ave.	616
Lake Michigan	Along shoreline	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Adminis-

trator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-30124 Filed 10-17-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3547]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Clay, Mich.

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 Clay, 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 Township Hall, 4710 Pointe Trembell Road, Algonac, Mich.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Edward Spenik, Township Supervisor, Township of Clay, Township Hall, 4710 Pointe Trembell Road, P.O. Box 429, Algonac, Mich. 48001.

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 Clay, 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 § 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 St. Clair	Strawberry Island	578.5
	Shoreline from northern corporate limits to Flamingo Rd.	578.5
St. Clair River	Open water-Lake St. Clair.	578.5
	Northern corporate limits at St. Clair River Rd.	579.5

(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.77-30125 Filed 10-17-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3548]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Spring Lake, Mich.

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 Spring Lake, 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 Village Hall, 213 East Savidge Street, Spring Lake, Mich.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Simon Workman, Village Hall, 213 East Savidge Street, Spring Lake, Mich. 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 give notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Spring Lake, 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 § 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
Grand River	Michigan Highway 104.	584
Spring Lake	Grand Trunk Western R.R.	584
Lloyds Bayou	Leonard St.	584

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

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-30126 Filed 10-17-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3528]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Natchez, Miss.

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 Natchez, 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).

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, 124 South Pearl Street, Natchez, Miss.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Tony Bryne, City Hall, P.O. Box 1185, Natchez, Miss. 39120.

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 Natchez, 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. They should not be construed to lations 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 their contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
St. Catherine Creek.	State Highway 61	85
	State Highway 551	104
	Illinois Central Gulf RR.	107
	State Highway 61	121
Mississippi River	U.S. Highway 84	77

(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.77-30127 Filed 10-17-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3527]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Oxford, Lafayette County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Oxford, Miss. These base (100-year) 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 (90) days following the second publication of this proposed rule in a newspaper of local circulations in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 107 South Lamar Street, Oxford, Miss.

Send comments to: Mayor John O. Leslie, City Hall, 107 South Lamar Street, Oxford, Miss. 38655.

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 determination of base (100-year) flood elevations for the City of Oxford, Mississippi, 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 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Burney branch	Hospital entrance road.	352
	State Highway 7 bypass Bailey branch.	367
	Garfield Ave.	397
	Jackson Ave.	415
	North entrance to Oxford High School.	427
	Park Rd.	447
Bailey branch	Lamar Blvd. exit	375
	Abandoned road	401
East Goose Valley Creek.	State Highway 6	361
East Goose Valley Creek tributary 1.	Trailer park road	360
	State Highway 6	365
East Goose Valley Creek tributary.	Street and parkway lot.	378
Davidson Creek	College Hill Rd.	366
	Abandoned road	390
	Molley Barr Rd.	399
Davidson Creek tributary 1.	Clubview Rd.	369
	College Hill Rd.	385
Davidson Creek tributary 2.	Phillip Rd.	388
	Stone Rd.	396
	Washington Ave.	405

(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.77-30128 Filed 10-17-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3526]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Advance, Stoddard County, Mo.

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 Advance, Stoddard 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).

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 City Clerk's Office, City Hall, Advance, Mo. 63730.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Kenneth Francis, Mayor, City of Advance, City Hall, Box 188, Advance, Mo. 63730.

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 Advance, 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 § 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 location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ditch No. 1	0.1 mi upstream from the limit of study.	349
	At the downstream face of State Highway 25 and 91.	351
	At the downstream face of Vine St.	353
	At the upstream limit of study.	354
Tilley ditch	At the downstream face of an unnamed road.	352
	At the upstream face of State Highway 91.	354
	At the upstream limit of study.	354

(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.77–30129 Filed 10–17–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3525]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Epsom, Merrimack County, N.H.

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 Epsom, Merrimack County, N.H. 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 Town Hall, Route 202, Epsom, N.H. 03234.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. George F. Carlson, Chairman, Board of Selectmen, Epsom, N.H. 03234.

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 Epsom, 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 § 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
Suncook River	Confluence of Fowler Brook.	305
	210 ft downstream of Short Falls Bridge.	308
	At confluence with the west channel of Suncook River.	311
	1,850 ft downstream of Huckins Mill Dam.	315
	210 ft upstream of Huckins Mill Dam.	335
	210 ft downstream of Route 4 bridge.	339
	At town boundary	344

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West channel of Suncook River.	3,170 ft downstream of Huckins Mill Dam.	313
	2,000 ft downstream of Huckins Mill Dam.	318
	110 ft downstream of Huckins Mill Dam.	323
Little Suncook River.	At railroad bridge near confluence with Suncook River.	339
	580 ft downstream of Black Hall Rd. Bridge.	340
	At confluence with Lockes Brook.	357
	1,585 ft upstream of confluence of Lockes Brook.	372
	At Center Hill Rd. Rd. Bridge.	398
	422 ft upstream of the confluence of Blake Brook.	409
	At a private dam 1,055 ft upstream of confluence of Blake Brook.	412
	105 ft downstream of Cass Road Bridge.	430
	105 ft upsteam of Cass Road Bridge.	437
	265 ft downstream of confluence with Gulf Brook.	440
	At confluence with Gulf Brook.	443
	2,425 ft upstream of confluence with Gulf Brook.	445
	635 ft downstream of Route 107 bridge.	485
	75 ft downstream of Rouge 107 bridge.	506
	53 ft downstream of Northwood Lake Dam.	510
	53 ft upstream of Northwood Lake Dam.	519
	At town boundary....	519

(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.77–30130 Filed 10–17–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3524]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Pittsfield, Merrimack County, N.H.

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 Pittsfield, Merrimack County, NH. 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 Selectman's Office, Town Hall, Main Street, Pittsfield, N.H. 03263.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Lester Emerson, Selectman, Board of Selectmen, Town of Pittsfield, 12 Tilton Hill Road, Pittsfield, New Hampshire 03263.

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 Pittsfield, 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 § 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
Suncook River.....	5,960 ft downstream of Webster Mills Rd.	351
	At Webster Mills Rd...	396
	1,425 ft upstream of Webster Mills Rd.	409
	5,600 ft upstream of Webster Mills Rd.	427
	At confluence of Berry Pond Brook.	439
	1,750 ft downstream of Main St.	448
	100 ft downstream of Main St.	459
	At Pittsfield Dam.....	481
	At Route 107 bridge...	482
	3,000 ft upstream of Route 107 bridge.	483
	9,600 ft upstream of Route 107 bridge.	491

(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.77–30131 Filed 10–17–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3523]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Somerdale, Camden County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicated on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Somerdale, N.J. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are avail-

able for review at Borough Hall, Somerdale and Post Road, Somerdale, N.J.

Send comments to: Mayor James Perry, Borough Hall, Somerdale and Post Road, Somerdale, N.J. 08083.

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 (100-year) flood elevations for the Borough of Somerdale, New Jersey, 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 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cooper River	Chews Landing Rd	54
	Con Rail	57
Tributary No. 1	Evesham Rd	55

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

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-30132 Filed 10-17-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3522]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Branchburg, N.J.

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 Branchburg, N.J. 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 Township Hall, 27 Cedar Grove Road, Branchburg, N.J.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John R. Seibert, Township of Branchburg, Township Hall, 27 Cedar Grove Road, Branchburg, New Jersey 08876.

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., Wash., 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 Branchburg, 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 § 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
outh branch Raritan River.	Woodfern Rd	85
	Elm St	77
	County bridge 91 (Opie Rd.).	66
	Studdiford Dr	63
Pleasant Run	Plesant Rd	82
	South Branch Rd. (Route 567).	74
Holland Brook	U.S. Route 202	70
	South Branch Rd. (Route 567).	63
North branch Raritan River.	Burnt Mill Rd. (abandoned).	88
	New Jersey 28	76
	U.S. Route 202	64
	Old York Rd. (Route 567).	62
Lamington River	Lamington Rd	95
	Burnt Mill Rd	89
Chambers Brook	Readington Rd	79
	Upstream Central RR. of New Jersey.	78
	Downstream Central RR. of New Jersey.	72

(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.

PATRICA ROBERTS HARRIS,
Secretary.

[FR Doc.77-30133 Filed 10-17-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3521]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Palmyra, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are soliciated on the proposed base flood elevations (100-year flood) listed below for selected locations in the Borough of Palmyra, N.J. 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 Borough Hall, 20 West Broad Street, Palmyra, N.J.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John W. Sacca, Jr., Borough Hall, 20 West Broad Street, Palmyra, N.J. 08065.

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 Borough of Palmyra, 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 § 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
Pennsauken Creek	River Rd.	10
Delaware River	Taceny-Palmyra Bridge from intersection of Temple Blvd. north to corporate limits	10

(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.77-30134 Filed 10-17-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3520]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Rutherford, N.J.

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 locatoins in the Borough of Rutherford, N.J. 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 Borough Hall, 176 Park Avenue, Rutherford, N.J.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor William P. Brooks, Borough of Rutherford, Borough Hall, 176 Park Avenue, Rutherford, N.J. 07070.

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 Borough of Rutherford, 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 § 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
Passaic River	Upstream of Route 3	14
	West of Insley Ave	15
	Union Ave	15

(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.77-30135 Filed 10-17-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3519]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Faith, Roman County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Faith, N.C. These base (100-year) flood elevations are the basis for the flood plain management measures that 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available

for review at the Home of the Town Clerk, Carol Retallick, East Second Street, Faith, N.C.

Send comments to: Mayor Ted D. Peeler, Town Clerk's Office, Box 27, Faith, N.C. 28041.

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 (100-year) flood elevations for the Town of Faith, N.C., 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 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cemetary Creek	Church St.[1]	822
	do.[2]	828
	Brown St.[1]	842
	do.[2]	845
	Fisher St.[1]	859
	do.[2]	861
Park Creek	Faith Rd.[1]	823
	do.[2]	828
	School St.[1]	845
	do.[2]	848
Quary Creek	Faith Rd.[1]	781
	do.[2]	787

[1] Dowstream side.
[2] 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.77–30136 Filed 10–17–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3518]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Blowing Rock, N.C.

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 Blowing Rock, 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).

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, Main Street, Blowing Rock, N.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Troy L. Garrison, City Hall, P.O. Box 47, Blowing Rock, N.C. 28605.

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 Blowing Rock, 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 § 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 Fork Creek	Sunset Dr. (upstream).	3,490
	Sunset Dr. (downstream).	3,487
	West Cornish Rd. (upstream).	3,486
	West Cornish Rd. (downstream).	3,483
	U.S. 221–321 (upstream).	3,482
	U.S. 221–321 (downstream).	3,480

(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 Secertary'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.77–30137 Filed 10–17–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3517]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Dickinson, N. Dak.

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 the selected locations in the City of Dickinson, N. Dak. 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, 122 Second Avenue West, Dickinson, North Dakota.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Henry Schank, P.O. Box 1242, Dickinson, N. Dak. 58601.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistanst Admiinistrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Wash., 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 Dickinson, 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 § 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
Heart River below Dickinson Dam.	East Broadway St	2,385
	South Main St	2,638

(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.77–30138 Filed 10–17–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3516]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Newton Falls, Trumbull County, Ohio

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 Newton Falls, Trumbull County, Ohio. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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 on the wall of the Utility Office, City Hall, 19 North Canal Street, Newton Falls, Ohio.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Bill Watkins, City Manager of Newton Falls, City Hall, 19 North Canal Street, Newton Falls, Ohio 44444.

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 Newton Falls, Trumbull County, Ohio 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 § 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
Mahoning River	Corporate limits (downstream).	899
	Main St	901
	Broad St	903
	Corporate limits (upstream).	905
West Branch Mahoning River.	Fairport Ave. (upstream).	902
	Dam	904
	Broad St	915
	Corporate limits (upstream).	917

(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.77–30139 Filed 10–17–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3515]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Umatilla County, Oreg.

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 Umatilla County, 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).

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 County Courthouse, 216 Southeast Fourth Street, Pendleton, Oreg.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Forrest K. Starrette, Chairman, Board of Umatilla County Commissioners, P.O. Box 1427, Pendleton, Oreg. 97801.

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 Umatilla 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 § 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
Umatilla River	Highway 20 bridge	549
	Stanfield Bridge	589
	U.S. 80 bridge	603
	Echo Bridge	630
	Nolin railroad bridge	733
	State Highway 11 bridge.	1,103
	Mission Bridge	1,209
	Union Pacific RR. bridge.	1,400
	Road bridge (Cayuse).	1,416
	Union Pacific RR. bridge.	1,512
	Thorn Hollow Rd. bridge.	1,579
Wildhorse Creek	Union Pacific RR. bridge.	1,095
	Private bridge	1,104
	Union Pacific RR. bridge.	1,107
	do	1,132
	County bridge (Saxe Station).	1,161
	Union Pacific RR. bridge.	1,163
	County bridge	1,202
Tutuilla Creek	Highway 395 culvert	1,047
	Southwest Hailey Ave. Bridge.	1,053
	Private bridge	1,109
	Tutuilla Creek Rd. Bridge.	1,070
	Private bridge	1,111
	do	1,112
McKay Creek	do	1,005
	Southwest Kirk Ave.	1,044
	Concrete footbridge	1,059
	Southwest Quinney Ave.	1,064
	Private bridge	1,090
	do	1,107
	do	1,126
Mill Creek	Farm bridge	1,131
	Birch Dr.	1,141
	Highway 395	1,160
	Reynolds Canyon Bridge.	2,079
	Henry Canyon Bridge.	2,207

(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.77-30140 Filed 10-17-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Bridgeport, Montgomery County, Pa.

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 Borough of Bridgeport, Montgomery County, Pa. 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 Borough Hall, Fourth and Mill Streets, Bridgeport, Pa.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Samuel R. Santoro, President of Council, P. O. Box 148, Bridgeport, Pa. 19405.

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 Borough of Bridgeport, Montgomery County, Pa., 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 § 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
Schuylkill River	Downstream corporate limits.	75
	Dekalb St.	78
	Upstream corporate limits.	78

(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 ROBERT HARRIS,
Secretary.

[FR Doc.77-30141 Filed 10-17-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3513]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Derry, Mifflin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town-

ship of Derry, Mifflin County, Pa. These base (100-year) 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 (90) days following the second publication of this proposed rule 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 (100-year) flood elevations are available for review on the Bulletin Board, Municipal Building, Mill Street, Yeagertown, Pa.

Send comments to:

Mr. David McBride, Chairman of the Board of Supervisors of Derry, Highland Avenue, Lewistown, Pa. 17044.

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 (100-year) flood elevations for the Township of Derry, Mifflin County, Pa., 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 of the Housing and Urban Development 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 1917.4(a).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. 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 their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kishacoquillas Creek:	Route 22	477
	Route 322	477
	Downstream Route 522.	480
	Street No. 2 near Highland Park:	491
	Street No. 3 passes filtration plant:	512
	Street No. 4 from Yeagertown.	536
	North Derry St	556
Jacks Creek	Route 22	475
	Private road	475
	Gross Mill Rd	482
	Downstream of Gross Derry Bridge.	496
	Upstream of Gross Derry Bridge.	500
	Paintersville Bridge	524
Juniata River	Downstream corporate limits.	463
	Upstream corporate limits.	475

(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.77-30142 Filed 10-17-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3512]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Easton, Northampton County, Pa.

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 Easton, Northampton County, Pa. 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 City Hall, 650 Terry Street, Easton, Pa.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Henry J. Schultz, Mayor of Easton, City Hall, 650 Terry Street, Easton, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–872, 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 Easton, Northampton County, Pa., 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. 90–48), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. 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
Delaware River	Downstream corporate limits.	188
	Con Rail	192
	Confluence of Lehigh River.	192
	U.S. Highway 22	195
	Confluence of Bushkill Creek.	195
	Upstream corporate limits.	199
Lehigh River	Confluence with Delaware River.	192
	U.S. Highway 611	192
	Con Rail	192
	Upstream Parkway bridge.	197
	25th St. L.S.=233.5	197
	Dam No. 2	204
	Upstream corporate limits.	212
Bushkill Creek	Confluence with Delaware River.	195
	Cemetery Dr.	196
	Con Rail	200
	13th St.	214
	Private road	217
	Corporate limit (upstream).	232

(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.

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TUESDAY, OCTOBER 18, 1977

PART III



DEPARTMENT OF LABOR

■

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Compilation of Current Regulations for Titles I, II and VI

[4510-30]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Compilation of Current Regulations for Titles I, II and VI

AGENCY: Employment and Training Administration, Labor.

ACTION: Compilation of current regulations.

SUMMARY: These rules are published to provide FEDERAL REGISTER readers with a compilation of the current regulations for titles I, II, and VI of the Comprehensive Employment and Training Act of 1973 (CETA), as amended.

EFFECTIVE DATE: These regulations are effective immediately, except for those amendments published in the September 30, 1977, FEDERAL REGISTER (42 FR 52790–52805), which will take effect on October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Roberts T. Jones, Director, Office of Community Employment Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, 202–376–6366.

SUPPLEMENTARY INFORMATION: During the 16 months since the regulations for titles I and II of the Comprehensive Employment and Training Act (CETA) were last published in their entirety, they have been amended on eight separate occasions. Each time, only the amendments were published. This compilation puts the amendments in context, and includes the newly revised title VI regulations as well.

Also included in this compilation are those technical changes noted in the July 8, 1977, FEDERAL REGISTER (42 FR 35318):

Because of the proposed changes to simplify the grant process, in reading all the changes in conjunction with unrevised portions of Parts 95, 96, and 98, whenever the terms "Comprehensive Manpower Plan" or "plan" appear in the unrevised portions, the terms "grant application" or "grant", as appropriate, shall be substituted; except that in §§ 95.17(b)(7), 96.13, 96.24(e)(2), 98.6(f)(1), 98.8(b)(1), 98.15(b), 98.16, 98.27(g), 98.30(a), 98.32(b) in the last line, and 98.32(b)(1), the term "Annual Plan" shall be substituted for the terms "plan" and "grant".

Accordingly, 29 CFR Parts 94, 95, 96, 98, and 99 have been revised, for the operation of the Fiscal Year 1978 grants, to read as follows:

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.

94.1 Scope and purpose of the Act.
94.2 Format for the regulations promulgated under the Act.
94.3 Consolidated table of contents for Parts 94–99.
94.4 Definitions.

AUTHORITY: Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93–203, 87 Stat. 839, Pub. L. 93–567, 88 Stat. 1845), sec 702(a) unless otherwise noted.

§ 94.1 Scope and purpose of the Act.

(a) It is the purpose of the Act to provide job training and employment opportunities for economically disadvantaged, unemployed and underemployed persons, and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency. The purpose of the Act is to be accomplished by the establishment of a flexible and decentralized system of Federal, State and local programs.

(b) The Act is comprised of eight titles, as follows:

(1) Title I establishes a program to provide comprehensive manpower services throughout the Nation, including the development and creation of job opportunities, and the training, education and other services needed to enable individuals to secure and retain employment at their maximum capacity.

(2) Title II authorizes public service employment and manpower training programs for unemployed and underemployed persons in areas of substantial unemployment.

(3) Title III provides for the establishment and administration by the Secretary of Labor of:

(i) Special programs for Indians, seasonal farmworkers both migratory and non-migratory;

(ii) Manpower services for youth, offenders, older workers, persons of limited English-speaking ability and other special target groups; and

(iii) Research, training and evaluation of programs and activities conducted under the Act.

(4) Title IV establishes a Job Corps within the Department of Labor to provide residential and non-residential manpower services for low-income disadvantaged young men and women.

(5) Title V establishes a National Commission for Manpower Policy. The responsibilities of the Commission include the examination of national manpower issues, the suggestions of ways and means of dealing with such issues and advising the Secretary on national manpower issues.

(6) Title VI, authorizes additional public service jobs and training programs for unemployed and underemployed persons and provides special provisions for programs in areas of excessively high unemployment.

(7) Title VII sets forth the general provisions, including applicable definitions, under the Act.

(8) Title VIII establishes a Young Adult Conservation Corps, administered by the Department of Labor through interagency agreements with the Departments of Agriculture and Interior.

§ 94.2 Format for the regulations promulgated under the Act.

(a) The regulations promulgated to carry out the Act are set forth in Parts 94 through 99 of Title 29, Code of Federal Regulations.

(b) As each substantive Title of the Act provides for the establishment of a specific type of program, the regulations promulgated in Parts 94 through 99 provide for a separate part for each basic type of activity (e.g., Part 95 deals with comprehensive manpower programs; Part 96 deals with Title II programs). Two parts are also included which deal with general matters relating to the Act: Part 94 deals with basic explanatory and definitional matters, and Part 98 deals with general administrative matters.

(c) Statutory authoirty for the regulations contained in Parts 94 through 99 may be found in Section 702(a) of the Act, as well as in other substantive provisions of the Act. Applicable statutory provisions, other than section 702(a), are noted generally in these regulations.

§ 94.3 Consolidated table of contents for Parts 94–99.

The table of contents for Parts 94–99 is as follows:

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.
94.1 Scope and purpose of the Act.
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§ 94.4 Definitions.

The following definitions consistent with section 701(a) of the Act apply to Parts 94 through 99, inclusive except as otherwise set forth in Parts 94 through 99:

(a) "Act" shall mean the Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93–203, 87 Stat. 839; Pub. L. 93–567, 88 Stat. 1845).

(b) "Allocation" shall mean the distribution of funds among prime sponsors or eligible applicants according to the formulas contained in the Act.

(c)(1) "Area of substantial unemployment" shall mean for Title II any area within a prime sponsor's jurisdiction, other than in relation to an Indian tribe:

(i) which has a population of at least 10,000 persons;

(ii) which qualifies for a minimum allocation of $25,000 under Title II of the Act;

(iii) which has a rate of unemployment of at least 6.5 percent for a period of three consecutive months, as determined by the Secretary of Labor at least once each fiscal year; and

(iy) where such units comprising the area (census tracts, census divisions, cities, counties, etc.) are contiguous.

(2) "Area of substantial unemployment" shall mean for Title II, in relation to an Indian tribe, an Indian reservation, as a whole, with a rate of unemployment of at least 6.5 percent for a period of three consecutive months, as determined by the Secretary of Labor at least once each fiscal year.

(d) "Audit" shall mean a systematic review or appraisal to determine and report whether:

(1) Financial operations are being properly conducted;

(2) Financial reports are presented fairly; and

(3) Applicable laws and regulations are being complied with. A selected number of operational audits will include a review of economy and efficiency and/or program results of programs under the Act.

(e) "Audit Standards" shall mean those standards set forth in *The Standards for Audit of Government Organizations, Programs, Activities and Functions* promulgated by the Comptroller General of the United States.

(f) "Balance of county" shall mean the area within the jurisdiction of a county, as a prime sponsor or eligible applicant, that is not included in the comprehensive manpower plan of another prime sponsor or eligible applicant.

(g) "Balance of State" shall mean the area within the jurisdiction of a State, as a prime sponsor or eligible applicant, which is not included in the comprehensive manpower plan of another prime sponsor or eligible applicant.

(h) "Capital improvement" shall mean any modification, addition, or restoration which increases the value, usefulness, productivity, or serviceable life of an existing building, structure, or major item of equipment which is classified for accounting purposes as "fixed asset" and the recorded value of which is increased by the cost of the improvement and subject to depreciation.

(i) "Certification" shall mean a legally binding statement that certain requirements have been fulfilled.

(j) "Chief elected official" and "chief executive officer" shall include their designees.

(k) "Community-based organizations" shall mean organizations which are representative of communities or significant segments of communities and which provide manpower services (for example Opportunities Industrialization Centers, Urban League, Jobs for Progress, Mainstream, Community Action Agencies and other community organizations).

(l) "Compensation" as applied to a participant in a Title II program shall mean the wages and salary payable, but does not include fringe benefits or supportive services.

(m) "Consortium" shall mean an entity formed by an agreement among local units of government, consistent with the requirements of § 95.3, to plan and operate a comprehensive manpower program under the Act.

(n) "Contractor" shall mean any person, corporation, partnership, or similar entity or a public agency, which enters into a contract with the Department, with a grantee, or with a subgrantee under the Act.

(o) "Construction" shall mean the erection, installation, or assembly of a new facility or a major addition, expansion, or extension of an existing facility, and the related site preparation, excavation, filling and landscaping or other land improvements.

(p) "Department" shall mean the United States Department of Labor and includes each of its operating agencies and other organizational units.

(q) "Dependent" shall mean:

(1) Any relative for whom the participant has assumed a responsibility for support; and who is either: (i) a member of the immediate household, or (ii) one of the following relatives:

(A) A parent of the participant;

(B) A child of the participant;

(C) A relative of the participant who is unemployed because of a physical or mental disability; or

(2) Any individual who is currently being supported by the participant, is a member of the participant's immediate household; and during the preceding twelve months, earned less than $750.

(r) "Disabled veteran" shall mean a person who served in the Armed Forces and who was discharged or released therefrom with other than a dishonorable discharge and who has been given a disability rating of 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

(s) "Economically disadvantaged" shall mean a person who:

(1) is a member of a family which receives cash welfare payments under Federal, State or local welfare programs;

(2) is a member of a family which has a total family income, as defined in paragraph (xxx) of this section, which in relation to family size, does not exceed the poverty level determined in accordance with criteria established by the Office of Management and Budget or 70% of the lower living standard income level, whichever is higher. Family income shall be computed by:

(i) Annualizing all family income received during the 3 months preceding the assignment of the economically disadvantaged classification, or

(ii) If, due to seasonal unemployment (e.g., teachers), seasonal employment, summer employment for youth, or other circumstances, the 3 month period is unrepresentative, totaling family income received during the 12 months preceding the assignment of the economically disadvantaged classification; or

(3) is a foster child on behalf of whom State or local government payments are made.

(t) "Eligible applicant" for purposes of Title II shall mean a prime sponsor or an Indian tribe on a Federal or State reservation which includes an area or areas of substantial unemployment.

(u) "Employing agency" for purposes of public service employment programs shall mean any employer designated by an eligible applicant, program agent, or other subgrantee, or by the Secretary of Labor, to employ participants pursuant to public service employment programs under the Act. The term shall include an eligible applicant, program agent, or other subgrantee when acting as employer. Private for profit organizations shall not be considered employing agencies under the Act. The administrative arm of a consortium may be an employing agency only for the purpose of hiring participants as administrative staff.

(v) "Family" shall mean one or more persons living in a single household who are related to each other by blood, marriage or adoption. A stepchild who receives at least 50% of his/her support from the stepparent shall be counted as a member of the stepparent's family. A member of a household:

(1) Who is 18 or older;

(2) Who receives less than 50% of his/her maintenance from the family; and

(3) Who is not the head of the household or the spouse of the head of the household, shall not be considered a member of the family. Such an individual shall be considered a family residing alone or in group quarters.

(w) "Federal Audits" shall mean those audits conducted by the U.S. Department of Labor and its agents.

(x) "Federal reservation" shall mean lands which have been set aside for Indian tribes and for which the United States is trustee, as identified by the Bureau of Indian Affairs, including non-trust land under the tribal jurisdiction.

(y) "Governor" shall mean the chief executive officer of a State or his designee.

(z) "Grantee" shall mean any individual or organization, including a prime sponsor under Title I or Title III of the Act, or an eligible applicant under Title II or Title VI of the Act which receives a grant from the Department to establish or operate any program or activity under the Act.

(aa) "Grant Allotment" shall mean the total amount of funds planned at any given time to be granted to a prime sponsor or eligible applicant for any fiscal year under Title I or Title II of the Act.

(bb) "Health care" includes but is not limited to preventive and clinical medical treatment, voluntary family planning services, nutritional services, and appropriate psychiatric, psychological and prosthetic services, to the extent any such treatment or services are necessary to enable a participant to obtain or retain employment under the Act.

(cc) "Indian tribe" shall mean a tribe, group or band of American Indians or Alaska natives identified on the basis of historical, geographical or cultural characteristics, or subpart of such a tribe, group or band.

(dd) "Low-income level," which is a definition used only in the allocation of funds under Title I, shall mean an annual income of $7,000 with respect to income in 1969; for any later year it shall mean that amount which bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

(ee) "Manpower Allotment" means sums received by a prime sponsor distributed under Secs. 103(a)(1); 103(a)(2); 103(a)(4); and those portions of 103(f) of the Act which provide each prime sponsor with an amount for any fiscal year equal to 90 percent of such area's manpower allotment in the preceding fiscal year.

(ff) Multijurisdictional Agreement" shall mean an agreement, consistent with the requirements of § 95.3, between a State and any unit of general local government within the State that has a population of at least 100,000 persons, to plan and operate a comprehensive manpower program under the Act.

(gg) "Non-Federal Audits" shall mean those audits conducted by State, county, and city governments or their agents.

(hh) "Obligation" shall mean the amount of funds which a grantor has legally committed and authorized a grantee, subgrantee, or contractor to expend.

(ii) "Offender" shall mean: (A) any person who is or has been confined in any type of correctional institution, or assigned to a community-based facility, or who is or has been subject to any stage of the judicial, correctional or probationary process where manpower training and services may be beneficial, as determined by the Secretary of Labor, after consultation with judicial, correctional, probationary or other appropriate authorities; or (B) any adult or juvenile who is confined in any type of correctional institution and also includes any individual or juvenile assigned to a community based facility or subject to pretrial, probationary, or parole or other stages of the judicial correctional or probationary process where manpower training and services may be beneficial, as determined by the Secretary, after consultation with judicial, correctional, probationary, or other appropriate authorities.

(jj) "OMB" shall mean the Office of Management and Budget.

(kk) "Participant" shall mean an individual who is eligible for and takes part in activities under provisions of the Act or receives services funded under the Act, except for an individual who receives only outreach and intake services. An individual applicant becomes a participant when:

(1) The individual is declared eligible upon intake; and

(2) The individual receives employment, training or services funded under the Act following intake, except for an individual who receives only outreach and/or intake services.

(ll) "Participant community" shall mean the group or groups of people to be served by a program or program activity; for example, the unemployed, persons of limited English speaking ability, seasonal farmworkers either migratory or non-migratory, non-reservation Indians, and economically disadvantaged.

(mm) "Placement" shall mean the hiring into unsubsidized employment by an employer of an individual referred by the prime sponsor or its subgrantee or contractor for a job or an interview, providing that the prime sponsor, subgrantee or contractor completed all of the following steps:

(1) Made prior arrangements with the employer for referral of an individual or individuals;

(2) Referred an individual who has not been specifically designated by the employer;

(3) Verified from a reliable source, preferably the employer, that the individual had entered on a job; and

(4) Recorded the transaction on an employer form or other appropriate form.

(mm–1) There are three levels of placement based on the expected duration of the job:

(1) Short-term placements in jobs which are expected to have a duration of three days or less;

(2) Mid-term placements in jobs which are expected to have a duration from four days to one-hundred-fifty days; and

(3) Long-term placements in jobs which are expected to have a duration of more than one-hundred-fifty days.

Placement does not include referral to another program activity, enrollment in education or training courses not supported under the Act, or entrance into the Armed Forces.

(nn) "Poverty level" shall mean the annual income threshold below which families are considered to live in poverty, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

(oo) "Prime sponsor" shall mean a unit of government, combinations of units of government, or a rural Concentrated Employment Program grantee, as set forth in § 95.3, which has entered into a grant with the Department to provide comprehensive manpower services under Title I of the Act.

(pp) "Professional work" shall mean work performed by an individual acting in a bona fide professional capacity, as such term is used in section 13(a)(1) of the Fair Labor Standards Act.

(qq) "Program agent" for purposes of Title II shall mean a subgrantee within the jurisdiction of an eligible applicant which is a unit of general local government or a combination of such units having a population of 50,000 or more which contains an area of substantial unemployment or is part of an area of substantial unemployment. In determining whether a combination of units of general local government qualifies as a program agent, the eligible applicant shall use the following standards:

(1) The combination of units as a subgrantee possesses the legal authority to receive Federal funds, and to transact business as a representative of the population within its jurisdiction; and

(2) The combination of units as a subgrantee possesses the administrative capability to plan, administer, and operate a manpower program; in making this determination, the eligible applicant may consider whether a combination of units of general local governments which consists of units which are not contiguous to each other is capable of planning, administering and operating a manpower program.

(rr) "Program of demonstrated effectiveness" shall mean a manpower program, including a program conducted by a community-based organization, which has a history of providing manpower services to the economically disadvantaged, which has demonstrated the capacity to meet contractural goals at reasonable costs, and is either (1) a program which has demonstrated to the prime sponsor that it has performed effectively within the prime sponsor's jurisdiction, or (2) a program which can demonstrate to the prime sponsor that it has carried out effectively a similar program under similar circumstances in other jurisdictions and can carry out such a program effectively within the prime sponsor's jurisdiction.

(ss) "Public assistance" shall mean supplemental income or money payments received pursuant to a State plan approved under the Social Security Act, Title IV (Aid to Families with Dependent Children), or under the Social Security Act, Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled), and pursuant to the Indochina, Migration and Refugee Assistance Act of 1975, Pub. L. 94-23.

(tt) "Public service" shall mean service normally provided by government and includes, but is not limited to, work in such fields as beautification, conservation, crime prevention and control, education, child care, environmental quality, fire protection, health care, housing and neighborhood improvements, manpower services, parks, street and other public safety, recreation, rural development, solid waste removal, transportation, veterans outreach, and other fields of human betterment and community improvement. It includes part-time work for individuals who are unable to work full-time because of age, handicap or other factors. It excludes building and highway construction work (except that which is normally performed by the prime sponsor or eligible applicant) and other work which inures primarily to the benefit of a private profit-making organization.

(uu) "RA" shall mean the Department of Labor's Regional Administrator for Employment and Training Administration or his designee, having the responsibility for the area in which a prime sponsor or eligible applicant is located.

(vv) "Rate of unemployment" shall mean the number of unemployed persons, as a percentage of the total number of persons in the civilian labor force, as determined by the Secretary.

(ww) "Secretary" shall mean the Secretary of the United States Department of Labor, or his designee.

(xx) "SESA" shall mean a State employment security agency affiliated with the United States Employment Service, established by the Wagner-Peyser Act of 1933, as amended. The term shall include the State public employment services offices and Unemployment Insurance offices.

(yy) "Significant segments" shall mean those groups of people to be characterized, if appropriate by racial or ethnic, sex, age, occupational or veteran status, which causes them to generally experience unusual difficulty in obtaining employment and who are most in need of the service provided by the Act. Other descriptive categories may be used to define a "significant segment," if appropriate.

(zz) "Special veteran" shall mean an individual who served in the Armed Forces in Indochina or Korea, including the waters adjacent thereto, between August 5, 1964, and May 7, 1975, who received other than a dishonorable discharge.

(aaa) "State" includes the fifty states, District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(bbb) "State reservation" shall mean an Indian reservation recognized by the State in which it is located.

(ccc) "Subgrantee" shall mean any governmental unit or private nonprofit agency which receives a grant from a prime sponsor, grantee, or eligible applicant under the Act.

(ddd) "Sufficient size and scope" shall mean for Title II an area or combination of areas, other than an Indian reservation, which has a population of 10,000 or more persons and qualifies for a minimum allocation under Title II of $25,000.

(eee) "Supportive or manpower services" shall mean services which are designed to contribute to the employability of participants, enhance their employment opportunities, assist them to retain employment, and facilitate their movement into permanent employment not subsidized under the Act.

(fff) "Underemployed person" shall mean:

(1) A person who is working part-time but has been seeking full-time work, and who is a member of a family whose total family income (as defined in paragraph (xxx) of this section) in relation to his or her family size, does not exceed the poverty level determined in accordance with criteria established by OMB, or

(2) A person who is working full-time and who is a member of a family whose total family income (as defined in paragraph (xxx) of this section) in relation to his or her family size, does not exceed the poverty level determined in accordance with criteria established by OMB.

(3) Family income shall be computed by:

(i) Annualizing family income received during the 3 months preceding the assignment of the underemployed classification, or

(ii) If, due to seasonal unemployment, seasonal employment, summer employment for youth or other circumstances, the 3 month period is unrepresentative, totaling family income received during the 12 months preceding the assignment of the underemployed classification.

(ggg) "Unemployed person" shall mean for Title I activities except in the case of welfare recipients;

(1) A person who is without a job and who wants and is available for work, defined as follows:

(i) A person who is without a job is a person who did not work during the calendar week preceding the week in which the determination of his eligibility for participation is made. Except in the case of persons described in paragraph (ggg)(2) of this section, the determination of who wants and is available for work will be made by the prime sponsor or his designee. Persons who have been

discouraged from seeking work but are currently available for work, shall not be excluded from eligibility.

(ii) If a person is confined in a jail, penitentiary, or other institution and there is a reasonable expectation that release will follow the completion of training within a reasonable time, the individual shall be considered unemployed.

(2) In the case of welfare recipients, and except for purposes of sections 103 and 202 of the Act, the term "unemployed person" shall mean an adult who, or whose family, receives supplemental security income or money payments pursuant to a State plan approved under the Social Security Act, Title IV (Aid to Families with Dependent Children), or under the Social Security Act, Title XVI (Supplemental Security Income for the Aged, Blind and Disabled), or would be eligible for such payments according to the standards set forth at 45 CFR Part 233 and 20 CFR Part 416 if both parents were not present in the home, and

(i) Who is available for work, and

(ii) Who is either without a job or working in a job providing insufficient income to enable such a person and his family to be self-supporting without welfare.

(3) A veteran who has served on active duty for a period of more than 180 days or who was discharged or released from active duty for a service connected disability, shall be immediately eligible, upon release or discharge, for participation in a program under Title I of the Act without regard to the previous calendar week unemployment requirement which would otherwise pertain (38 U.S.C. 2013: *Provided*, The veteran has not obtained permanent, full-time, unsubsidized employment between the time of release and the time of application for participation in Title I.

(hhh) "Unemployed person" shall mean for Title II activities:

(1) A person who is without a job and who wants and is available for work. Except in the case of persons described in subparagraph (2) of this paragraph, the determination of who wants and is available for work will be made by the prime sponsor or his designee. Persons who have been discouraged from seeking work but are currently available for work, shall not be excluded from eligibility.

(2) Except for the purposes of sections 103 and 202 of the Act, an adult who, or whose family, receives supplemental security income or money payments pursuant to a State plan approved under the Social Security Act, Title IV (Aid to Families with Dependent Children), or under the Social Security Act, Title XVI (Supplemental Security Income for the Aged, Blind and Disabled) or would be eligible for such payments according to the standards set forth at 45 CFR Part 233 and 20 CFR Part 416 if both parents were not present in the home, and

(i) Is available for work, and

(ii) Who is either without a job or working on a job providing insufficient income to enable such a person and his family to be self-supporting without welfare assistance.

(3) A person is "without a job" if, during the 30 days preceding his application, he has worked no more than a total of 10 hours or has earned no more than $30 in any calendar week during the 30 days.

(iii) "Unemployment compensation" shall mean the compensation payable in accordance with the provisions of a State or Federal unemployment compensation law, and payments of unemployment assistance in accordance with the provisions of the Disaster Relief Act, trade readjustment allowances in accordance with the provisions of the Trade Expansion Act or the Trade Act of 1974, and payments or similar assistance or allowances in accordance with the provisions of any other Federal law.

(jjj) "Unit of general local government" shall mean any city, municipality, county, town, township, parish, village or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

(kkk) "Unsubsidized employment" shall mean employment not financed from funds provided under the Act.

(ii) Was discharged or released from who:

(i) Served on active duty for a period of more than 180 days, and was discharged, separated, or released therefrom with other than a dishonorable discharge, or

(ii) Was discharged or released from active duty for a service-connected disability.

(mmm) "Wagner-Peyser Act" shall mean "An act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes," approved June 6, 1933, (48 Stat. 113), as amended (29 U.S.C. 49 et seq.).

(nnn) "Lower living standard income level" shall mean that income level (adjusted for selected SMSA's and regional, metropolitan and non-metropolitan differences and family size) determined annually by the Secretary based upon the most recent lower living standard budget level issued by the Bureau of Labor Statistics of the Department of Labor.

(ooo) "Project" shall mean, for purposes of Part 99 of this title the same thing as the term "project and activity" used in Sections 607-9 of the Act, that is, "project" shall mean a definable task for group of related tasks which:

(1) Will be completed within a definable time period, not exceeding one year;

(2) Will have a public service objective;

(3) Will result in a specific product or accomplishment; and

(4) Would otherwise not be done with existing funds.

(ppp) "Project applicant" shall mean;

(1) A State;

(2) A State agency;

(3) A unit of general local government;

(4) An agency of a unit of general local government;

(5) A combination or association of units of general local government the primary purpose of which is to assist the governmental units to provide public services;

(6) A special purpose political subdivision having the power to levy taxes and spend funds within an area served by one or more units of general local government;

(7) A local education agency as defined in section 801(f) of the Elementary and Secondary Education Act of 1965;

(8) An institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965;

(9) A community based organization as defined in paragraph (k) of this section;

(10) A community development corporation;

(11) A nonprofit group or organization serving Indians or Native Hawaiians; or

(12) A private non-profit organization or institution engaged in public service.

(qqq) "Rehire" shall mean an individual who has been laid-off from regular unsubsidized employment and who is subsequently recalled as a participant by the former employer into a position funded under the Act.

(rrr) "Exhaustee" shall mean an individual who has made a claim for unemployment compensation and has exhausted all such benefits to which the individual was entitled including Extended Benefits (EB), Federal Supplemental Benefits (FSB), Disaster Unemployment Assistance (DUA), Trade Readjustment Allowance (TRA), Special Unemployment Assistance (SUA), Unemployment Compensation for Federal Employees (UCFE), and/or Unemployment Compensation for Exservicemen (UCX). Exhaustee status will continue through the existing regular benefit year, at which time a new claim may be filed creating a new status of eligible or ineligible for unemployment compensation.

(sss) "Ineligible for unemployment compensation" shall mean the status of an individual who is for any reason, including disqualification ineligible for unemployment compensation benefits including SUA, DUA, EB, TRA, FSB, UCX, and UCFE. This includes any individual who is employed in an occupation not covered by unemployment compensation laws, or who is a new entrant or reentrant to the labor force, or who has been unemployed for such an extended period of time that the individual has no work history for unemployment compensation purposes.

(ttt) "Level of sustainment" shall mean, the number of Title II and Title VI slots which the prime sponsor may sustain throughout FY 1977, that is, the number of slots which the program contained on June 30, 1976, or on October 31, 1976, whichever was higher.

(uuu) "Unemployed person" shall mean for Title VI purposes a person who is without a job and who wants and is available for work, including any person

who has been discouraged from seeking work but is currently available for work. For purposes of this definition a person is considered to be "without a job" during any calendar week in which he/she has worked no more than a total of ten (10) hours and/or has earned no more than $30.

(vvv) "Hawaiian Native" shall mean any individual, any of whose ancestors were natives of the areas which consisted of the Hawaiian Islands prior to 1778 (Sec. 701(a)(16)).

(www) "Vietnam-era veteran" shall mean a person who:

(1) Served on active duty in the Armed Forces for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, inclusive, and was discharged or released with other than a dishonorable discharge; or

(2) Was discharged or released from active duty in the Armed Forces for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975, inclusive.

(xxx) "Family income" shall mean the sum of all income received from all sources determined as follows:

(1) *Family income shall include*—(i) *Gross wages or salary.* The total money earnings received for work performed as an employee; it represents the amount paid before deductions for income taxes, social security, bond purchases, union dues, etc. (Wages and salaries received by individuals through public service employment and on-the-job training shall be included in income computations);

(ii) *Self-employment income.* Net money income (gross receipts minus operating expenses) from a business firm, farm, or other enterprise in which a person is engaged on his/her own account; and

(iii) *Other Income.* Money income received from such sources as net rents, social security benefits (OASI and disability insurance), pensions, alimony, payments for child support and periodic income from insurance policy annuities.

(2) *Family income shall exclude:* (i) General.

(A) Non-cash income, such as food stamps and wages received in the form of food or housing.

(B) Imputed value of owner-occupied property, i.e., rental value.

(C) Cash welfare payments.

(D) Payments made to participants in employment and training programs, such as payments for training, work experience, transportation, and dependency allowances except for those payments specified in paragraph (xxx)(1)(i) of this section.

(E) Capital gains and losses.

(F) One-time unearned income, such as the following (Not intended to be an all-inclusive list, but designed to illustrate the conceptual framework of one-time unearned income):

(*1*) Payments received for a limited fixed term under income maintenance programs and supplemental unemployment benefit plans.

(*2*) One-time (or fixed term) scholarship and fellowship grants.

(*3*) Accident, health, and casualty insurance proceeds.

(*4*) Disability and death payments, including fixed term (but not lifetime) life insurance annuities and death benefits.

(*5*) One-time awards and gifts.

(*6*) Inheritances, including fixed term annuities.

(*7*) Fixed term workers' compensation awards.

(*8*) Terminal leave pay.

(*9*) Soil bank payments.

(*10*) Agriculture crop stabilization payments.

(ii) *Veterans.* (A) Amounts received as pay or allowances by any person while serving on active duty in the Armed Services.

(B) Educational assistance and compensation payments to veterans and other eligible persons under Chapters 11, 13, 31, 34, 35, and 36 of Title 38, United States Code.

(yyy) "Comprehensive manpower plan (CMP)" shall mean the Prime Sponsor Agreement and the Annual Plans executed pursuant to the Prime Sponsor Agreement.

PART 95—PROGRAMS UNDER TITLE I OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart A—General

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AUTHORITY: Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839; Pub. L. 93-567, 88 Stat. 1845), Sec. 702(a) unless otherwise noted.

Subpart A—General

§ 95.1 Scope and purpose of Part 95.

(a) This Part 95 contains the Department of Labor's regulations for the establishment and provision of comprehensive manpower services, including public service employment, under Title I of the Act.

(b) This Part 95 should be read in conjunction with Parts 94 through 99 of this Title 29, Code of Federal Regulations. These parts, in total, comprise the regulations promulgated by the Secretary pursuant to the authority in the Act.

(c) Definitions for acronyms and major terms may be found in Part 94.

(d) Statutory authority for the regulations contained in this Part 95 may be found in section 702(a) of the Act, as well as other substantive provisions of the Act. Applicable statutory provisions, other than section 702(a), are noted generally in these regulations.

§ 95.2 Allocation of funds.

(a) *General.* (1) This § 95.2 sets out the procedures for allocating funds under Title I of the Act. Of the funds available for Title I in any fiscal year, 80 percent shall be allocated according to the procedures set forth in paragraph (b) of this section. The remaining 20 percent shall be allocated as set out in paragraphs (c) and (d) of this section. (sec. 103)

(2) Allocations made to prime sponsors under this section shall be published in the FEDERAL REGISTER as soon as possible after the enactment of any fiscal year appropriation. The Secretary may publish preliminary allocations to assist prime sponsors in planning for programs under Title I of the Act.

(3) The Secretary may reallocate Title I funds as provided in § 98.11.

(b) *Prime sponsor basic allocations.* (1) Eighty percent of the funds available under Title I of the Act shall be allocated as provided in this paragraph (b). Funds provided pursuant to this paragraph are for prime sponsors, as defined in § 95.3, except for prime sponsors which are rural Concentrated Employment Programs (CEP). This paragraph (b) does not apply to rural CEP's.

(2) One percent of the amount available under this paragraph (b) shall be allocated by the Secretary to State prime sponsors for the costs incurred in staffing

and servicing State Manpower Services Councils. If such funds exceed the amount needed for these costs, the excess may be used to carry out State services under Section 106 of the Act. Allocations under this paragraph shall be made according to the paragraph (b)(4) and (5)(i) allocation formula.

(3) Not less than $2,000,000 of the funds under this paragraph (b) shall be allocated among Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, consistent with the factors set out in paragraph (b)(4) of this section.

(4) Subject to the requirements of paragraph (b)(5) of this section, funds remaining after application of paragraphs (b)(2) and (3) shall be allocated to prime sponsors according to the following basic formula:

(i) Fifty percent of the funds subject to formula allocation shall be allocated on the basis of each prime sponsor area's proportion of the manpower allotment for all prime sponsor areas in the prior fiscal year;

(ii) Thirty-seven and one-half percent of the funds subject to formula allocation shall be allocated on the basis of a prime sponsor's proportion of the total number of unemployed persons (as defined by the Bureau of Labor Statistics) in all prime sponsor areas;

(iii) Twelve and one-half percent of the funds subject to the allocation formula shall be allocated on the basis of a prime sponsor's proportion of the number of adults in low income families in all prime sponsor areas.

(5)(i) No prime sponsor shall be allocated an amount under the paragraph (b)(4) allocation formula which is more than 150 percent of the amount of the manpower allotment obligated by the RA in the prior fiscal year for the area served by the prime sponsor; except that if the amount so allocated is less than 50 percent of the amount of manpower funds to which it is entitled under the (b)(4) allocation formula, such allocation shall be increased to 50 percent of its entitlement under the formula.

(ii) If any prime sponsor, pursuant to the paragraph (b)(4) and (5) allocation formula, is allocated less than 90 percent of the manpower allotment that was obligated by the RA to that area in the previous fiscal year, that prime sponsor shall, to the extent feasible, be provided an amount from the Secretary's discretionary fund, set out in paragraph (d) of this section, that will bring its funding during the current fiscal year to the 90 percent level.

(c) *Additional prime sponsor allocations.* This paragraph describes those prime sponsor allocations that are not subject to the basic allocation procedures of paragraph (b).

(1) *Consortia incentive funds.* In order to encourage consortia, as defined in § 95.3, that also comprise substantial portions (e.g., 75 percent) of labor market areas, the Secretary may use up to 5 percent of the funds available for Title I of the Act to provide additional funding for such consortia. Consortia which do not serve such areas shall not be eligible for additional funds. Prior to making decisions concerning these funds, the RA shall consult with the Governors of the appropriate States and afford them an opportunity to make recommendations.

(2) *State manpower services allocations.* The Secretary shall allocate to the States, according to the paragraph (b)(4) and (5)(i) allocation formula, 4 percent of the funds available under Title I of the Act, to enable the States to provide services, as set out in Subpart D of this Part 95.

(3) *Allocations for prime sponsors which were rural CEP's.* The Secretary shall fund a limited number of prime sponsors which were rural CEP's from any funds available to carry out Title I, except funds allocated under paragraph (b).

(4) *Vocational education allocation.* The Secretary shall allocate to the Governors, according to the paragraph (b)(4) and (5)(i) allocation formula, 5 percent of the funds available under Title I to provide financial assistance for vocational education. Each Governor shall allocate these funds as required in Subpart D of this Part 95.

(d) *Secretary's discretionary fund.* Any funds available under Title I that are not allocated under paragraphs (b) and (c) shall be first utilized by the Secretary to assure each prime sponsor, including rural CEP prime sponsors, of funding at the 90 percent level, as set out in paragraph (b)(5)(ii) of this § 95.2. The Secretary shall utilize the remainder of the funds available under this paragraph at his discretion, taking into consideration (1) the provision of incentive funds for multijurisdictional agreements entered into by States, as set out in § 95.3 (b) and (d); (2) continued funding through prime sponsors of programs of demonstrated effectiveness; and (3) other factors the Secretary deems necessary to the carrying out of his responsibilities under the Act.

§ 95.3 Eligibility for funds.

(a) Funds may be allocated by the Secretary to prime sponsors (sec. 102). Prime sponsors are:

(1) States;

(2) Units of general local government which have a population of 100,000 or more persons;

(3)(i) Consortia consisting of general local governments which are (A) located in reasonable proximity to each other; (B) each of which retains responsibility for operation of the program; (C) at least one of which has a population of 100,000 or more persons; and (D) which, as a consortium, can plan and operate a comprehensive manpower program that provides administrative and programmatic advantage over the other methods of delivering services under the Act;

(ii) A consortium, under this subparagraph (3), which consists of units of local government in more than one State, may be approved by the RA after the approval of the Governors of the States involved has been obtained.

(iii) No consortium agreement will be approved if one of the parties to the agreement is a unit of local government which is not eligible to be a prime sponsor under the Act and if, in addition, the effect of the agreement is to render ineligible the prime sponsor otherwise responsible for serving the area of the ineligible local government; *Provided, however,* That nothing in this paragraph shall prohibit the otherwise responsible prime sponsor from granting its consent to such a consortium agreement;

(4)(i) Any unit of general local government, or any combination of such units, without regard to population, which, in exceptional circumstances, is determined by the Secretary, after giving serious consideration to comments from the prime sponsor otherwise responsible for the area and the Governor, to serve a substantial portion (e.g., 75 percent) of a functioning labor market area or to be a rural area with a high level of unemployment and to have demonstrated that (A) it has the capability for effectively carrying out a comprehensive manpower program under the Act, evidenced by its effective operation of programs such as CEP or other multicomponent programs, (B) there is a special need for services provided by the Act (e.g., the area has a high proportion of such groups within the population as older workers, high school dropouts, or has a high unemployment rate, substantial outmigration or unique commuting problems), and (C) it will afford administrative and programmatic advantages over other methods of delivering services under the Act;

(ii) The following units of general local government or combination of such units shall automatically be considered as exceptional circumstance prime sponsors since such unit(s) have been determined by the Secretary to meet the requirements of paragraph (a)(4)(i) of this section:

(A) A unit of general local government which was a prime sponsor in the previous fiscal year, had a population of 100,000 or more persons according to the previous year's census update estimate, and has since fallen below 100,000 (but not below 90,000) in population; and

(B) A combination of units of general local government which meet the requirements of paragraph (a)(3)(i) (A), (B), and (D) of this section, which were members of the same consortium in the previous fiscal year, and which contain at least one unit which had a population of 100,000 or more persons according to the previous year's census update estimate, but has since decreased below 100,000 (but not below 90,000) in population; and

(5) A limited number of CEP grantees existing at the time of the enactment of the Act, serving rural areas having a high level of unemployment which the Secretary determines have demonstrated through prior performance a special capability for carrying out programs in such areas and are designated for that purpose.

(b)(1) A State may enter into a multijurisdictional agreement with any unit

of local government within the State that has a population of at least 100,000 persons in order to provide services within a designated area. Such an agreement may be approved by the RA when, to the extent consistent with State and local law, each party signatory to the consortium agreement accepts responsibility for the operation of the program, and the RA believes that the parties will, pursuant to the agreement, plan and operate a comprehensive manpower program which provides administrative and programmatic advantages over other methods of delivering services under the Act. All requirements for consortia in Parts 94 through 99 apply to such State multijurisdictional agreements unless otherwise stated.

(2) Incentive funds may be provided for an agreement under paragraph (1) if the agreement includes every eligible prime sponsor in the State.

(c) A consortium which comprises a substantial portion of a functioning labor market (e.g., 75 percent) shall be eligible for incentive funds, as provided in § 95.2(c)(1). The RA shall make such determinations, taking into consideration the definition and listing of labor market areas published by the Department, and the recommendations of the Governors.

(d) Incentive funds for consortia or State multijurisdictional agreements shall be nationally uniform percentage increase of the amount due them under § 95.2(b)(4), but shall not exceed 10 percent of the amount.

(e) No State, unit of general local government, or consortium may apply to be designated as a prime sponsor for any area within its jurisdiction that is also within the jurisdiction of another prime sponsor unless that other prime sponsor consents or fails to submit an approvable grant application or has its grant terminated, in whole or in part, by the Secretary.

(f) Any unit of general local government that does not intend to be served by the prime sponsor which would normally serve it under Title I shall inform that prime sponsor of its determination.

§ 95.4 Data base for determining eligibility.

In order to determine prime sponsor eligibility, the Secretary shall use the 1970 official Census as published by the U.S. Bureau of the Census or Bureau of the Census certified updates which are satisfactory to the Secretary of Labor.

Subpart B—Grant Planning, Application, and Modification Procedures

§ 95.10 General.

This Subpart B provides the procedures for obtaining and modifying a grant to operate programs under Title I of the Act. Specifically, this subpart describes the procedures in the grant award process—from preapplication through the grant application process, to review by the Department, approval or disapproval of the grant, and modification. This subpart also describes the functions of prime sponsor manpower planning councils and State Manpower Services Councils.

§ 95.11 Preapplication for Federal Assistance; consortium agreements.

(a)(1) The Secretary of Labor, through a notice in the FEDERAL REGISTER, shall annually inform all potential prime sponsor applicants of their eligibility to receive funds under Title I. A prime sponsor applicant interested in receiving financial assistance shall submit by a date specified by the Secretary in the FEDERAL REGISTER notice and not later than 30 days prior to the submission of its completed grant application to the clearinghouses for formal review, as specified in § 95.15(c), a preapplication to the RA, the Governor and the appropriate State and areawide A-95 clearinghouses (See Part I of Attachment A, OMB Circular A-95). The preapplication shall consist of Standard Form 424 as prescribed by Federal Management Circular (FMC) 74-7, with an attachment giving the following information:

(i) Population of area(s) to be served;

(ii) Certification that the prime sponsor applicant, except for CEP and consortia prime sponsor applicants, has the required general government authority as defined in § 94.4 of this subtitle;

(iii) Name of any ineligible unit of general local government located within the prime sponsor applicant's jurisdiction that has informed the prime sponsor applicant that it will not be participating in the prime sponsor applicant's grant.

(iv) Certification that the development of the prime sponsor applicant's grant application will be in accordance with the requirements of the Act and regulations; and

(v) The signature of the chief elected official(s) or chief executive officer(s), as appropriate, of each prime sponsor applicant. For a newly formed consortium, and for a consortium in which one or more members have joined or withdrawn, the signature of the chief elected official or chief executive officer of each consortium member is required. In the case of an established consortium with no membership changes, the preapplication may, with the consent of all consortium members, be signed by the consortium's chief executive officer.

(2) State and areawide clearinghouses may request information in addition to that furnished on the preapplication form. Such a request shall be made within a reasonable period of time in order to avoid delay in a prime sponsor applicant's preparation of its grant application.

(3) The A-95 clearinghouses shall, within 30 days of receiving the preapplication, inform the prime sponsor applicant of any actual or potential problems with the preapplication and notify the prime sponsor applicant if they wish to review the completed application. If the prime sponsor applicant receives no such notification, the prime sponsor applicant has fulfilled its obligation under A-95 and it may submit its application to the RA without submitting it to the A-95 clearinghouses as specified in § 95.15(d).

(b) In addition to the preapplication, each consortium of local governments shall, at a date established by the RA, submit for RA approval an agreement covering programs funded under Title I and Title II. The agreement shall include the items required by this paragraph (b). The agreement shall be signed by the chief elected official or chief executive officer of each consortium member. The agreement shall include the following:

(1) A statement that the agreement has been formed under the Comprehensive Employment and Training Act of 1973, as amended, and the dates through which the consortium takes effect. An agreement shall be written to establish a consortium arrangement for the express purpose of conducting a program under the Act or an existing joint powers or other agreement shall be amended to include reference to the Act as part of the agreement.

(2) A listing of the units of government which are parties signatory to the agreement (i.e., the governmental units which are members of a consortium; not those governmental units merely served by a consortium).

(3) A listing of any ineligible governmental unit which would normally be within the jurisdiction of the consortium but has informed the members of the agreement of its desire not to have services provided through the consortium;

(4) A description of the geographical areas which will be served through the agreement.

(5) The population to be served;

(6) A certification that State and local law permits services under the consortium agreement to be provided within the entire geographical area covered by the agreement, including the jurisdiction of any local government located within the geographical area covered by the agreement (i.e., that the agreement is not prevented by State or local law from taking effect in the entire geographical area which it intends to serve);

(7) An attached letter from each unit's chief legal officer assuring that each party signatory has the legal authority, under State or local law, to enter into the consortium agreement (these letters are made part of the agreement);

(8) A statement that one of the following procedures shall be used for signing grant agreements with the Department:

(i) That grant agreements with the Department shall be signed by the chief elected official or chief executive officer of each party to the consortium agreement; or

(ii) That, pursuant to a specific designation in the consortium agreement, grant agreements with the Department shall be signed by the chief elected official or chief executive officer of one or more of the parties to the consortium agreement, or by the chief executive officer of the administrative unit established under paragraph (e)(1) of this section;

(9) A certification that to the extent consistent with State or local law, each

party signatory to the consortium agreement accepts responsibility for the operation of the program (i.e., each member of the consortium, rather than any administrative arm, has ultimate responsibility for the program's operation and success);

(10) A description of the powers, functions and responsibilities reserved by the parties to the consortium agreement specifying the process by which decisions will be made, the process by which each party to the agreement will review and approve the grant application, and the procedure by which chief elected officials will participate in the planning and operation of the program, if they so desire. However, no agreement that has been validly entered into prior to the establishment of this requirement by the regulations for this Act published March 19, 1974, need be modified to include this provision.

(11) A statement of the powers, functions and responsibilities which will be delegated to an administrative entity to operate the program and the name and organizational structure of that entity.

(c) An established consortium which submitted an agreement in a prior year shall attest in writing that the agreement remains the same or has been changed in certain specific respects which it shall set forth in the attestation and this attestation shall be signed by the chief elected official or chief executive officer of each consortium member.

(d) In signing grant agreements with the Department, the authorized consortium signator(s) shall certify that the procedures described in the consortium agreement pursuant to paragraph (b)(10) of this section have been utilized.

(e)(1) The consortium shall be the prime sponsor under the Act. An administrative unit or one member of the consortium must be designated to operate the program.

(2) The division of powers, functions, and responsibilities between the consortium members and the administrative unit shall be workable and clearly delineated. The administrative unit may be delegated the power to enter into contracts and subgrants and other necessary agreements, to receive and expend funds, to employ personnel including participants under the Act for the purposes of administering the program only, to organize and train staff, to develop procedures for program planning, operation, assessment and fiscal management, to evaluate program performance and determine resulting need to reallocate resources, and to modify the grant agreement with the Department. The administrative arm of the consortium should have responsibility for the entire operation of the program, but the consortium members shall reserve to the consortium the right of evaluation and the decision to reprogram funds.

(f) A consortium established under these regulations shall have a stated duration at least equal to the period of the grant.

(g) All preapplications from applicants which are eligible only in exceptional circumstances, as defined in § 95.3(a)(4) shall, in addition to the requirements of paragraph (a), include in their preapplications a statement and justification that they meet the requirements of § 95.3(a)(4). Consortia formed in exceptional circumstances shall also submit an agreement as required in paragraph (b).

§ 95.12 Prime sponsor designation.

Upon receipt of a completed preapplication, the RA shall determine whether the applicant is eligible to be designated as a prime sponsor and shall notify the applicant of the determination. Exhibit M–2, Notice of Preapplication Review Action, FMC 74–7 will be used. A grant application package (§ 95.14(b)) shall be sent to each applicant designated as being eligible.

§ 95.13 Planning process; advisory councils.

(a) *General.* An applicant for financial assistance shall submit an approvable grant application, as set out in § 95.14. In developing and modifying such a plan, an applicant shall utilize the advisory councils set out in this section (sections 104, 105, and 107).

(b) *Planning process.* (1) The prime sponsor shall have a planning process for the development of its grant application. That process shall utilize, as appropriate, the advisory councils established in this section and shall also assure the participation in program planning of community-based organizations and the population to be served.

(2) In planning the methods for providing services that will be funded under the Act, the prime sponsor shall review existing services and facilities in the community and give due consideration to the utilization of these facilities which are available from Federal, State, and local agencies, including community based organizations. In reviewing the existing services and facilities, consideration shall be given to the costs, responsiveness, adequacy, and effectiveness of each agency's services to assure that unnecessary duplication has been avoided.

(3) In developing the Title I Annual Plan, the prime sponsor shall not reduce services to youth because of the availability of financial assistance under Subpart 3, Part C of Title III (sec. 346(2)).

(c) *Prime sponsor Manpower Planning Council.* (1) Each prime sponsor shall appoint a Manpower Planning Council representative of the geographic area to be served. The Planning Council function is advisory. The Council's advisory authority does not free the prime sponsor from its final decisionmaking responsibilities under the Act.

(2) The Planning Council shall advise the prime sponsor in the setting of basic goals, policies, and procedures for its program under Title I and Title II of the Act. It shall make recommendation regarding program plans, and provide for continuing analyses of needs for employment, training and related services in such areas. Planning Councils shall monitor all manpower programs funded under Title I and Title II of the Act and provide for objective evaluation of other manpower and related programs operating in the prime sponsor's areas, for the purpose of improving the utilization and coordination of the delivery of such services. The procedures for evaluating programs not funded under Title I and Title II of the Act will be developed in cooperation with the agencies affected. The Planning Council shall make recommendations based upon its analyses to the prime sponsor, which will consider them in the content of its overall decisionmaking responsibility.

(3) Each prime sponsor shall, to the extent practical, include as appointments to its Planning Council members who are representative of the participant community (e.g., women, persons of limited English-speaking ability, and other minority groups) and of community-based organizations, the SESA, education and training agencies and institutions, business (e.g., representatives of a locally based business firm, the National Alliance of Businessmen, or Chamber of Commerce) organized labor, and where appropriate, agriculture. Additionally, each prime sponsor shall invite representatives of appropriate veterans' organizations or groups to serve as temporary members of its Planning Council. (Sec. 305(a) of Pub. L. 95–93.) Generally, staff of State or local government agencies should not take the place of representatives of the participant communities which their agencies serve. Persons representative of other interested groups may also be appointed. The prime sponsor shall appoint a chairperson of the Planning Council and provide professional, clerical and technical staff to serve it. Funds for supportive services and related staff costs for the Planning Council may be made available from a prime sponsor's basic allocation.

(4) No member of the Planning Council shall cast a vote on any matter which has direct bearing on services to be provided by that member (or any organization with which that member is associated).

(d) *State Manpower Services Council.* (1) A State prime sponsor shall establish, in addition to its Planning Council under paragraph (c), a State Manpower Services Council (SMSC) representative of the geographic area to be served. The SMSC function is advisory and does not relieve the State of its final decisionmaking responsibilities under the Act.

(2) Consistent with the requirements of Section 107 of the Act, the Governor shall appoint Council members, as follows:

(i) At least one-third of the membership of the Council shall be composed of representatives of prime sponsors who have been designated in accordance with procedures agreed upon by the chief executive officers of such prime sponsors. (All prime sponsors within the State need not be represented; whatever the size of the Council, one-third of its membership shall be representatives of prime sponsors within the State).

(ii) One representative shall be appointed from each of the following: The State Board of Vocational Education, the State Advisory Council on Vocational Education, the State employment service, and any State agency the Governor believes has an interest in manpower or manpower-related services within the State (Sec. 203 of the Vocational Education Act of 1973, as amended (Pub. L. 94–482).

(iii) Representatives shall be appointed from organized labor, business and industry, the general public, community-based organizations, and from the population to be served under the Act (including represenation of women, persons of limited English-speaking ability, and other minority groups when such persons represent a significant portion of the participant population). Additionally, representatives of appropriate veterans' organizations or groups shall be invited to serve as temporary members. Generally, staff of State or local government agencies should not take the place of represenatives of the participant communities which their agencies serve (sec. 305(a) of Pub. L. 95–93).

(3) The Governor shall appoint a chairman for the Council and provide the Council with professional, technical, and clerical staff. The Council shall meet as it deems necessary.

(4) Council responsibilities shall include, but not be limited to:

(i) Reviewing prime sponsor grant applications, proposed modifications, and comments thereon, particularly for utilization of and coordination with State agencies and for coordination of plans and operations in contiguous areas.

(ii) Reviewing State agency plans for providing services to prime sponsors;

(iii) Making recommendations to prime sponsors, agencies providing manpower services, the Governor, and the general public on improving the coordination and effectiveness of manpower services within the State;

(iv) Monitoring continuously (A) the operation of programs conducted by prime sponsors in the State and (B) the availability, responsiveness, adequacy, and effective coordination of State services provided by all manpower-related agencies. The monitoring conducted by SMSC's shall include an emphasis upon reviewing statewide and inter-prime sponsor issues of utilization and coordination of manpower resources of State agencies, and the coordination of plans and operations in contiguous areas. The extent and procedures for monitoring prime sponsors and State agencies must be defined by the SMSC and publicized to all prime sponsors and State agencies affected prior to their being implemented;

(v) Submitting an Annual Report to the Governor which shall be a public document, and issuing such other studies, reports or documents to the Governor and prime sponsors as the SMSC believes necessary to effectively carry out the Act. The Annual Report shall include an analysis of the coordination achieved during the previous year, efforts taken to effect such coordination, and recommendations on potential actions that would further facilitate effective coordination. This report shall be submitted no later than 120 days after the end of the Federal fiscal year. A copy of this report shall also be submitted to the State Advisory Council on Vocational Education. Comments received from the State Advisory Council on Vocational Education shall be incorporated into the Annual Report to the Governor (Sec. 203 of the Vocational Education Act of 1973, as amended (Pub. L. 94–482));

(vi) Consulting with the State Advisory Council on Vocational Education in order to identify the employment and training vocational education needs within the State and to assess the extent to which employment training, vocational education, vocational rehabilitation and other programs assisted under this and related Acts represent a consistent, integrated and coordinated approach to meeting such needs Sec. 203 of the Vocational Education Act of 1973, as amended (Pub. L. 94–482)); and

(vii) Commenting at least once annually on the reports of the State Advisory Council on Vocational Education and incorporating those comments in the Annual Report to the Governor (Sec. 203 of the Vocational Education Act of 1973, as amended (Pub. L. 94–482)).

(5) The Governor shall appoint a representative of the Council to represent the SMSC on the State Advisory Council on Vocational Education.

(6) The Governor shall appoint a representative of the Council to represent the Council on the State Occupational Information Coordinating Committee.

(e) *Combined planning and services councils.* In any State where the State is the only prime sponsor, the prime sponsor planning council may also perform the functions of the State Manpower Services Council. In such instances, the membership of the prime sponsor's planning council shall reflect the membership requirements of the State Manpower Services Council, in addition to meeting the membership requirements of a prime sponsor planning council, except that the provision of § 95.13(d)(2)(i) is not required.

§ 95.14 Content and description of grant application.

(a) *General.* This section describes the grant application which designated prime sponsors shall use to apply for funds under title I. The application shall consist of two documents, the Prime Sponsor Agreement (PSA) and the Annual Plan (AP). Detailed instructions for completing the application, which is described in summary form below, are contained in the *Forms Preparation Handbook.*

(b) *Prime Sponsor Agreement.* A designated prime sponsor applying for assistance for the first time shall submit to the RA a signed copy of the PSA. A designated prime sponsor which has already entered into a PSA in a previous year shall submit to the RA with its Annual Plan, a certification that the PSA remains the same or that it is revised as described in attachments to the certification. The initial submission and subsequent certification of the PSA are subject to the comment and publication procedures of § 95.15. The PSA shall consist of the Signatory Page, the Narrative Description of General Information, Assurances and Certifications, and, for consortia, the approved consortium agreement.

(1) *Signatory page.* The Signatory Page, when signed by the designated prime sponsor and the authorized representative of the RA, shall constitute a legal and binding document by which the designated prime sponsor agrees that all work performed under its Annual Plan will be in accordance with the Act, the Assurances and Certifications and the regulations of 29 CFR Parts 94, 95, 96 and 98.

(2) *Narrative description of general information.* The Narrative Description of General Information shall include a detailed statement on the following items:

(i) *Program purpose.*

(ii) *Geographic description and economic conditions of area to be served.* A brief description of the geographic area to be served and the economic conditions of the area.

(iii) *Approach.* (A) A description of the recruitment and selection methods to be used.

(B) A description of the efforts to be undertaken to increase the participation of qualified disabled veterans and qualified Vietnam-era veterans who are under 35 years of age.

(C) A description of the placement and follow-up mechanisms and procedures to be used.

(D) *Public Service employment program.* (*1*) A description of actions to insure compliance with personnel procedures and collective bargaining agreements for jobs in other than the entry level.

(*2*) A description of the training for supervisory personnel.

(*3*) A description of efforts to remove artificial barriers.

(*4*) A description of the specific steps to be undertaken to provide consideration to special veterans, those veterans who have received other than a dishonorable discharge within four years prior to application, and welfare recipients.

(*5*) A description of the emphasis which will be placed on the development of jobs for veterans which will utilize skills acquired through their military experience.

(iv) *Delivery agents.* (A) An explanation of the methods and criteria to be used in the selection of deliverers of service.

(B) A description of priority given to area skill centers.

(C) A description of efforts to utilize apprenticeship or other on-the-job training opportunities available under Section 1787 of Title 38, United States Code.

(v) *Prime sponsor planning.* (A) A description of the role and procedures of the planning council in submitting rec-

ommendations, monitoring, and analyses, as well as information on the location, frequency, and publicizing of meetings, and whether minutes are kept and meetings are open to the public.

(B) A description of the staff support of the council.

(C) A list of the sectors represented on the council.

(D) A description of the participation of community-based organizations and groups in the program plan.

(vi) *Management and administrative plan.*—(A) *Organizational structure.* A description of the prime sponsor's organizational structure.

(B) *Administrative controls.* A description of the internal administrative controls including:

(1) Monitoring system;

(2) Evaluation system;

(3) Personnel or merit system (including the prime sponsor's plan for obtaining an acceptable personnel system as required in § 98.14(b));

(4) Accounting system;

(5) Fiscal reporting and participant tracking system(s);

(C) *Allowance payments system.* A description of the details of the allowance payments system, including waiver provisions.

(D) *Grievance procedures.* A description of the procedures for resolving any complaints, alleging violation of the Act, regulations, PSA, or Annual Plan, of CETA participants, contractors, subgrantees and other parties.

(E) *Equal employment opportunity.* A description of the mechanisms which will be used to assure nondiscrimination and equal employment opportunities.

(3) *Assurances and Certifications.* The Assurances and Certifications form is a signature sheet on which the prime sponsor assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable Federal Management Circulars and Office of Management and Budget (OMB) circulars. The Assurances and Certifications form appears in the *Forms Preparation Handbook.* Following is a summary of the items which are described in detail on that form:

(i) General Assurances:

(A) Compliance with the Act and regulations, including conformance to amendments;

(B) Compliance with FMC 74–4 and 74–7 and OMB Circular A–95;

(C) Legal authority to apply for the grant (secs. 102(a), 701(a) (9) and (10));

(D) Compliance with Title VI of the Civil Rights Act of 1964;

(E) Non-discrimination (secs. 703(1) and 712);

(F) Compliance with the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (FMC 74–7);

(G) Compliance with the Hatch Act as amended and restrictions on political activities (sec. 710);

(H) Prohibition on use of position for private gain (sec. 702(a));

(I) Access of Comptroller General and Secretary to records and documents pertaining to the Act (sec. 713(2));

(J) Non-support of religious facilities (sec. 703(4));

(K) Maintenance of required health and safety standards (sec. 703(5));

(L) Provision of appropriate employment and training conditions in regard to type of work, geographical region and proficiency of the participant (sec. 703(4));

(M) Provision of workmen's compensation protection to participants in on-the-job training, work experience, or public service employment programs under the Act at the same level and to the same extent as other employees of the employer who are covered by a State or industry workmen's compensation statute; and provision of workmen's compensation insurance or medical and accident insurance for injury or disease resulting from their participation to those individuals engaged in any program activity under the Act, i.e., work experience, on-the-job training, public service employment, classroom training, services to participants, and other activities, where others similarly engaged are not covered by an applicable workmen's compensation statute (secs. 703(6) and 208(4));

(N) Use of funds under the Act to supplement, rather than supplant funds otherwise available, prohibition on displacement of employed workers by participants employed under the Act, and prohibition on impairment of existing contracts for services (secs. 703(11) and 703(7));

(O) Training only in occupations which require two or more weeks of preemployment training, unless these are immediate employment opportunities (secs. 703(8), and 105(a)(6));

(P) Training which has a reasonable expectation to lead to unsubsidized employment and which provides for the development of participants' potential consistent with their capabilities (secs. 703(9), 105(a)(6), and 703(10));

(Q) Use of funds to supplement rather than supplant the level of funds otherwise available for the planning and administration of the program (sec. 703(11));

(R) Compliance with reporting and recordkeeping requirements of the Act and regulations (secs. 703(12) and 311(c));

(S) Contribution to the occupational development or upward mobility of individual participants (sec. 703(13));

(T) Provision of required administrative and accounting controls (sec. 703(14));

(U) Provision for the manpower needs of youth in the area served (sec. 703(15));

(V) Compliance with minimum wage requirements specified under the Act (secs. 111 (a) and (b) and 208(a)(2));

(W) Compliance with applicable labor standards pertaining to the worksite or training facility (secs. 111(b) and 706);

(X) Services and activities provided under this Act will be administered by or under the supervision of the applicant (sec. 105(a)(1)(B));

(Y) No funds shall be used for lobbying activities in violation of 18 USCA 1913;

(Z) Compliance with Department of Treasury Regulations found at 31 CFR 205.

(AA) Compliance with the provisions in the Clean Air Act and Federal Water Pollution Control Act.

(ii) Additional assurances for Title I programs, as required by the Act:

(A) Provision of manpower services to those most in need of them, and consideration of the need for continued funding of programs of demonstrated effectiveness to serve them (sec. 105(a)(1)(D));

(B) Design of programs of institutional skill training for skill shortage occupations (sec. 105(a)(6));

(C) Submission of a comprehensive plan in accordance with section 105(a) and compliance with the provisions of section 105(b);

(D) Arrangements to assist the Secretary in carrying out his responsibilities under sections 105 and 108 of the Act (sec. 105(a)(7));

(E) Appropriate steps taken to provide for the increased participation of qualified disabled veterans and qualified Vietnam-era veterans who are under 35 years of age;

(F) Arrangements to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under Section 1787 of Title 38, United States Code. (Sec. 105(a)(3)(e)).

(G) Non-reduction in the numbers of youth to be served from the previous year in anticipation of the availability of funds under Subpart 3, Part C of Title III and prohibition against decreasing the extent of services offered to these youth, (e.g., replacing classroom training with only counseling. (Sec. 346(a)(2)).

(iii) Additional assurances relating to public service employment programs as follows:

(A) Special consideration be given to the filling of jobs which provide prospects for advancement or continued employment by providing complementary training and manpower services in accordance with procedures established in section 205(c)(4);

(B) Provision of public service jobs, to the extent feasible, in occupational fields most likely to expand within the public or private sector as the unemployment rate recedes (sec. 205(c)(6));

(C) Special consideration in filling transitional public service jobs be given to persons most severely disadvantaged in terms of length of unemployment and prospects for finding employment unassisted, but not authorize the hiring of any person when another person is on lay-off from the same or equivalent job (sec. 205(c)(7));

(D) Prohibition against the use of funds to hire any person to fill a job

opening created by the action of an employer in laying off or terminating the employment of any other regular employee not supported under the Act in anticipation of filling such vacancy by hiring an employee to be supported under the Act (sec. 205(c)(8));

(E) Consideration of persons who have participated in manpower training programs (sec. 205(c)(9));

(F) Compliance with periodic review procedures pursuant to section 207(a) of the Act (sec. 205(c)(17));

(G) Removal of artificial barriers to public employment by agencies and institutions receiving financial assistance and contributing, to the maximum extent feasible, to the elimination of artificial barriers to employment and occupational advancement (secs. 205(c)(18) and 205(c)(21));

(H) Maintenance or provision of linkages with upgrading and other manpower programs to assist persons employed in public employment programs to fulfill their career goals (sec. 205(c)(19));

(I) Employment of not more than one-third of the participants in a bona fide professional capacity except in the case of classroom teachers; the Secretary may waive this limitation in exceptional circumstances (sec. 205(c)(22));

(J) Allocation of jobs equitably to local governments and agencies (sec. 205(c)(23));

(K) Provision of jobs in each promotional line which will not infringe upon the promotional opportunities of unsubsidized current employees and provision of jobs only at the entry level in each promotional line until applicable personnel procedures and collective bargaining agreements have been met (sec. 205(c)(24));

(L) Provision of jobs in addition to those that would otherwise be funded by the prime sponsor without assistance under the Act (sec. 205(c)(25));

(M) Appropriate steps taken to provide for the increased participation of qualified disabled veterans and qualified Vietnam-era veterans who are under 35 years of age.

(N) Selection of other than necessary technical supervisory and administrative personnel from the unemployed and underemployed population. (sec. 205(c)(20)).

(iv) Special certification for State grantees: Compliance with requirements and provisions of sections 106 and 107 of the Act.

(v) Additional assurance for Title II programs:

(A) Hiring of residents of areas of substantial unemployment for all jobs created under Title II and providing services to benefit residents of such areas.

(vi) Additional assurance for Title VI programs:

(A) Only persons residing in the area served by the eligible applicant under title VI of the Act will be hired to fill jobs created under the Act and that the public services provided by such jobs shall, to the extent feasible, be designed to benefit the residents of such areas except that funds allocated under title VI of the Act (section 603(a)(2)(B)), to an area eligible for assistance under title II of the Act shall only be used to provide project and program opportunities to persons residing in those areas of substantial unemployment as defined in section 204(c). (Sec. 603(a)(2).)

(c) On a date set by the Secretary, an Annual Plan for Title I must be submitted by designated prime sponsors in order to obtain funds under Title I. The Annual Plan is subject to the comment and publication procedures of § 95.15. The Annual Plan shall consist of the following:

(1) *Application for Federal assistance.* The Application for Federal Assistance shall identify the designated prime sponsor and the amount of funds requested and provide information concerning the area to be served and the number of people expected to benefit from the program. Standard Form 424 contained in FMC 74-7 shall be used.

(2) *Annual narrative description of program.* The Annual Narrative Description of Program shall contain a detailed statement of the following items:

(i) *Objectives and needs for assistance.* (A) *(1)* A description of the significant segments which are most in need of service, including a description of the local goals developed for qualified disabled veterans and qualified Vietnam-era veterans who are under 35 years of age; and

(2) A breakout of the demographic groups (in terms of age, race, and sex) of the unemployed population, a breakout of the plan of service to each of the demographic groups, and justification for a plan of service to any of the demographic groups which is more than 15 percent below the group's incidence in the unemployed population. Variances in excess of 15 percent which occur because of the prime's concentration on serving its economically disadvantaged and/or underemployed population will be considered adequate justification.

(B) An assessment of job opportunities in the area.

(ii) *Results and benefits expected.* (A) A statement of the specific participant goals the prime sponsor intends to accomplish.

(B) A statement of other goals.

(iii) *Approach.*—(A) *Program activities and services. (1)* A description of the activities and services to be provided.

(2) A description of the participant flow and the relationship among the activities to be provided.

(3) A description of programs, if any, designed for persons of limited English-speaking ability.

(4) For those applicants intending to request funds under section 303, of the Act, a discussion of how migrants and seasonal farmworkers will be served.

(B) *Delivery agents. (1)* A list of deliverers and the services to be provided by each.

(2) A description of the linkages established.

(3) A list of the manpower related services and facilities which are available from Federal, State, and local agencies and an indication of which have been determined to have demonstrated effectiveness in providing manpower services.

(4) An explanation for non-use or duplication of existing services and facilities including programs of demonstrated effectiveness listed in § 95.14(c)(2)(iii)(B).

(C) *Discussion of program planning summary (PPS) and budget information summary (BIS). (1)* An explanation of how the PPS reflects the goals, objectives, and activity description provided above.

(2) An explanation of how costs were determined by the BIS.

(D) *Property.* A list of any items of capital equipment which individually cost more than $1,000 including quantity and prices.

(iv) *Public service employment program.* (A) For those Title II applicants whose geographic area differs from the Title I areas described in the PSA, a description of the Title II area.

(B) *Analysis of public service needs.* A description of the unmet public service needs.

(C) *Approach.* A description by employing agency of the types of jobs to be funded including: *(1)* An explanation of how these jobs relate to the public service needs identified in paragraph (c)(2)(iv)(B) of this section.

(2) A description of determination of rates of compensation when they differ from what is normally paid by the employer.

(3) A description of the education, training, and supportive services to participants.

(4) A maintenance of effort verification.

(5) A description of plans to improve and expand employment and advancement opportunities of the target population.

(6) An explanation of how the public service employment program is integrated with other activities and services.

(7) A narrative explanation for basis of funding and job allocation to each local government and agency.

(3) *Program planning summary.* The Program Planning Summary requires a prime sponsor to provide a quantitative statement of planned enrollment levels, the participants to be served by each program activity (classroom training, on-the-job training, public service employment, work experience, and other activities) and planned outcomes for program participants. It shall also include an identification of the significant segments of the population and the number of individuals in each to be served.

(4) *Budget information summary.* The Budget Information Summary shall include a quantitative statement of yearly planned expenditures by cost category (administration, allowances, wages, fringe benefits, training, and services), planned quarterly obligations, and

planned quarterly expenditures by program activity.

(5) *Public service employment occupational summary.* The Public Service Employment Occupational Summary shall include a description of proposed public service job opportunities, occupations and wages, including a comparison of such wages for similar unsubsidized jobs in each employing agency. If, at the time of submission of the Annual Plan, final decisions have not yet been made on all jobs to be filled, the Occupational Summary need not be submitted with the Annual Plan. Instead, it shall be submitted to the RA as soon as all jobs are selected but not later than 60 days after the date the Annual Plan is executed.

§ 95.15 Comment and publication procedures relating to submission of grant application.

(a) (1) Prime sponsor applicants are required to make public, provisions of the grant application prior to submission to the RA (Secs. 105(c)(2) and 108).

(2) The requirement to make the grant application public, which is necessary to create public awareness of the proposal and to obtain comments from interested parties, may be fulfilled through public hearings on the grant application or through public notice in newspapers, bulletins, or other media sources. At a minimum, each prime sponsor applicant shall make the proposed grant public as provided in paragraphs (b), (c), and (d) of this section.

(b) (1) Each prime sponsor applicant shall publish in a minimum of one issue of a newspaper or newspapers (including minority newspaper(s), where feasible) which will provide for a general circulation throughout the area to be served by the prime sponsor's grant, a statement indicating the following information:

(i) The source of funds under which the grant is requested;

(ii) The amount of grant allotment;

(iii) A brief summary of the purpose of the grant, e.g., an explanation of the employment and training opportunities which are proposed for funding; and

(iv) The location and hours when the complete grant application and a comparison of performance against prior year's plan through the most recent quarter can be reviewed and the address and phone number where questions and comments may be directed.

(2) The publication shall be made 30 days prior to the submission of the application to the RA. A copy of the news paper article shall be transmitted to the R.A.

(c) Each prime sponsor applicant shall provide a copy of its application for the purpose of commenting thereon, to the Governor 30 days prior to its submission to the R.A. At the same time it shall provide a summary to appropriate units of general local government within its jurisdiction with a population of at least 25,000 persons, to appropriate Indian prime sponsors, and to labor organizations representing employees engaged in similar work in the same areas as that for which enrollees will receive subsidized employment or training.

(d) Each applicant that, in response to the submittal of its preapplication, has received notification from the appropriate State and sub-State clearinghouse(s) that it wishes to review the completed application (see § 95.11(a)(3)) should also provide a copy of its application to such clearinghouse(s) 30 days prior to its submission to the R.A.

(e) Comments pursuant to paragraph (b), (c), and (d) of this section shall be made to the prime sponsor applicant and the RA within 30 days of publication. A prime sponsor applicant shall acknowledge any written comment made pursuant to this section. It shall inform any party submitting a substantive written comment of whether any plan revision will be made in response to the comment and the reasons for the prime sponsor applicant's determination. The prime sponsor applicant shall provide copies of all written comments to the Planning Council and the Governor. In addition, all substantive written comments and responses will be transmitted to the RA with the grant application, unless the comments which were made during the 30 day period are received after the application's submission, in which case they will be sent separately to the RA.

(f) Where no comments have been received from an A–95 clearinghouse, or where the clearinghouse has not requested to review the grant application, the prime sponsor applicant shall so indicate in the appropriate item on Standard Form 424, noting clearinghouses which sent no response after reviewing the application, and clearinghouses which did not request to review the application after receiving the preapplication.

§ 95.16 Submission of grant application.

(a) Except as indicated in paragraph (b) of this section, each designated prime sponsor shall simulaneously submit to the RA on or before a date set by the Secretary:

(1) An Annual Plan for Title I,

(2) A certification that the PSA remains the same or is revised in certain respects, which are described in attachments, and

(3) An Approval Request Letter.

(b) Newly designated prime sponsors shall submit the PSA no later than 30 days prior to the submission of the Annual Plan, on or before a date set by the Secretary. An Approval Request Letter shall accompany the submission. A signed copy of the signatory page will be provided to the designated prime sponsor by the RA indicating approval of the PSA before submittal by the designated prime sponsor of its Annual Plan.

§ 95.17 Standards for reviewing grant applications.

(a) A grant application will be reviewed to determine if it meets the requirements of the Act, the regulations promulgated under the Act, and other applicable law.

(b) In reviewing a grant application as provided in paragraph (a) of this section, the RA shall determine whether:

(1) The application is complete;

(2) The needs and priorities identified in the application are supported and justified by the documentation provided by the prime sponsor;

(3) The planned expenditures for program activities are substantiated by documentation of the needs and priorities identified in the application;

(4) The performance goals identified in the application are reasonable in light of past program experience in the same or similar activities and the documentation provided by the prime sponsor;

(5) Documentation is presented that reasonable arrangements have been made to involve the population to be served and community-based organizations in the planning process, through representation on the Prime Sponsor Manpower Planning Council or through participation in the specific planning of the program;

(6) The prime sponsor applicant's selection of the method of delivery of services is supported by adequate documentation based on availability and capability of delivery agents and appropriateness of services for the population to be served and provides evidence that due consideration has been given to the utilization of those services and facilities available from Federal, State, and local agencies (sec. 105(a)(3)(B));

(7) Maximum efforts have been made to meet the goals of the prior year's Annual Plan; such efforts shall include monitoring, evaluation, and remedial activities, such as, but not limited to, modification of the Annual Plan to reflect significant economic changes within the jurisdiction (sec. 105(c)(3));

(8) The administrative costs in the application are reasonable and provide, to the maximum extent feasible, for Federal funds to be expended for direct program activities and services, and, if administrative costs exceed 20 percent of non-public service employment activities whether the prime sponsor has cited an adequate reason and provided supporting documentation. Costs for public service employment other than wages and fringe benefits may not exceed 15 percent (secs. 108(d)(2) and 203(b));

(9) The prime sponsor has adequate internal administrative controls, accounting requirements, personnel standards, monitoring and evaluation procedures, availability of in-service training and technical assistance, and such other policies as may be necessary to promote the effective use of funds provided under Title I of the Act;

(10) All parties required to be afforded an opportunity to comment on the grant application have been afforded such an opportunity;

(11) Any comment on a grant application evidences noncompliance with the Act, the regulations promulgated pursuant to the Act, or any other applicable law;

(12) Documentation is presented that programs of institutional training are

designed for occupations in which skill shortages exist (sec. 105(a)(6); and

(13) The public service employment job opportunities satisfy the requirements set forth in § 96.23 with the exception of § 96.23(b)(13);

(14) The manpower plan provides for appropriate arrangements by the prime sponsor to promote maximum use of apprenticeship or other on-the-job opportunities pursuant to Section 1787 of Title 38, United States Code (Sec. 105(a)(3)(E)).

§ 95.18 Application approval.

(a) An application for a grant shall be approved if it meets the requirements of the Act, the regulations promulgated under the Act and other applicable law, and if the RA determines that the prime sponsor has demonstrated maximum efforts to meet the goals of the prior year's annual plan.

(b) An application for a grant from a consortium, or pursuant to a State multijurisdictional agreement, shall be approved if, in addition to meeting the specifications in paragraph (a) of this section, an agreement among the parties has been submitted to and approved by the RA.

(c) (1) A prime sponsor applicant, the Governor, and the A–95 clearinghouse shall be notified by the RA within 7 days after taking action on the application. The Standard Form 424, as prescribed by FMC 74–7, shall be used for this purpose. If any party commenting to the RA pursuant to the A–95 clearinghouse review process recommends disapproval of the grant in whole or in part and if the RA after review of the recommendation determines that the grant should be approved, the RA shall inform the party making the comment of the reasons for the RA's determination on the Standard Form 424, along with the notification of action taken.

(2) Where a clearinghouse has recommended against approval of an application because it conflicts with or duplicates another Federal or federally assisted project, the RA shall consult with the agency assisting the referenced projects prior to taking action on the application.

(d) In addition to notifying the designated prime sponsor as provided in paragraph (c)(1) of this section, if an Annual Plan is approved, the RA shall provide the prime sponsor with a letter indicating approval.

(e) Funding authority will be issued by a Notice of Funding Availability.

§ 95.19 Application disapproval.

(a) An application for a grant shall be disapproved if it fails to meet any requirement of the Act, the regulations promulgated under the Act, or any other applicable law (secs. 105 and 108).

(b) No application shall be disapproved solely because of the percentage of total funds devoted to any allowable program activity.

(c) No application for a grant shall be disapproved until:

(1) The prime sponsor applicant has been notified that its application fails to meet a requirement of the Act, regulations promulgated under the Act, or other applicable law; and

(2) The prime sponsor applicant is provided with suggestions as to those corrective steps which may be utilized to remedy any defect found in the application; and

(3) The prime sponsor applicant has been provided a reasonable opportunity, but not less than 30 days, to remedy any defect found in the application, but has failed to do so.

(d) When an application is disapproved, a notice of disapproval shall be transmitted to the prime sponsor and the Governor, accompanied by a statement of the grounds of the disapproval. Such disapproval shall not be effective until notice and opportunity for a hearing has been provided, as required in Subpart C of Part 98.

§ 95.20 Use of alternative prime sponsors; services by the Secretary.

If an application is not filed, as required, or is denied, or if a grant is terminated in whole or in part during a fiscal year, the Secretary may make provision for the funds so released to be used by the State or another alternative prime sponsor to service the area originally to be served by the primary prime sponsor, or the Secretary may serve such an area directly. In so doing, the Secretary shall make every effort to minimize or prevent any disruption in participant activities (sec. 110(a)).

§ 95.21 Modifications.

(a) *Modifications of the prime sponsor agreement.* (1) The Signatory Page and the Assurances and Certifications shall only be modified at the initiation of the RA, after consultation with the prime sponsor, to insure compliance with the regulations.

(2) *The narrative description of general information of the PSA.* The Narrative Description shall be modified as follows:

(i) *RA initiated modifications.* RAs may require modification to insure compliance with the regulations, after consultation with the prime sponsor.

(ii) *Prime sponsor initiated modifications.* (A) When significant changes are planned in the systems and procedures, such as a change in the allowance payment system, prior regional office approval is necessary.

(B) The prime sponsor may make any changes other than those described in paragraphs (a)(1), (a)(2)(i), and (ii)(A) of this section without prior regional office approval, but must notify the RA of these changes in writing by the end of the quarter in which the change occurs. Revised portions of the PSA need not be submitted with the notice.

(3) *Format.* Modifications pursuant to paragraphs (a)(1), (a)(2)(i), and (ii)(A) of this section shall consist of the following:

(i) Approval request letter;

(ii) Revised Assurances and Certifications or revised Narrative Description of General Information, as appropriate; and

(iii) A copy of the newspaper announcement required in paragraph (c) of this section.

(b) *Modifications to the annual plan.* (1) A modification to the Annual Plan requiring prior Regional Office approval is required under any of the following conditions:

(i) Change in duration of the annual plan;

(ii) Change in annual plan allotment;

(iii) Substantial change in program design and/or program goals defined as follows:

(A) When the cumulative number of individuals to be served, planned enrollment levels for program activities, planned placement terminations or individuals to be served within significant segments, is to be increased or decreased by 15 percent or more.

(B) For grants of $100,000 or less, when the cumulative transfer of funds among program activities or cost categories exceeds $15,000.

(C) For grants of over $100,000, when the cumulative transfer of funds among program activities or cost categories exceeds $50,000 or 15 percent of the total grant budget whichever is greater.

(D) When the program design is altered significantly such as when there is development or elimination of a program activity, or when 10% or more of the public service employment positions (except for Title VI) are to be used for rehiring laid-off employees.

(iv) At the initiation of the RA, after consultation with the prime sponsor, to insure compliance with the regulations and/or to insure responsiveness to changing economic conditions. A prime sponsor is responsible for assuring that its programs are responsive to the changing economic situation in its jurisdiction and for making appropriate modifications to its plan. The RA may request a reassessment and appropriate modification when the RA believes that the changing economic situation in a jurisdiction makes such a reassessment appropriate. If the prime sponsor disagrees with the RA's request for a modification pursuant to the conditions in this paragraph (iv), it may initiate a hearing pursuant to § 98.47.

(2) Annual Plan modifications will not be initiated solely to adjust planned performance to meet actual performance.

(3) *A–95 Clearance.* (i) Modifications require clearance through the A-95 clearinghouses only under the following conditions:

(A) There is a cumulative increase or decrease in funds equal to or more than 15 percent of the Annual Plan allotment for the current program year and/or;

(B) The Annual Plan is extended for a period of more than 3 calendar months and/or

(C) The RA directs that A–95 clearance is required for a particular modification.

(ii) (A) When A–95 clearance is required, the prime sponsor, whenever possible, shall provide notification to the appropriate A–95 State and areawide clearinghouses of its intent to modify its Annual Plan 60 days prior to submission of the formal modification to the RA. The notification of intent should consist of a revised form SP 424 and a brief description of the anticipated modification. If within 30 days from submission of such notification, the prime sponsor receives no notification from the A–95 clearinghouses that they wish to review the modification, the prime sponsor has fulfilled its obligation under A–95 and may submit its modification to the RA without submitting it to the A–95 clearinghouses as specified in paragraph (b) (3) (ii) (B) of this section.

(B) When a prime sponsor has not provided notification as specified in paragraph (b) (3) (ii) (A) of this section, or when it has provided this notification and the clearinghouses have requested to review the completed modification, the prime sponsor shall in all cases submit a copy of its modification to the clearinghouses for comment 30 days prior to its submission to the RA.

(C) Where no comments have been received from A–95 clearinghouses, or where the clearinghouses have not requested to review the completed modification, the prime sponsor shall so indicate in the appropriate item on the revised Standard Form 424, noting clearinghouses which sent no response after receiving the modification and clearinghouses which did not request to review the completed modification after being notified of the prime sponsor's intent to modify.

(4) A prime sponsor may make any change, consistent with the regulations in this Part and Part 98, in its Program Planning Summary, Budget Information Summary, or narrative description which is not set out in paragraph (b) (1) of this section without prior approval, but must show any such change in the First Program Status Summary and Financial Status Report, as appropriate, submitted to the Department after the change has been made. At the same time this report is submitted, an updated Program Planning Summary, Budget Information Summary, or Annual narrative description, as appropriate, shall also be submitted to the RA. Only those lines and columns or portions of the annual narrative affected by the modification need be submitted. Comments and publication requirements do not apply to changes described in this subparagraph (4).

(5) *Format.* Modifications pursuant to paragraphs (b) (1) and (3) of this section shall consist of the following:

(i) Approval Request Letter;

(ii) Revised form SF 424 (if A–95 clearance is required):

(iii) Revised Program Planning Summary and Budget Information Summary for current and future quarters only; except that a modification not involving a change in the annual plan allotment must be received in the regional office within 30 days of the beginning of the current quarter in order to include changes to the current quarter goals.

(iv) Narrative description of the changes made and certification that the publication and comment procedures in paragraph (c) of this section have been complied with.

(v) A copy of the newspaper announcement required in paragraph (c) of this section.

(vi) Revised portions of the program narrative description, if appropriate.

(vii) Revised Occupational Summary, if appropriate.

(6) *Incremental Funding.* When the Annual Plan allotment is obligated by the RA in increments, each subsequent obligation by the RA requires a new Notice of Fund Availability (NFA) to be signed by an authorized representative of the Department of Labor. This NFA does not require a revised Annual Plan, and does not require publication, comment or A–95 clearance procedures to be followed.

(c) *Publication and Comment.* (1) No later than the date of submission to the RA, a copy of any proposed modification to the PSA and the Annual Plan pursuant to paragraph (a) (1), (a) (2) (i), (a) (2) (ii) (A), and (b) (1) and (3) of this section shall be forwarded to the Governor and summaries of the modifications shall be provided to appropriate units of general local government with a population of at least 25,000, to appropriate Indian sponsors, and to labor organizations representing employees engaged in similar work in the same area as that for which participants will receive subsidized employment or training; and the prime sponsor shall publish in a minimum of one issue of a newspaper or newspapers (including minority newspaper(s), where feasible) of general circulation throughout the area to be served a notice of the prime sponsor's intent to request a modification, a brief summary of the purpose of the proposed modification, and the location, and hours when the complete modification can be reviewed and the phone number where questions and comments may be directed.

(2) Comments pursuant to paragraphs (b) (3) (ii) (B) and (c) (1) of this section shall be made to the prime sponsor and the RA within 30 days of publication. All substantive written comments and responses will be transmitted to the RA with the modification, unless comments are received after the modification's submission, in which case they will be sent separately to the RA.

(3) A prime sponsor shall acknowledge any written comment made pursuant to this section. It shall inform any party submitting a substantive written comment of whether any plan revision will be made in response to the comment and the reasons for the prime sponsor's determination.

(d) *Notification of Action.* (1) RA shall take final action on approval or disapproval of any proposed modification within 30 days of receipt. Within 7 days after taking action, the RA shall notify the prime sponsor and the Governor of the action.

(2) A denial of a prime sponsor's request for a modification shall be subject to the appeal procedures set out in Part 98.

(3) The procedures in § 95.18(c) (1) and (2) shall apply to modifications under paragraph (b) (3) of this section.

Subpart C—Program Operations

§ 95.30 General.

This Subpart sets out the program operation requirements for comprehensive manpower services under Title I of the Act. The utilization of funds under Title I is conditioned upon adherence to the Act, the regulations promulgated under the Act, and other applicable law.

§ 95.31 Basic responsibilities of prime sponsors.

A prime sponsor shall be responsible for:

(a) Compliance with approved plans and assurances;

(b) Compliance with Part 98 of this title;

(c) Providing equitable service to the demographic groups (age, sex, race) within its unemployed population, taking into account the priorities identified by the Secretary, if any, the significant segments most in need of service and the incidence of underemployed and economically disadvantaged in the prime sponsor's jurisdiction. Where variances as specified in § 95.14 occur in service to the demographic groups, they shall be adequately justified in the Annual Plan.

(d) Designing program operating activities which are, to the maximum extent feasible, consistent with every participant's fullest capabilities and which will lead to employment opportunities enabling every participant to become economically self-sufficient, and which will contribute to the occupational development or upward mobility of every participant (secs. 101 and 703(9).

(e) Advising all participants of their rights and responsibilities prior to entering the program and granting the opportunity for an informal hearing as provided in § 98.26; and

(f) Making maximum efforts to achieve the provisions of its grant.

§ 95.32 Eligibility for participation in a Title I program.

(a) A person who is economically disadvantaged, unemployed, or underemployed (as defined in § 94.4) may, subject to paragraph (b) of this section, participate in a program offered by the prime sponsor under Title I of the Act (secs. 105(a), and 108(d)).

(b) For the purpose of participating in a public service employment program under Title I of the Act, participation is permitted for persons who:

(1) Reside, as defined in paragraph (c) of this section, anywhere within the geographical area covered by the prime sponsor's grant; and

(2) Are unemployed (as defined for Title I in § 94.4), or underemployed (as defined in § 94.4), or economically disadvantaged (as defined in § 94.4); and are otherwise eligible for participation

consistent with the requirements of sections 205(c) and 208 of the Act (sec. 105 (a)(5)).

(c) For the purpose of defining residence in paragraph (b) of this section, the term residence shall mean an individual's permanent dwelling place or home, both at the time the individual applies and is selected for participation in a public service employment program under Title I of the Act. In determining whether a particular place is an individual's dwelling place or home, the intention of the individual is the key element. Maintenance of an "address" is not necessarily the same as maintenance of a dwelling place or home.

(d) Program participation shall be limited to citizens of the United States, natives of American Samoa and the Trust Territory of the Pacific Islands, permanent resident aliens and other aliens who have been permitted to accept permanent employment in the United States by the Immigration and Naturalization Service.

(e)(1) Prime sponsors shall take appropriate steps to provide for the increased participation of qualified disabled veterans and qualified Vietnam-era veterans who are under 35 years of age in public service employment programs and job training opportunities under Title I. Specific effort should be made to develop appropriate full or part-time opportunities for such veterans. Each prime sponsor shall develop local goals for service to such veterans taking into consideration their numbers and the number of qualified persons in other significant segments of the population in the area served. These goals shall be included in the prime sponsor's Annual Plan. The prime sponsor should utilize the assistance of the State and local veterans employment service representative in meeting these goals. In addition, prime sponsors shall, in filling public service jobs, give special consideration to special veterans; and they shall exercise maximum efforts to design jobs and job training opportunities for veterans who have received other than a dishonorable discharge within four years before the date of their application. (sec. 305(a) of Pub. L. 95–93).

(2) Each prime sponsor shall, on a continuing and timely basis, provide information on job vacancies and training opportunities funded under Title I of the Act to the State and local veterans employment service representative for the purpose of disseminating information to eligible veterans sec. 104(b) of Emergency Jobs and Unemployment Assistance Act of 1974).

(f) Since all Title II, VI, Emergency Employment Act (EEA), participants, and participants under Title X of the Public Works and Economic Development Act (PWEDA) who are enrolled in Title II or VI activities funded through the Department, would also have qualified at time of enrollment for Title I, then a Title II, Title VI, EEA, or Title II or VI PWEDA participant for whom maximum efforts have been made to find unsubsidized employment or for whom supplemental training or services is needed as a prerequisite to a job, may be transferred into or concurrently enrolled in a program offered by the prime sponsor under Title I of the Act without an intervening period of unemployment. Title III participants who met the eligibility criteria for Title I at the time of their enrollment may also be transferred into or enrolled concurrently in the Title I program (sec. 205(c) (14) and (19) and 105(a)(2)).

(g) While the selection of eligible full-time students for participation in programs, including summer programs, funded under Title I of the Act is not prohibited, prime sponsors should exercise caution in providing for such participation and should provide for such participation only in accordance with the regulations in this part. Prior to providing for such participation, prime sponsors should give special consideration to those most in need of service, including economically disadvantaged persons of all age groups.

§ 95.33 Types of manpower program activities available.

(a) A prime sponsor may provide any type of manpower program activity which is consistent with the purposes of Title I of the Act. Such program activities include but are not limited to the development and creation of job opportunities, and the training, education, and other services needed to enable an individual to secure and retain employment at the individual's maximum capacity. Program activities should be primarily directed toward the placement of individuals in unsubsidized employment, either directly at the outset of program participation as a result of intake and assessment or indirectly through provision of training or services (sec. 101). As provided in the nondiscrimination provisions of these regulations, the prime sponsors shall not include in the design of its program traditional hiring practices which result in discrimination based on race, creed, color, handicap, national origin, sex, age, political affiliation, or beliefs, and shall not permit such hiring practices to limit its responsiveness to the needs of the economically disadvantaged, unemployed, and underemployed population in the locality.

(b) A prime sponsor may, consistent with these regulations, determine the operating levels and program activities in its area. It may select any of the program activities described in paragraph (d) of this section or devise other activities within the framework of the Act. No prime sponsor plan will be disapproved solely because of the percentage of funds devoted to a particular program activity (sec. 108(c)).

(c) A prime sponsor shall develop special program provisions for persons of limited English-speaking ability when such persons constitute a significant portion of a prime sponsor's program. The prime sponsor shall establish operating procedures for (sec. 301(b)):

(1) Teaching occupational skills in the primary language of such persons for occupations which do not require a high proficiency in English;

(2) Developing new employment opportunities for persons limited in English-speaking ability;

(3) Developing opportunities for promotion within existing employment situations for such persons;

(4) Disseminating appropriate information and providing job placement and counseling assistance in the primary language of such persons;

(5) Conducting training and employment programs in the primary language of such persons; and

(6) Conducting programs designed to increase the English-speaking ability of such persons.

(d) The basic types of manpower activities available to a prime sponsor include, but are not limited to the following:

(1) *Classroom training.* (i) This program activity is any training conducted in an institutional setting designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. It may also include training designed to enhance the employability of individuals by upgrading basic skills, through the provision of courses in, for instance, remedial education, training in the primary language of persons of limited English-speaking ability, or English-as-a-second-language training.

(ii) Occupational training shall be designed for occupations in which skills shortages exist (sec. 105(a)(6)) and for which there is reasonable expectation of employment (sec. 703(10)). In making these determinations, a prime sponsor shall utilize available community resources such as the local SESA office, the National Alliance of Businessmen, etc.

(iii) Participants' benefits. Allowances and other benefits shall be provided in accordance with § 95.34 and § 98.24 to participants receiving training or education.

(iv) Vocational education services may be supported with funds provided through (A) the prime sponsor's Title I grant or (B) special grants to Governors for vocational education and services in prime sponsor areas. In order to obtain services under (B) of this paragraph the prime sponsor will negotiate nonfinancial agreements with State Vocational Education Boards utilizing the procedures described in Subpart D of this Part 95.

(2) *On-the-job training.* (i) On-the-job training (OJT) is training conducted in a work environment designed to enable individuals to learn a bona fide skill and/or qualify for a particular occupation through demonstration and practice. Such training may be conducted on a "hire first, train later" basis, or with ultimate placement with the training organization or an employer other than the training organization. OJT may involve individuals at the entry level of employment or be used to upgrade present employees into occupations requiring higher skills. Training shall be designed to lead to the maximum development of partici-

pants' potentials and to their economic self-sufficiency.

(ii) *Inducements to employers.* Prime sponsors may provide payments or other inducements to public or private employers for the bona fide training and related costs of enrolling individuals in the program; *Provided,* That payments to employers organized for profit are only made for the costs of recruiting, training and supportive services which are over and above those normally provided by the employer. Use of a formula which incorporates the trainee's wage as a factor and fixed unit cost contracting are acceptable methods of reimbursement to private-for-profit employers for extraordinary training costs associated with providing on-the-job training. When using a formula, the prime sponsor can reimburse the employer for extraordinary training costs for training on the job, up to a level not to exceed 50 percent of participant wages. Prime sponsors may design other methods of cost reimbursement provided that payments reflect only extraordinary training costs.

(iii) Direct subsidization of wages for participants employed by private employers organized for profit is not an allowable expenditure (sec. 101(5)).

(iv) *Labor organization consultation.* Appropriate labor organizations shall be consulted in the design and conduct of on-the-job training programs where collective bargaining agreements exist with the employer. Prime sponsors shall consider the advice and comments of such labor organizations, when designing OJT programs and negotiating OJT contract provisions and shall ensure that wages for covered positions conform with collective bargaining agreements.

(v) Participants benefits. Wages and other benefits provided to OJT participants shall be in accordance with conditions specified in § 95.35 and § 98.24.

(3) Public Service Employment. (i) Public service employment is subsidized employment with public employers and private non-profit employers who provide public services as defined in § 94.4. This program activity may also include training, manpower services, and other services incident to such subsidized employment. Conditions for participation in public service employment under Title I are contained in § 95.32(b). Operating conditions and allowable expenditures applicable when Title I funds are used for this activity are the same as those used for this activity when Title II funds are used, as enumerated in Subpart C of Part 96 with the following exceptions: §§ 96.20, 96.22, 96.23(b)(13), 96.26(a)(1), (b), and (c), 96.27, 96.35(a), 96.36(c), and 96.37 (sec. 105(a)(5)).

(ii) Participants' benefits. Wages and benefits for persons in a public service employment program shall be as provided in Part 96 and § 98.24.

(4) *Work Experience.* (i)(A) Work experience is a short-term and/or part-time work assignment with a public employer or a private nonprofit employing agency and is designed to enhance the employability of individuals who have either never worked or who recently have not been working in the competitive labor population for an extended period of time, i.e., new or recent entrants into the labor force and re-entrants into the labor force. The work experience activity is designed to increase the employability of such individuals by providing them with experience on a job, an opportunity to develop occupational skills and good work habits and an opportunity to develop specific occupational goals through exposure to various occupational opportunities.

(B) In addition, work experience may include a short-term work assignment while an appropriate classroom training, on-the-job training, or public service employment opportunity funded under this Act is being developed. Prime sponsors are encouraged to limit the participation of individuals placed in work experience while an appropriate activity is being developed to 90-days.

(C) Participation in work experience for purposes other than that indicated in paragraph (d)(4)(i)(B) of this section shall be for a reasonable length of time determined in accordance with the needs of the participant.

(D) Except as provided above, the participation in work experience of individuals whose only manpower need is for employment, e.g., unemployed individuals who have occupational skills and good work habits, is generally inappropriate.

(ii) Prime sponsors shall describe in their grant application the basic design of their work experience activity, including the characteristics of participants who will participate in the work experience activity, the objectives of the activity and the duration and planned outcomes of work experience. In addition, prime sponsors shall differentiate work experience programs from any public service employment provided by the prime sponsor.

(iii) Work experience activities for youth include part-time employment for students attending school, short-term employment for students during summer, short-term employment for out-of-school youth adjusting to a work setting and in transition from school to employment, short-term employment for recent graduates, and short-term or part-time employment for those youth who have no definite occupational goal.

(iv) Work experience for adults includes part-time or short-term employment for the chronically unemployed, retired persons, recently discharged military individuals, handicapped individuals, institutional residents and inmates and others who recently have not been working in the competitive labor population for extended periods of time.

(v) Prime sponsors shall periodically review the progress of each work experience participant to determine whether continued participation in work experience, transfer to another activity funded under this Part, placement in unsubsidized employment or some other action is most appropriate. The prime sponsor shall make this determination based on whether the purposes of the work experience activity described in paragraph (d)(4)(i) of this section have been achieved.

(vi) Program outcomes for work experience participants include: (A) return to school; (B) enrollment in post secondary education; (C) enlistment in the military services; (D) enrollment in classroom training, on-the-job training or other manpower training and (E) placement in public service employment or unsubsidized employment.

(vii) Work experience in the private for profit sector is prohibited.

(viii) Participant benefits. Each participant in a work experience activity shall receive wages. Wages shall be commensurate with such factors as the type of work performed, the geographic region of the program, and the skill proficiency of the participant. (A) In no event shall the rate be less than the highest of the following: (*1*) The minimum wage rate specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. The exceptions to Section 6(a)(1) shall not apply to work experience participants except as provided in paragraph (B).

(*2*) The minimum wage presribed by State or local law for similar employment.

(*3*) For participants on Federally funded or Federally assisted construction projects, the prevailing rate established by the Secretary, in accordance with the Davis-Bacon Act, as amended, when such rates are required by the Federal Statute under which the assistance was provided.

(B) Wages in the Commonwealth of Puerto Rico, the Virgin Islands, and American Samoa shall be consistent with provisions of Federal, State or local law otherwise applicable. Wages in the Trust Territory of the Pacific Islands shall be consistent with local law except on Eniwetok Atoll and Kwajalein Atoll where Section 6(a)(1) of the Fair Labor Standards Act applies.

(C) Participants in work experience activities shall be provided workmen's compensation and other fringe benefits as specified in § 98.24.

(D) When a participant in a work experience activity is performing the tasks of regular public service employment type job, wages must be comparable to those paid for the regular public service job, as specified in § 96.34.

(ix) Work experience participants may be outstationed at worksites, including Federal agencies and private nonprofit agencies. Outstationed participants are still to be considered employees of the prime sponsor or its subgrantees or contractors, as appropriate, and shall be assured of the same working conditions and benefits, as specified in § 98.24, as received by other similarly employed employees of the prime sponsor or its subgrantees or contractors (not the outstationed worksite).

(x) Work experience participants may be used in home repair and winterization/weatherization activities as provided in § 98.12(b)(3).

(5) *Services to participants.* This program activity is designed to provide supportive and manpower services which are needed to enable individuals to obtain employment or retain employment through the postplacement services described in paragraph (d)(5)(iv) of this section or to participate in other manpower program activities funded under this Act or any other Act, leading to their eventual placement in unsubsidized employment. Such services include but are not limited to the following:

(i) *Services to applicants.* (A) Outreach;

(B) Intake: This includes screening for eligibility; completion of Part A, B, and C of the Participant Record; the initial determination as to whether the program can benefit the individual; the determination of the manpower activities and services which would be appropriate for the applicant; the determination of the availability of an appropriation manpower activity; a decision on selection; and dissemination of information on the program.

(ii) *Manpower Services.* (A) Orientation to the world of work;

(B) Counseling: This includes employment related counseling, testing, and vocational or career exploration;

(C) Job development;

(D) Job placement; and

(iii) *Supportive Service:* (A) Health care and medical services;

(B) Child care: Day care programs shall meet Federal Interagency Day Care Standards and comply with applicable State standards including State licensing requirements;

(C) Transportation;

(D) Residential support;

(E) Assistance in securing bonds;

(F) Family planning services, provided that such services are made available to a participant only on a voluntary basis, and are not to be a prerequisite for participation in, or receipt of, any services or benefit from the program; and

(G) Legal services.

(iv) *Post-placement services.* Manpower and supportive services, as described in paragraph (d)(5)(ii) and (iii) of this section, may be provided as appropriate to terminated participants who have been placed in unsubsidized employment. These services may be provided at the discretion of the prime sponsor in order to enable the terminated participant to retain employment. Such services may be provided during the 30 day period following a participant's termination from the program.

(v) *Participant benefits.* Allowances as described in § 95.34 may be paid to a participant enrolled in manpower services (e.g., orientation and counseling), as described in this paragraph (5) when such services are a component of another activity as described in § 95.33(d) or when such services are provided on a regularly scheduled basis.

(6) *Other manpower activities.* (i) These activities are manpower activities not described in the categories above, or manpower related activities designed to expand job opportunities and enhance the participation of individuals who are eligible to participate in programs funded under the Act. The approved grant application must describe the basic design of activities undertaken as "other manpower program activities," and the manpower objectives to be accomplished through these activities. These program activities do not fit into any of the above categories, and include, but are not limited to, the following:

(A) Removal of artificial barriers to employment;

(B) Job restructuring;

(C) Employability Assessment other than that involved during intake;

(D) Job Development;

(E) Job Referral and Placement;

(ii) Participant benefits. Allowances as described in § 95.34 may be paid to a participant enrolled in other manpower activities as described in this subparagraph (6) when such activities are a component of another activity described in § 95.33(d) or when such activities are provided on a regularly scheduled basis and are described in the approved grant application.

(7) *Combined activities.* (i) A participant enrolled in any activity funded under the Act may be enrolled simultaneously in any other activity as a component of the participant's primary activity. The primary activity constitutes any activity in which the participant is enrolled for more than 50 percent of the scheduled time.

(ii) *Participant benefits.* A participant enrolled in a primary activity for which wages are payable and simultaneously in an activity for which allowances are payable may, at the prime sponsor's option, be paid wages for all hours of participation. A participant enrolled in a primary activity for which allowances are payable may, at the prime sponsor's option, be paid allowances for all hours of participation. However, in this latter case, before placing any individual in such an activity, the prime sponsor shall request a determination from the Internal Revenue Service as to whether income from the non-primary component is taxable.

§ 95.34 Training allowances.

(a) *The payment system.* To assure accountability and uniformity, and to facilitate the necessary coordination with other programs, the system for payment of allowances under the Act shall be maintained as a standard payment system which will insure prompt and efficient payment to all participants (sec. 111(a)). A standard payment system is one which consists of a uniform set of procedures, but which may be operated by one or more delivery agents. The payment system shall include the following elements:

(1) Determination of entitlement and computation of amount to be paid;

(2) Issuance and distribution of payments;

(3) Maintenance of payment records and preparation of required reports;

(4) Maintenance of a system to detect and collect overpayments; and

(5) Arrangements with other agencies to obtain necessary information to minimize payments which are unauthorized under this section. This shall include arrangements with:

(i) The State employment security agency to develop a procedure for obtaining information concerning the receipt and verification of unemployment compensation benefits by participants;

(ii) Appropriate agencies for verification of public assistance payments (e.g., local welfare agencies); and

(iii) Training facilities for submittal of payment requests and certification of attendance.

(b) *Selection of delivery agent.* The prime sponsor is required to provide a standard allowance payment system either directly or through contract with an organization or organizations it considers appropriate for its particular circumstances. The prime sponsor in selecting the delivery agent for the payment of participant allowances should give consideration to the use of existing agencies which have experience in operating an allowance payment system, e.g., the Unemployment Insurance Service.

(c) *Eligibility for allowances.* (1) Subject to paragraph (j) of this section and § 95.33(d)(7)(ii), allowances shall be paid to participants for time spent in classroom training. In addition, allowances may be paid for time spent in other activities as specified in § 95.33(d)(6), or manpower services such as orientation and counseling. However, allowances for participation in manpower services or other activities shall be provided only in accordance with § 95.33(d)(5)(v) and (d)(6)(ii).

(2) No allowances shall be paid for participation in any course or program of study (e.g., a B.A. or B.S. degree program) which exceeds 104 weeks. While prime sponsors may pay for the costs of tuition, books, and related training expenses of courses or programs of study exceeding 104 weeks, at no time during participation in such a course shall allowances be paid. (sec. 111(a)).

(d) *Application for unemployment compensation.* Participants should be encouraged to apply for and claim unemployment compensation benefits, as defined in § 94.4, if they are not already receiving such benefits.

(e) *Basic allowances.* (1) A basic allowance for one week shall, except under the provisions of paragraphs (i) and (j) of this section, equal the highest of:

(i) The minimum hourly wage prescribed by State or local law for employment in the prime sponsor's area, multipled by the number of hours of participation in which the trainee attends as required, or is absent for good cause; or

(ii) The minimum hourly wage specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, multiplied by the number of hours of participation, which the trainee attends as required, or is absent from for good cause provided that for the Commonwealth of Puerto Rico, the Virgin Islands and American Samoa, the rate shall be consistent with the Fed-

eral, State, or local law otherwise applicable. Wages in the Trust Territory of the Pacific Islands shall be consistent with local law except on Eniwetok Atoll and Kwajalein Atoll where the rate in Section 6(a)(1) of the Fair Labor Standards Act applies.

(2) To compute the number of hours of participation the prime sponsor shall count the time spent in classroom training, and may count the time spent in manpower services or other activities as specified in § 95.33(d).

(3) Dependents allowances, incentive allowances, and additional allowances as described in § 95.34 (f), (g), and (h) are not to be included as a part of the basic allowances.

(f) *Dependents allowances.* (1) Dependents allowances of $5 per week for each dependent in excess of two dependents, up to a maximum of $20 for six or more dependents shall be provided to participants receiving basic allowances or who would be receiving basic allowances were it not for adjustments which are permitted pursuant to paragraph (i) of this section. Participants eligible for dependents allowances from other sources shall not be precluded from receiving dependents allowances funded under the Act.

(2) Dependents allowances may be reduced pro rata only for absences without good cause. The methodology for making the reduction shall be described in the approved PSA.

(g) *Incentive allowances for persons receiving public assistance or who are in institutions.* (1) Incentive allowances, in the amount of $30 per week, in lieu of basic allowances, shall be paid to participants receiving public assistance, as defined in § 94.4, or whose needs or income are taken into account in determining such public assistance payments to others.

(i) Incentive allowances shall be reduced pro rata for absences without good cause. The methodology (e.g., daily or hourly proration) for making the reduction shall be described in the approved PSA.

(ii) Incentive allowances shall be disregarded in determining the amount of public assistance payments individuals are entitled to receive under Federal or federally assisted public assistance programs (sec. 111(a)).

(2) Incentive allowances, in lieu of basic allowances, but not in excess of such allowances, may be paid institutionalized persons, including prison inmates participating in program activities. The determination as to whether such allowance will be paid, and the amounts thereof, shall be made by the prime sponsor in consultation with officials of the institutions. In the case of prison inmates, all or part of such payments, as determined by the prime sponsor and the head of the institution, may be held in reserve and delivered upon the participant's release from the institution.

(h) *Additional allowances.* Additional reasonable allowances may be paid to participants to cover extraordinary costs associated with participation in an activity. The circumstances in which additional allowances will be paid shall be described in the approved grant application.

(i) *Adjustments in Allowances.* (1) The basic allowance shall be reduced, on a weekly basis, by the amount of unemployment compensation payments, if any, received by participants provided that such allowance is not reduced for any unemployment compensation received by an individual for a week or weeks prior to enrollment. If the unemployment compensation is paid on a bi-weekly basis, the compensation shall be prorated over the two weeks before the allowance is reduced.

(2) No basic allowance to which an individual may otherwise be entitled shall be diminished in any respect because of receipt of a separation payment provided under any collective bargaining agreement.

(3) The basic allowance may be adjusted upward to the degree that the local cost of living exceeds the national norm, if conditions for such increases are described in the approved grant application.

(4) Periodic increases to the basic allowance may be provided as an incentive to participation when such increases are described in the approved grant application.

(5) (i) The basic allowance may be reduced, at the option of the prime sponsor, on a weekly basis, by the total amount of any Basic Education Opportunity Grant (BEOG) entitlement which is received by the participant, during the period in which he/she is enrolled in the classroom training program, divided by the number of weeks in which the participant is enrolled in a classroom training program.

(ii) The prime sponsor may, however, make arrangements with the training institution to apply BEOG payments to tuition, books and related training costs normally funded by the prime sponsor. The prime sponsor should then pay the training institution the difference, if any, between the actual training costs and the BEOG. No BEOG adjustments to allowance payments shall be made when this procedure is used.

(6) The basic allowance may be reduced by the amount of wages received by classroom training participants who are concurrently enrolled during the same payment period in either full-time work experience, public service employment, or on-the-job training funded under the Act. The determination of whether the other activity is full-time shall be based on the number of hours that constitute full-time employment for regular employees similarly employed at the employing agency or worksite.

(7) Incentive allowances for public assistance recipients may, at the option of the prime sponsor, be adjusted downward, provided that the adjustment shall not result in an incentive allowance payment at a rate less than the higher of the Federal, State, or local minimum wage multiplied by the number of hours of participation, which the trainee attends as required or is absent from for good cause.

(j) *Waivers of allowance payments.* (1) The payment of all or part of the basic allowance, described in paragraph (e) of this section, may be waived only in accordance with paragraphs (j) (2) or (3) of this section under the conditions described in the approved grant application or approved modifications to the grant.

(2) Waivers of basic allowance payments, as provided in paragraph (j)(1) of this section, shall be allowable only under the following conditions:

(i) That the waiver will be applied to the total enrollment in a course and will not be imposed on an individual basis, except as provided in paragraph (j)(3) of this section;

(ii) That the waiver will not have the effect of denying participation to individuals who could not participate without receipt of the allowances;

(iii) That the waiver will increase the number of individuals served;

(iv) That the waiver will otherwise promote the purposes of the Act; and

(v) That all participants for whom allowances are waived will be so notified in writing.

(3) In exceptional circumstances, individual waivers when described in the approved grant application or approved modifications to the grant, may be granted under the following conditions:

(i) The waiver is at the written agreement of the participant; and

(ii) Individual waivers may only be granted when all of the funds allocated in the Budget Information Summary for allowances have been obligated and training opportunities are still available and are unfilled.

(4) The dependents allowances described in paragraph (f) of this section may not be waived, except in cases where the entire basic allowance is waived.

(5) Allowance payments may not be waived solely because a participant is a veteran and receives benefits through the Vietnam Era Veteran's Readjustment Assistance Act, as amended.

(6) Incentive allowances shall not be waived.

(k) *Repayments.* Prime sponsors shall require participants to repay the amount of any overpayment of allowances under this part, except if the overpayment was made in the absence of fault on the part of the participant, in which case repayment shall be waived where such recovery would be against equity and good conscience or would otherwise defeat the purposes of the program. Any overpayment not repaid may be set off against any future allowance or other benefits under the Act to which the participant may become entitled.

§ 95.35 Wages.

(a) Participants in public service employment programs shall be paid wages as required by Part 96 of these regulations.

(b) Participants in work experience shall be paid wages as required by § 95.33 (d)(4)(viii).

(c) Participants in on-the-job training shall be compensated by the employer at such rates, including periodic increases, as are reasonable considering such factors as industry, geographical region, and trainee proficiency (sec. 111 (b)). In no event shall the rate be less than the highest of the following:

(1) The minimum wage rate specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. The exceptions to section 6(a)(1) shall not apply to on-the-job training participants, except as provided in paragraph (c).

(2) The State or local minimum wage for the most nearly comparable covered employment;

(3) The prevailing rates of pay for persons employed in similar occupations by the same employer; or

(4) The minimum entrance rate for inexperienced workers in the same occupation in the establishment or, if the occupation is new to the establishment, the prevailing entrance rate for the occupation among other establishments in the community or area or any minimum rate required by an applicable collective bargaining agreement.

(5) For participants on Federally funded or Federally assisted construction projects, the prevailing rate established by the Secretary, in accordance with the Davis-Bacon Act, as amended, when such rates are required by the Federal statute under which the assistance was provided.

(d) For hours spent in the production of goods or services, the rate of compensation to be paid to trainees by employers, public or private shall be specified in a written agreement entered into by the training or employing facility and the prime sponsor. Where hours spent in production of goods or services are in positions covered by collective bargaining agreements, wages paid to trainees by the employer shall not conflict with the terms of the collective bargaining agreement.

(e) Wages in the Commonwealth of Puerto Rico, the Virgin Islands, and American Samoa shall be consistent with provisions of the Federal, State or local law, otherwise applicable. Wages in the Trust Territory of the Pacific Islands shall be consistent with local law, except on Eniwetok Atoll and Kwajalein Atoll, where Section 6(a)(1) of the Fair Labor Standards Act applies.

§ 95.36 Minimum duration of training; reasonable expectation of employment.

(a) *Duration of training.* An individual shall not be referred for training in an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunties available in that occupation (sec. 703(8)).

(b) *Reasonable expectation of employment.* An individual shall not be referred to training unless the prime sponsor determines, after utilizing available and appropriate community resources, that there is a reasonable expectation of employment for such an individual in the occupation for which the person is being trained (sec. 703(10)).

§ 95.37 Training for lower wage industries; relocation of industries.

(a) No participant may be enrolled in any activity or service under this Act in any lower wage industry in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high.

(b) Funds under this Act may not be used to assist in any relocation of an establishment from one area to another unless the Secretary determines that such relocation will not result in an increase in unemployment in the area of original location or any other area where it conducts business operations (sec. 704 (a)).

§ 95.38 Cooperative relationships between prime sponsor and other manpower agencies.

(a)(1) Each prime sponsor shall, to the extent feasible, establish cooperative relationships or linkages with other manpower and manpower-related agencies in the area within its jurisdiction, in particular, with agencies operating programs funded through the Department (Section 105(a)(3)(D)). Prime sponsors are encouraged to utilize the free direct placement services offered by the SESA's.

(2) Prime sponsors are required to establish cooperative linkages with SESAs in order to serve Federal Supplemental Benefit claimants and persons eligible under Title II of the Trade Act of 1974.

(b) Prime sponsors shall, to the extent feasible, notify the appropriate apprenticeship agency of training activities in apprenticeable occupations (sec. 105(a)(3)(D)).

(c) Any prime sponsor which intends to provide services under the Act to recipients of Aid to Families with Dependent Children (AFDC) should coordinate such services with the local sponsor of the Work Incentive Program, if any, to assure that the delivery of services under this Act is consistent with the WIN requirements. The provision of comprehensive manpower services to recipients of AFDC who are required to register for the WIN program may be affected by provisions of Title IV of the Social Security Act. Limitations on length of training, requirements to accept work in lieu of training, and other regulatory requirements may affect the AFDC recipient's participation in programs under the Act.

§ 95.39 Federal Supplemental Benefit claimants; beneficiaries under Title II of the Trade Act of 1974.

(a)(1) As outlined in the notice in the FEDERAL REGISTER (40 FR 49540) on October 22, 1975, each prime sponsor is responsible for entering into a cooperative agreement with the employment service in order to provide training and other opportunities, as appropriate, to FSB claimants.

(2) If an individual receiving FSB is enrolled in a classroom training program and subsequently defers his or her FSB payments, the prime sponsor may:

(i) Permit the individual to remain in the training opportunity which was developed per the cooperative agreement for an FSB recipient; however, the prime sponsor is not obligated to pay allowances in such an instance because the opportunity was developed on the basis that the individual was receiving FSB and would therefore, receive no or minimal allowances, or

(ii) Terminate the individual as he/she is filling a training opportunity created for FSB claimants but is not receiving FSB payments. Such an individual may reapply for participation as an applicant who is not in FSB status.

(b) Prime sponsors should, to the extent feasible, make training opportunities available to workers who have been adversely affected by United States trade policy and who have been found eligible under Title II of the Trade Act of 1974.

Subpart D—Special Grants to Governors

§ 95.50 General.

(a) Funds shall be allocated to each State through a special grant for the support of:

(1) Vocational education services for prime sponsors;

(2) The State Manpower Services Council; and

(3) State manpower services.

(b) Funds available under paragraph (a) shall be granted to each Governor in accordance with the formula allocation set out in § 95.2 of these regulations. Each Governor shall distribute these funds as provided in § 95.55. (secs. 103, 106, 107, and 112).

(c) Provisions generally applicable in parts 94 through 99 of these regulations shall apply to special grants under this subpart unless otherwise provided.

§ 95.51 Distribution of funds.

(a) Five percent of the funds available under Title I of the Act shall be allocated to the Governors of the States to provide needed vocational education and services for prime sponsors through State Vocational Education Boards as set out in § 95.2. These services are to be provided to participants enrolled in Title I programs in prime sponsor areas.

(b) State Manpower Services Councils shall be supported with funds as set forth in § 95.2(b)(2).

(c) State manpower services provided under Section 106 of the Act shall be funded as set forth in § 95.2(c)(2).

§ 95.52 Grant application.

(a)(1) Upon notification by the Secretary of the amount of funds available for a special grant to the State, the Governor shall submit a Special Grant Application to the RA on a date set by the Secretary. Copies of all forms and instructions for the application for Special Grants are contained in the Forms Preparation Handbook.

(2) The Governor shall comply with the preapplication and comment and publication requirements specified in § 95.11 and § 95.15 (a), (b), (d), (e) and

(f). In addition, the Governor shall provide 30 days prior to submission of the grant application for the purposes of commenting thereon:

(i) A summary of the grant application to each prime sponsor in the State and to units of general local government within the Balance-of-State with a population of at least 25,000;

(ii) A summary of the grant application to appropriate Indian prime sponsors and to labor organizations representing employees engaged in similar work in the same areas as that for which participants will receive subsidized employment or training; and

(iii) A summary of any programs to be funded within a prime sponsor's area with State Manpower Services funds to the prime sponsor in whose jurisdiction the program is to be funded.

(b) The Special Grant Application shall contain the following:

(1) *Approval Request Letter.*

(2) *Application for Federal Assistance.* Standard Form 424 as prescribed by FMC 74–7 is being used for the application for the special grant.

(3) *Special Grant Plan.* This plan consists of:

(i) *Special Grant-Program Planning Summary.* The Special Grant-Program Planning Summary is a multiprogram form providing for statistical entries on numbers of participants served by vocational education projects and State Manpower Services.

(ii) *Special Grant-Budget Information Summary.* The Special Grant-Budget Information Summary is a multiprogram form providing for entries on funds planned to be obligated and expended in vocational education projects, State Manpower Services Council and State manpower services.

(iii) *Special Grant Program Narrative.* The narrative for the special grant will be composed of three separate sections. The Program Narrative form contained in the *Forms Preparation Handbook* requires a detailed statement on the program including the following items:

(A) *Vocational Education Services Program Narrative.* (*1*) An explanation of the method used to allocate funds to prime sponsor areas and the rationale for the method used;

(*2*) An explanation for any nonfinancial agreement which was not reached between a prime sponsor and Vocational Education Board;

(*3*) A summary of all agreements required in § 95.56 between individual prime sponsors and the State Vocational Education Board. The summary should follow the procedures established for the development of individual program narratives supporting each nonfinancial agreement;

(*4*) A copy of each such agreement. If all of the nonfinancial agreements are not available when the application is submitted, the Governor shall describe the training and services which he expects to be supplied by the State Vocational Education Board to each prime sponsor. Nonfinancial agreements received after the grant is made will be forwarded to the RA; and

(*5*) An explanation of administrative costs which exceed 20 percent;

(B) *State Manpower Services Council Program Narrative.* (*1*) A listing of members of the Council, identifying the group each member represents;

(*2*) Identification of the chairman.

(*3*) A statement of the procedures which will be followed in reviewing prime sponsor plans and plans of State agencies and making recommendations which will provide more effective overall coordination of manpower services in the State; including a discussion of how the Council functions, the location, frequency, and publicizing of meetings, and whether minutes are kept and meetings are open to the public;

(*4*) A description of the system to be used in monitoring other prime sponsors and State manpower services;

(*5*) A description of the types of data, materials, and information which will be included in the annual report to the Governor;

(*6*) If the Governor plans to use part of the funds authorized for the Council under Section 103(d) of the Act (one percent of the allocation) for Section 106 (State services), the specific use of the funds shall also be described, including the amount of funds and objectives to be accomplished.

(*7*) A breakdown of staff and other council costs. This breakdown should include administration, wages, and fringe benefits.

(C) *State Manpower Services Program Narrative.* (*1*) Explanation of steps taken to assure cooperation of State agencies with prime sponsors in implementing the program;

(*2*) Description of State plan for sharing of manpower resources and facilities for most efficient and economical operation;

(*3*) Coordination of programs financed under Wagner-Peyser Act to provide assistance to individuals in accordance with policies of this Act;

(*4*) An explanation of the arrangements made by the State to assist the Secretary in carrying out the Secretary's mandatory responsibilities for enforcing the requirements for Federal contractors to list all suitable employment openings with local offices of the State employment service and to take affirmative action as required in section 2012(a) of title 38, United States Code;

(*5*) A description of any arrangements for planning areas (see Part V of Attachment A, OMB Circular A–95) to serve geographical regions within the State;

(*6*) A description of provisions for coordination of the manpower and related services to be provided by the State in areas to be served by prime sponsors other than the State, including the exchange of information and coordination of manpower plans;

(*7*) A description of any of the activities allowable under Section 106(c) of the Act, that the State chooses to provide, detailing those activities to be undertaken and the costs and goals of such activities, including:

(*i*) A description of allowable services being delivered under the Act throughout the State, by State agencies responsible for employment, training, and related services (sec. 106(c)(1));

(*ii*) A description of special programs and services for rural areas outside major labor market areas (sec. 106(c)(2));

(*iii*) A description of the extent to which information will be developed and published regarding economic, industrial, and labor market conditions;

(*iv*) A description of information and technical assistance to be provided to prime sponsors in the State; and

(*v*) A description of any model training and employment programs.

(2) It meets the requirements of the Act, the regulations promulgated under the Act, other applicable law, and if the RA determines that the Governor has demonstrated maximum efforts to meet the goals of the prior year's annual plan.

(c) Section 95.18(c) (1) and (2) applies to grants funded under subpart D of this Part 95.

(d) If an application is approved, the RA shall provide the Governor with a letter indicating approval.

§ 95.53 Application approval and disapproval; grant agreement.

(a) In reviewing the grant application, the RA shall utilize the standards specified in 95.17 (a) and (b) (1), (4), (7), (8), (9), (10), (11), (12), and (13).

(b) The RA shall approve any grant application which meets the following standards and requirements:

(1) It contains all the required forms, information, and certifications required by the regulations;

(e) An application for a special grant shall be disapproved if it fails to meet any requirement of the Act, the regulations promulgated under the Act, or any other applicable law. All other conditions set forth in § 95.19 shall apply to the disapproval of special grants.

(f) Upon approval, the Governor shall provide a summary of the Special Grant to each prime sponsor in the State.

§ 95.54 Modifications.

(a) A modification to a Governor's Special Grant Plan is required under any of the following conditions;

(1) Change in duration of the Plan;

(2) Change in the Plan allotment;

(3) Substantial change in program design and/or program goals defined as follows:

(i) When the cumulative number of individuals to be served or the planned placement terminations is to be increased or decreased by 15 percent or more.

(ii) When the cumulative transfer of funds among program activities or cost categories exceeds $50,000 or 15 percent of the total grant budget whichever is greater.

(iii) When the program design is altered significantly (see § 95.21(b)(1)(iii)(D)).

(b) A–95 Clearance. (1) Modifications require clearance through the A–95 clearinghouse only under the following conditions:

(i) There is a cumulative increase or decrease in funds equal to or more than 15 percent of the Plan allotment for the current program year and/or;

(ii) The term of the Plan is extended for a period of more than 3 calendar months and/or;

(iii) The RA directs that A–95 clearance is required for a particular modification.

(2) (i) When A–95 clearance is required, the Governor, whenever possible, shall provide notification to the appropriate A–95 State and area wide clearinghouses of its intent to modify its Plan 60 days prior to submission of the formal modification to the RA. The notification of intent should consist of a revised form SF 424 and a brief description of the anticipated modification. If within 30 days from submission of such notification, the Governor receives no notification from the A–95 clearinghouses that they wish to review the modification, the Governor has fulfilled its obligation under A–95 and may submit the modification to the RA without submitting it to the A–95 clearinghouses as specified in paragraph (b) (2) (ii) of this section.

(ii) When the Governor has not provided notification as specified in paragraph (b) (2) (i) of this section or when the Governor has provided this notification and the clearinghouse(s) have requested to review the completed modification, the Governor shall in all cases submit a copy of its modification to the clearinghouses for comment 30 days prior to its submission to the RA.

(iii) Where no comments have been received from A–95 clearinghouses or where the clearinghouses have not requested to review the completed modification, the Governor shall so indicate in the appropriate item on the revised SF 424, noting clearinghouses which sent no response after receiving the modification, and clearinghouses which did not request to review the completed modification after being notified of the Governor's intent to modify.

(c) The Governor may make any change, consistent with the regulations in this Part and Part 98, in its Program Planning Summary, Budget Information Summary, or narrative description which is not set out in paragraph (a) of this section without prior approval, but must show any such change in the First Program Status Summary and Financial Status Report, as appropriate, submitted to the Department after the change has been made. At the same time this report is submitted, an updated Program Planning Summary, Budget Information Summary, or narrative description, as appropriate, shall also be submitted to the RA. Only those lines and columns or portions of the narrative affected by the modification need be submitted. Comments and publication requirements do not apply to changes described in this paragraph (c) of this section.

(d) Special Grant Plan modifications shall not be initiated solely to adjust planned performance to meet actual performance.

(e) Format. Modifications pursuant to paragraphs (a) and (b) of this section shall consist of the following:

(1) Approval Request Letter.

(2) Revised Form SF 424 (if A–95 clearance is required).

(3) Revised Special Grant Program Planning Summary and Budget Information Summary for current and future quarters only; except that a modification not involving a change in the grant allotment must be received in the regional office within 30 days of the beginning of the current quarter in order to include changes to the current quarter goals.

(4) Narrative description of the changes made and certification that the review and comment procedures in paragraph (f) have been complied with.

(5) A copy of the newspaper announcement required in paragraph (f) of this section.

(6) Revised portions of the narrative description, if appropriate.

(f) Publication and Comment. (1) No later than the date of submission to the RA, the Governor shall provide a summary of any modification pursuant to paragraphs (a) and (b) of this section to each prime sponsor in the State and units of general local government within the Balance of State with a population of at least 25,000, to appropriate Indian sponsors, and to labor organizations representing employees engaged in similar work in the same area as that for which participants will receive subsidized employment or training; and the Governor shall publish in a minimum of one issue of a newspaper or newspapers (including minority newspaper(s), where feasible) of general circulation throughout the area to be served a notice of the intent to request a modification, a brief summary of the purpose of the proposed modification, and the location and hours when the complete modification can be reviewed and the phone number where questions and comments may be directed.

(2) Comments pursuant to paragraphs (b) (2) (ii) and (f) (1) of this section shall be made to the Governor and the RA within 30 days of publication. All substantive written comments and responses shall be transmitted to the RA with the modification, unless comments are received after the modification's submission, in which case they shall be sent separately to the RA.

(3) The Governor shall acknowledge any written comment made pursuant to this section, and shall inform any party submitting a substantive written comment of whether any plan revision will be made in response to the comment and the reasons for such determination.

(g) Notification of Action. (1) The RA shall take final action on approval or disapproval of any proposed modification within 30 days of receipt. Within 7 days after taking action, the RA shall notify the Governor of the action.

(2) A denial of a Governor's request for a modification shall be subject to the appeal procedures set out in Part 98 of this chapter.

(3) The procedures in § 95.18(c) (1) and (2) shall apply to modifications under paragraph (b) of this section.

(h) The procedures for incremental funding are the same as those specified in § 95.21 of Subpart A.

§ 95.55 Governor's distribution of vocational educational funds.

(a) Upon notification of the funds available to the State for vocational education, the Governor shall inform in writing the State Vocational Education Board and each prime sponsor of the amount of funds available to be spent in each prime sponsor's area and the methodology used to determine that amount. If a prime sponsor elects not to use all or part of the funds provided for its area, it shall notify the Governor who will redistribute the funds among other eligible prime sponsors.

(b) The Governor shall determine the amount of funds to be made available in each prime sponsor's area assuring that such funds do not increase by more than 20 percent the amount of funds available to that prime sponsor's area under the basic allocation formula set out in § 95.2(b) (Sec. 103(c)).

§ 95.56 Program operations.

(a) *Vocational education services and activities.* (1) The Governor shall provide vocational education funds received by special grant to the State Vocational Education Board as described in § 95.55 of this Subpart D. The State Vocational Education Board will then provide the training and services detailed in a nonfinancial agreement with the prime sponsor as described in § 95.58 of this Subpart D. This agreement will be developed at the local level between prime sponsors and the State Vocational Education Board to provide vocational education and services which are consistent with provisions of the prime sponsors' comprehensive plan to participants enrolled in Title I programs in prime sponsor areas. This agreement will then be forwarded to the Governor, to become part of the special grant application which shall be submitted to the RA.

(2) (i) Vocational education services which may be provided by a State Vocational Education Board include, but are not limited to, basic or general education, educational programs conducted for offenders, institutional training, and supportive services as defined in § 95.33 (d) (5) or as authorized as supportive services in vocational education programs administered by a State Vocational Education Board. The services provided must be consistent with the provisions of the Act and regulations. Vocational education funds allocated under this Subpart D may also be utilized as appropriate, for the payment of allowances to participants in vocational education training and for administrative costs incurred for the vocational education programs funded under the Act.

(ii) Vocational education funds allocated under this Subpart D shall not be used for activities to be carried out with the State manpower services funds or by the State Manpower Services Council.

(3) If no Vocational Education Board exits within a State, the Governor may provide financial assistance to an alternate agency which serves the same purpose as a State Vocational Education Board.

(b) *State Manpower Services Council.* (1) The Governor shall, from funds available under § 95.2(b)(2), provide staff and other necessary services in support of the Manpower Services Council in performing its functions under § 95.13(d).

(2) Funds for State Manpower Services Councils may be used for State manpower services to the extent such funds are not needed for this council.

(c) *State manpower services.* Funds provided under § 95.2(c)(2) of these regulations are to be used for the following:

(1) Activities required to be performed by the State (sec. 106(b)) are as follows:

(i) Assurance that the State agencies providing manpower and manpower-related services either independently or as subgrantees or contractors will cooperate with prime sponsors and eligible applicants in implementation of the program.

(ii) Development of methods for the sharing of resources and facilities in order to carry out manpower programs throughout the State. The administration of such programs will be designed to meet the needs of the area with minimum duplication and in the most efficient and economical manner.

(iii) Coordination of programs financed under the Wagner-Peyser Act in accordance with such rules, regulations, and guidelines as the Secretary determines necessary for the purpose of providing coordinated and comprehensive assistance to those individuals requiring manpower and manpower-related services to achieve their full occupational potential in accordance with the policies of the Act;

(iv) Arrangements made by the State to assist the Secretary in carrying out his responsibilities for enforcing the requirements for Federal contractors to list all suitable employment openings with local offices of the State employment service and take affirmative action, as required in section 2012(a) of Title 38, United States Code. Such arrangements shall be explained in the State grant application and shall relate only to Federal contractors and subcontractors and should not be interpreted to include grantees, subgrantees or contractors under the Act (sec. 106(b)(5)).

(v) Arrangements for any planning areas (see Part V of Attachment A, OMB Circular A–95, to service geographical regions within the State, including a description of the roles and responsibilities of the planning area with particular emphasis on the steps taken to assure that plans of all State agencies for delivery of services have been effectively coordinated.

(vi) Coordination of the manpower and related services to be provided by the State in areas to be serviced by prime sponsors other than the State, and that provision has been made for the establishment of mechanisms to (A) provide for the exchange of information between States and local governments on State, intrastate, and regional planning in areas such as economic development, human resource development, education, and such other areas that may be relevant to manpower planning; and (B) promote the coordination of all manpower plans in a State so as to eliminate conflict, duplication, and overlapping between manpower services under the Act and manpower services provided under other statutory authority.

(2) Activities which may be provided at the option of the State (sec. 106(c)) are as follows:

(i) Provision of allowable services under the Act which are being delivered throughout the State by State agencies responsible for employment and training and related services;

(ii) The provision of financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas;

(iii) Development and publication of information regarding economic, industrial, and labor market conditions, including but not limited to job opportunities and skill requirements, labor supply in various skills, occupations, and economic and business development and location trends;

(iv) Provision, without reimbursement and upon request, to any prime sponsor serving an area within the State, of such information and technical assistance to assist any such prime sponsor in developing and implementing its programs under the Act; and

(v) Development of special model training and employment programs and related services, including programs for offenders similar to programs described in Section 301(c) of this Act.

(3) When using funds provided under 95.2(c)(2) for manpower activities (e.g., work experience, classroom training, public service employment), the requirements of Subpart C of Part 95, and of Part 96, as appropriate, apply.

§ 95.57 Funding; grant administration.

(a) *Funding.* Special grants will be funded in the same way as basic grants under this Part 95.

(b) *Grant administration.* The requirements related to grant administration contained in Part 98 are applicable to special grants to Governors, except as provided in Subpart D of Part 95.

(1) The overall 20 percent limitation on funds used for administration as set out in § 98.12(f)(6) shall not apply to the special grant.

(i) Funds provided for vocational education services through the special grant are subject to the provisions of the 20 percent limitation on use of funds § 98.12(f)(6). At least fifty percent (50%) of the vocational education funds allocated to administration shall be made available to local prime sponsor areas unless adequate justification for not doing so is provided to the RA by the Governor.

(ii) There is no administrative cost limitation on funds for State Manpower Services Councils or State manpower services.

(2) When funds for vocational education services are used for the payment of allowances to participants, the method of payment utilized must be that of the prime sponsor whose participants are receiving such allowances.

(i) Where the prime sponsor has an established delivery system for the payment of allowances pursuant to § 95.34, the State Vocational Education Board shall utilize the agency or agencies administering that system.

(ii) Where the prime sponsor has no allowance payment delivery system, the method of payment shall be developed between the prime sponsor and the State Vocational Education Board, subject to the requirements of § 95.34.

(c) *Reports for special grants.* (1) The following reports are required:

(i) A Special Grant-Program Status Summary.

(ii) A Special Grant-Financial Status Report.

(iii) A Quarterly Summary of Participant Characteristics (QSPC). The QSPC shall be required for participants provided Vocational Education services and in instances where the State Manpower Services funds are utilized to fund training and employment opportunities. The prime sponsor shall submit a QSPC on its Title I participants receiving Vocational Education services to the Governor so that a summary QSPC can be compiled. The Governor shall make arrangements to insure that local agencies responsible for intake of any participants receiving employment and training opportunities funded under § 95.2(c)(2) supply the data required by the QSPC to the Governor so that a summary QSPC can be completed.

(2) The Governor shall supply to each prime sponsor to which vocational education services are provided a Special Grant Program Status Summary and a Special Grant Financial Status Report for funds expended in the sponsor's area, and shall submit a summary Special Grant-Program Status Summary and a Special Grant-Financial Status Report with copies of the individual prime sponsor reports attached, to the RA.

(3) Each of the three reports shall be submitted to the RA no later than 30 days after the end of the reporting period. If a Governor's period ends at a date other than the Federal fiscal year quarter, a fifth set of reports, covering the entire grant period will be required. Instruction for completion of these reports are in the *Forms Preparation Handbook.*

§ 95.58 Nonfinancial agreement between prime sponsor and State Vocational Education Board.

(a)(1) Upon notification of the funds available for its area, the prime sponsor shall develop a financial, statistical, and narrative plan for the expenditure of such funds by the Vocational Education Board in the prime sponsor's area. This

plan shall be developed in conjunction with the Vocational Education Board consistent with the prime sponsor's Comprehensive Manpower Plan. The plan will be signed by both the prime sponsor and the Board and when signed, will constitute a nonfinancial agreement.

(2) (i) If, within 90 days after notification of available funds for the area has been provided, the prime sponsor and the Board are unable to reach an agreement, the Governor shall mediate the dispute, with the intent of insuring that the local vocational education needs of the prime sponsor's area are met. The Governor retains the authority to determine, in consultation with the prime sponsor, the purposes for which the funds should be used. If mediation by the Governor does not result in a solution acceptable to both parties, it is incumbent upon the Governor to take action necessary to expeditiously and properly utilize those funds, including making other arrangements to insure that the prime sponsor's area is served or if such arrangements cannot be made, the Governor may then redistribute the funds to another prime sponsor area. The affected parties shall be informed prior to any action taken by the Governor.

(ii) If, within 120 days after notification of available funds for the area has been provided, the nonfinancial agreement still has not been finalized, the RA shall arbitrate the dispute.

(b) The Vocational Education Board shall provide services to the prime sponsor upon receipt of the necessary funds from the Governor. The nonfinancial agreement will consist of the following four sections:

(1) Prime sponsor vocational education nonfinancial agreement signature sheet;

(2) Part I of the Special Grant-Program Planning Summary;

(3) Appropriate columns of the Special Grant-Budget Information Summary;

(4) Vocational education program narrative, which shall include the identification of the potential recipient(s) of the funds specified in § 95.57(b)(1)(i) for program administration.

(c) After the agreement is signed, a copy will be sent to the Governor for his review and approval.

(d) The Governor shall develop procedures for the prime sponsors and the Vocational Education Board to follow when they desire to modify the nonfinancial agreement.

(e) The Governor shall develop procedures to assure that the Vocational Education Board provides services consistent with the Governor's Special Grant plan for vocational education services and the nonfinancial agreements between the Board and the prime sponsors.

§ 95.59 Coordination with prime sponsor.

(a) The financial and statistical information from the approved Nonfinancial Agreement Program Planning Summary and Budget Information Summary will be entered into the relevant columns of the prime sponsor's basic grant Program Planning Summary and Budget Information Summary as provided in the *Forms Preparation Handbook*. If the Comprehensive Manpower grant has been signed prior to final approval of the Vocational Education Agreement, a modified prime sponsor's grant Program Planning Summary and Budget Information Summary will be submitted when the vocational education information is available.

(b) Information provided by the Vocational Education Program Status Report and Financial Status Report, supplied to the prime sponsor from the Governors, will be entered in the prime sponsor's basic grant Program Status Report and Financial Status Report.

PART 96—PROGRAMS UNDER TITLE II OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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AUTHORITY: Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839; Pub. L. 93-567, 88 Stat. 1845), sec. 702(a), unless otherwise noted.

Subpart A—General

§ 96.1 Scope and purpose.

(a) This part contains the Department of Labor's regulations providing for the establishment and operation of public service employment programs, and other manpower programs, under Title II of the Act.

(b) Provisions for Title II programs for Indian tribes on Federal and State reservations are found in Subpart D of this Part 96. The provisions of Subparts A, B, and C apply only to non-Indian eligible applicants except as otherwise noted in Subpart D.

(c) Definitions for every abbreviation and major term may be found in Part 94 of these regulations.

(d) Statutory authority for the regulations contained in this Part 96 may be found in section 702(a) of the Act, as well as in other substantive provisions of the Act. Applicable statutory provisions, other than section 702(a) are noted generally in these regulations.

§ 96.2 Allocation of funds.

(a) Funds appropriated under Title II of the Act are available only for areas of substantial unemployment and may be allocated by the Secretary only to eligible applicants (secs. 204(a) and 204(c)).

(b) (1) At least 80 percent of the funds available under Title II shall be allocated among eligible applicants in accordance with a ratio comparing the number of unemployed persons residing in areas of substantial unemployment within each eligible applicant's jurisdiction to the number of unemployed persons residing in all areas of substantial unemployment (sec. 202(a)).

(2) Funds not allocated as provided in paragraph (b)(1) of this section, may be distributed by the Secretary at his discretion taking into account the severity of unemployment in such areas and may include additional areas of substantial unemployment designated by the Secretary after the fiscal year allocation of Title II funds (sec. 202(b)).

(i) When any portion of these funds is to be allocated using a distribution based upon a formula, the Secretary shall not later than 30 days prior to such allocation publish for comment in the FEDERAL REGISTER the specific formula for such distribution, the rationale behind the selection of the formula and

the proposed amount for distribution to each eligible applicant. After consideration of comments received, the Secretary shall publish final allocations (sec. 202(c)).

(c) Except as provided in § 96.36(c), an eligible applicant shall distribute to a program agent through a formal subgrant agreement those funds that are allotted to the eligible applicant under the formula specified in paragraph (b)(1) for use within the program agent's jurisdiction unless the program agent declines to operate a program under Title II of the Act, in which case, the eligible applicant will make other arrangements to serve that jurisdiction (sec. 204(d)(1)).

§ 96.3 Eligibility for funds.

(a) Funds shall be allocated by the Secretary only to eligible applicants. Eligible applicants are those prime sponsors and Indian tribes on Federal or State reservations, as defined in § 94.4, which include areas of substantial unemployment (sec. 204(a)).

(b) For the purpose of allocating funds, the term "eligible applicant" shall include any entity which is eligible to be a prime sponsor under Title I of the Act and Indian tribes on Federal or State reservations as described in § 96.42 (sec. 204(b)).

(c) A State shall not qualify as an eligible applicant for any geographical area within the jurisdiction of any other eligible applicant within the State unless the non-State eligible applicant has not submitted an approvable application for Title II funds (secs. 204(a)(1) and 102(b)(1)).

(d) A unit of general local government shall not qualify as an eligible applicant with respect to any area within the jurisdiction of another eligible unit of general local government unless such smaller unit has not submitted an approvable application for such areas (secs. 204(b) and 102(a)(b)(2)).

(e)(1) Eligible applicants shall distribute funds to program agents, as provided in § 96.2(c) (sec. 204(d)(1)).

(2)(i) No program agent shall receive or continue to receive funds for any area of substantial unemployment within the jurisdiction of another program agent unless the RA determines that the smaller program agent has not carried out its administrative responsibility for developing, funding, overseeing, and monitoring programs within its area, consistent with the application for financial assistance developed by the eligible applicant in cooperation with the program agent (secs. 204(d)(3) and 102(b)(2)).

(ii) No eligible applicant may make other arrangements, as specified in § 96.22(d), for serving an area of substantial unemployment being served by a program agent, which the eligible applicant determines is not carrying out its administrative responsibility for developing, funding, overseeing, and monitoring programs within its area, consistent with the application for financial assistance developed by the eligible applicant in cooperation with the program agent, except with the review and the concurrence of the RA (sec. 204(d)(2)).

(f)(1) An eligible applicant or program agent, other than a State, whose entire jurisdiction qualifies as an area of substantial unemployment shall, to the extent feasible, allocate funds for identifiable subareas which meet the unemployment rate requirement of areas of substantial unemployment in § 94.4. Such allocation to subareas shall be based on the ratio of the number of unemployed persons residing in each subarea to the total number of unemployed persons within the eligible applicant or program agent's jurisdiction.

(2) Where the eligible applicant is a State that has an unemployment rate for its jurisdiction of at least 6.5 percent, the State shall, to the extent feasible, allocate its funds under Title II to individual areas of substantial unemployment within its jurisdiction. Such allocations shall be based on the ratio of the number of unemployed persons residing in each individual area of substantial unemployment to the sum of unemployed persons residing in all such areas of substantial unemployment within the State's jurisdiction.

(3) An eligible applicant or program agent with an overall unemployment rate of less than 6.5 percent shall allocate its funds only for those areas of substantial unemployment specified by the Secretary (secs. 201 and 202(a)).

(g) If an eligible applicant finds that there is an area of substantial unemployment within its jurisdiction that has not been designated by the Secretary to receive assistance, it may recommend that such area be considered for assistance by the Secretary. In making any such recommendation, the eligible applicant must include a precise geographical definition of the area to be served and its population. Such a recommendation shall be submitted to the RA. The Secretary shall, within a reasonable time, make a determination on the recommendation and inform the eligible applicant of the determination and the reasons therefor.

Subpart B—Grant Application

§ 96.10 General.

This Subpart B provides the procedures for obtaining grants to operate programs under Title II of the Act.

§ 96.11 Preapplication for Federal Assistance; consortium agreements.

Potentially eligible applicants, including consortia formed under § 95.11 of these regulations, shall be notified of their eligibility to apply for grants under Title II. At that time such applicants shall submit a preapplication following the procedures set forth in § 95.11(a) of this title.

§ 96.12 Eligible applicant designation.

Upon receipt of a completed preapplication the RA shall determine whether the applicant is eligible to operate a program under Title II of the Act. The RA shall notify the applicant of the determination according to the procedures set forth in § 95.12 of this title.

§ 96.13 Planning process; advisory councils.

To receive financial assistance under Title II of the Act, eligible applicants shall submit an approvable Title II Annual Plan as set out in § 96.14. In developing and modifying such a plan, an eligible applicant shall utilize the planning process and the advisory councils as set out in § 95.13 (b), (c), (d) and (e) of this title.

§ 96.14 Content and description of grant application.

(a) *General.* (1) This section describes the grant application for funds under Title II of the Act. Copies of all forms and instructions are contained in the *Forms Preparation Handbook.*

(b) An Annual Plan for Title II must be submitted by prime sponsors on a date set by the Secretary. The Annual Plan consists of the following:

(1) *Application for Federal Assistance.* This form is described in § 95.14(c)(1).

(2) *Annual Narrative Description of Program.* The annual narrative description requirements for Title II are the same as those described in § 95.14(c)(2) for Title I programs. A detailed statement on each of those items must be provided as part of the Title II Annual Plan, except as provided below:

(i) The information required under § 95.14(c)(2)(iii)(A), program activities and services, shall only be provided if the Title II applicant intends to conduct Title I activities with Title II funds.

(ii) If the Title II applicant's geographical area differs from the Title I geographical area described in the PSA, the information required under geographical area to be served, as specified in § 95.14(b)(2)(ii) shall be provided for the Title II area.

(3) *Program Planning Summary.* This form is described in § 95.14(c)(3).

(4) *Budget Information Summary.* This form is described in § 95.14(c)(4).

(5) *Public Service Employment Occupational Summary.* This form is described in § 95.14(c)(5).

(6) *Monthly Schedule.* A monthly estimate of total individuals enrolled at the end of the month and total cumulative expenditures shall be provided. Such monthly schedule will reflect the activity for each month during the grant period under Title II.

(7) *Program Summary.* The Program Summary presents a distribution of jobs, training slots, and funds to be provided to eligible applicants and subgrantees. It designates the area to be served, the population and employing agencies of each area.

§ 96.15 Comment and publication procedures relating to submission of grant application.

Each eligible applicant shall provide an opportunity for comment on the application as set out in § 95.15 of this title.

§ 96.16 Submission of grant application; standards for reviewing grant applications.

(a) Each eligible applicant shall submit its grant application to the RA on or before a date set by the Secretary.

(b) A grant application shall include all items set out in § 96.14 of this Part 96.

(c) A grant application will be reviewed to determine if it meets the requirements of the Act, the regulations promulgated under the Act, and other applicable law. In reviewing a grant application, the RA shall use the standards set forth in § 95.17(b) of this title.

§ 96.17 Application approval; application disapproval; grant agreement.

The procedures set forth in § 95.18 and § 95.19 shall apply for Title II applications and grant agreements.

§ 96.18 Use of alternative eligible applicant; services by the Secretary.

The provisions detailed in § 95.20 shall apply to applications and grants made pursuant to Title II of the Act.

§ 96.19 Modifications.

The modification procedures set forth in § 95.21 of this title shall apply to Title II grants. In addition, modifications pursuant to §§ 95.21(b) (1) and (3) of this title shall include a revised program summary, if appropriate.

Subpart C—Program Operation

§ 96.20 General.

This Subpart C sets out the program operation requirements for eligible applicants and subgrantees. The utilization of funds under Title II of the Act is conditioned upon adherence to the requirements of the Act, other applicable law, and other terms and conditions of the regulations promulgated in this part.

§ 96.21 Basic responsibilities of eligible applicants.

An eligible applicant is responsible for:

(a) Requesting, receiving and administering funds within its jurisdiction (secs. 203(a) and 205(c)(1));

(b) Allocating funds and jobs equitably, among public agencies within its jurisdiction (sec. 205(c)(23));

(c) Developing a plan to effectively implement a program of transitional public service employment and related training and manpower services (sec. 203(a));

(d) Developing, to the greatest extent possible, new careers and opportunities for career advancement for participants (sec. 205(c)(4));

(e) Performing reviews at 6-month intervals on the status of each participant to assure that the participant's job has potential for advancement or suitable continued employment (sec. 207(a));

(f) Administering or supervising all activities under its approved grant application including the establishment of hearing procedures, as set out in Part 98 of this title (sec. 205(c)(1));

(g) Undertaking analysis of job descriptions and reevaluations and, where shown necessary, revisions of qualification requirements at all levels of employment, including recommendations to State or local civil service commissions on needed revisions in civil service requirements and practices relating thereto, with a view toward removing artificial barriers to public employment of those whom it is the purpose of Title II to assist, as specified in §§ 96.27, 96.28, 96.29, and 96.30 (205(c)(18));

(h) Assuring that employing agencies provide information regarding their employment opportunities funded under the Act to the local State employment service and that such vacancies are filled, as specified in § 96.30(a).

(i) Requiring that all employing agencies maintain and make available for review by all interested parties job descriptions on all PSE positions.

§ 96.22 Basic responsibilities of program agents; relationship with eligible applicants.

(a) A program agent, as defined in § 94.4, shall be delegated by the eligible applicant through a formal subgrant agreement the administrative responsibility for developing, funding, overseeing and monitoring programs with respect to the funds made available to it under Title II of the Act.

(b) A program agent shall carry out its functions consistent with the grant application developed by the eligible applicant in cooperation with the program agent and shall be responsible to the eligible applicant for carrying out its program in a manner consistent with the application (sec. 204(d)(2)).

(c) Unreconciled differences between an eligible applicant and a program agent shall be submitted to the RA.

(d) If a program agent fails to comply with paragraph (b) of this section, it is the responsibility of the eligible applicant, consistent with the regulations, to initiate whatever action is necessary to assure program agent compliance. Such action may include the eligible applicant reallocating funds to an alternative program agent to serve the original area or deciding to serve the area itself. However, no such action shall be taken by an eligible applicant except with the review and concurrence of the RA.

§ 96.23 Acceptable public employment positions.

(a) Funds provided under Title II which are used for public service employment shall only be used to fund public service needs which have not been met and to implement new public services (sec. 201).

(b) In developing job opportunities under this Part 96 the following requirements shall apply:

(1) The job provided must meet publice service needs as defined in the Act and the regulations promulgated in this Part 96 (sec. 205(a));

(2) Program emphasis shall be on transitional employment: jobs which are likely to lead to regular, unsubsidized employment or opportunities for continued training (secs. 201, 205 (b)(4), (b)(6), (b)(11), and 205(c)(26));

(3) Jobs shall be provided, to the extent feasible, in occupational fields which are most likely to expand within the public or private sector as the unemployment rate recedes (sec. 205(c)(6));

(4) Jobs shall be allocated among State and local public agencies and subdivisions thereof, such as educational agencies, within the applicant's jurisdiction, taking into account the number of unemployed persons within each area, their needs and skill levels, the needs of the agencies and the ratio of jobs in the area at each governmental level. The eligible applicant has the ultimate responsibility for determining the equitable distribution and for selection, job structure, participant benefits, and all other aspects of the jobs funded under this Part (sec. 205(c)(23)).

(5) To the extent consistent with the maintenance of effort requirements of § 96.24, the participant activity limitations of § 98.23 and the personnel procedures and collective bargaining agreements of the eligible applicant and the private nonprofit agencies, jobs may also be allocated to private nonprofit agencies, such as educational, social service, and health agencies, which provide public services, as defined in § 94.4, within an eligible applicant's jurisdiction. Jobs may be allocated to such agencies provided: they offer public services for the general public and not primarily or exclusively for the benefit of their membership or constituencies; and they are determined to best serve the unemployed population based on the considerations stated in § 96.23(b)(4). Such jobs may include positions in Job Corps Centers other than those operated by private for profit organizations.

(6) To the extent consistent with the maintenance of effort requirements of § 96.24, Title II participants may be outstationed at worksites, including Federal agencies, such as Job Corps Civilian Conservation Centers and private nonprofit agencies: *Provided*, The employment is geared to the skills and abilities of the participant and is consistent with these regulations. Outstationed participants are still to be considered employees of the employing agency and shall be assured of the same working conditions and benefits, as specified by section 98.24, as received by other similarly employed employees of the employing agency (not of the outstationed worksite). However, maximum efforts should be made by the employing agency to accommodate the outstationed worksite by coordinating work hours and holidays.

(7) Jobs may be located only within the eligible applicant's or program agent's jurisdiction unless the eligible applicant or program agent determines that the effective operation of its program under Title II is possible only by creation of some jobs outside of its jurisdiction. In such cases, the jobs created must employ residents of the eligible applicant's or program agent's jurisdic-

tion and be within reasonable commuting distance of the residents of the eligible applicant's or program agent's jurisdiction.

(8) Jobs will not be "dead end," but will contribute to career advancement and the development of the employment potential of participants. Opportunities for continued training are to be provided to support the upward mobility of participants (secs. 205(a), 205(c)(4), and 208(a)(6)).

(9) No more than one-third of the participants in any program may be employed in a bona fide professional capacity as defined in 29 CFR 541.3 issued pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938, as amended. The exception to this limitation is the hiring of classroom teachers. (Generally, according to the F.L.S.A., a professional is an individual (i) with a professional education, usually requiring more education than a Bachelor's degree or whose work is original and creative in an artistic field, (ii) at least 80 percent of whose work requires discretion and judgment and is intellectual in nature, and (iii) who earns at least $170 a week ($150 in Puerto Rico, Virgin Islands, or American Samoa). A less stringent test applies to individuals earning $250 or more a week. Lawyers, doctors and teachers working as such are professional without regard to their earnings (for further explanation see 29 CFR 541.3) (sec. 205(c)(22));

(10) The program excludes employment in building and highway construction work (except that which is normally performed by the prime sponsor or eligible applicant) and other work which inures primarily to the benefit of a private profit-making organization.

(11) Jobs in each promotional line shall in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service jobs not subsidized under Title II. In accordance with § 98.24(b), when a promotional freeze affects non-CETA employees, it shall also apply to CETA participants similarly employed (sec. 205(c)(24));

(12) No job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective bargaining procedures have been complied with (sec. 205(c)(24));

(13) To the extent feasible, the public services provided by the jobs should be designed to serve the residents of the areas of substantial unemployment designated for Title II funds (sec. 205(c)(3)); and,

(14) Part-time jobs shall be allowed only for those individuals who, because of age, handicap, or other personal factors, are unable to work full-time.

(15) Consistent with the requirements of § 98.12(b)(3), of this subtitle, public service employment participants may be used in home repair and winterization/weatherization activities.

§ 96.24 Maintenance of effort.

(a) Public Service Employment funded under the Act shall only be in addition to employment which would otherwise be financed by the eligible applicant without assistance under this Act (sec. 205(c)(25)).

(b) To assure maintenance of effort, a public service employment program under the Act:

(1) Shall result in an increase in employment opportunities over those which would otherwise be available;

(2) Shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of non-overtime work, wages, or employment benefits;

(3) Shall not impair existing contracts for service or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

(4) Shall not substitute public service jobs for existing federally assisted jobs (sec. 208(a)(1)).

(c) Eligible applicants, program agents, contractors and subgrantees may not teminate, layoff, or reduce the working hours of, an employee in anticipation of hiring an individual with funds available under the Act. In addition, no participant shall be used to fill positions or provide services normally provided by temporary, part-time, or seasonal workers or contracted out, or to fill full-time vacancies, unless documentation is maintained, as provided in paragraph (j) of this section, that such action does not constitute a substitution of Federal funds for purposes that would otherwise have been supported by other resources.

(d) These regulations do not authorize the hiring of any person when any other person is on lay-off from the same or any substantially equivalent job (sec. 205(c)(7)(8)). If lay-offs of regular employees occur during the grant period, participants may not remain working in the same or substantially equivalent job within the employing agency that is affected by the lay-off. Under these circumstances, the participants would either be transferred to positions not affected or be laid off or terminated. Prime sponsors shall try to transfer CETA participants to non-affected positions, transfer them to Title I, if appropriate, or attempt to place them into unsubsidized employment before laying them off or terminating them (sec. 205(c)(8)).

(e) The hiring of former employees who lost their jobs due to bona fide layoff into positions supported under the Act is not prohibited if it does not constitute a violation of the maintenance of effort provisions of the Act and these regulations.

(1) The percentage of public service employment positions which may be used for the hiring of laid-off employees shall be reasonably consistent with that percentage of the total unemployed population in the jurisdiction which the laid-off employees comprise. In determining the reasonable percentage of positions to be made available for rehiring laid-off employees, eligible applicants shall assess the appropriateness of serving such persons by considering the following factors:

(i) The needs of the laid-off workers relative to the needs of other groups specified in the Act for special consideration, as well as the groups identified as significant segments by the prime sponsor in its grant application, including length of unemployment and prospects of obtaining employment.

(ii) The size of the public service employment program and the availability of funds to support rehires without disruption of services to, or termination of, regular participants.

(2) Eligible applicants shall document such assessment of equitability and need in the Annual Plan Narrative Description. RA's shall approve the rehire of laid-off employees only upon determining that the maintenance of effort provisions of the Act and these regulations have not been violated and that sufficient justification of equitability and need has been provided.

(f)(1) In most jurisdictions where an eligible applicant lays off some of its employees, the total number of individuals laid off by the eligible applicant constitutes less than ten percent of unemployed persons in the eligible applicant's jurisdiction. In such jurisdictions, an eligible applicant may, consistent with the requirements of paragraph (e) of this section, allocate up to ten percent of its Public Service Employment positions for the rehiring of such laid off employees, even if the number of laid off employees is less than ten percent of the total unemployed population in the jurisdiction.

(2) Any eligible applicant which is subject to the ten percent limitation of subparagraph (1), may submit a major modification to the Regional Administrator requesting that the eligible applicant be permitted to allot more than ten percent of the eligible applicant's Public Service Employment positions to the rehiring of its laid off employees. The major modification shall be supported by necessary documentation and shall demonstrate that approval of the request would further the purposes and policies of the Act, including the provision of special consideration to the most severely disadvantaged individuals in the jurisdiction, and that the eligible applicant has a compelling need for such a modification. If the Regional Administrator believes that these requirements have been satisfied, he shall certify the matter to the Assistant Secretary, who shall make the final decision. If the Regional Administrator does not believe that the requirements have been satisfied, he shall deny the request and so inform the eligible applicant.

(g) No participant may be placed or remain working in any position substantially equivalent to a position which is vacant due to a hiring freeze unless the eligible applicant can demonstrate that:

(1) The freeze resulted from a lack of funds to sustain former staff levels and was not established because of the availability of funds under the Act, and

(2) The promotional opportunities of regular employees are not infringed upon.

(h) Eligible applicants shall notify the RA in writing of the occurrence of any layoff or hiring freeze in a department or agency where participants are employed in positions substantially equivalent to those affected by the layoff or freeze.

(i) (1) When the total number of planned or actual rehires equals or exceeds ten percent of total public service employment positions, laid-off employees must be identified as a significant segment in the grant application. A modification is required if this point occurs during the term of the grant.

(2) Eligible applicants which, at the time these regulations become effective, have an approved grant application which permits more than ten percent of public employment positions to be used for rehires, are not required to immediately terminate participants in order to comply with paragraph (e) (1) of this section. However, such eligible applicants shall promptly notify the RA in writing of the measures proposed to be taken to reduce the level of rehires over a reasonable period of time to comply with the provisions of this section. The RA shall approve the proposal if it is reasonable in light of the conditions present in the jurisdiction. If an eligible applicant does not submit an approvable proposal, the RA may take such action as is appropriate under these regulations. Approval of a proposal eliminates the need to obtain a major modification under paragraph (f) (2) of this section.

(j) Eligible applicants, program agents, contractors, or subgrantees which utilize funds under this part to hire persons to fill positions previously supported by funds other than funds available under the Act or to provide services which are normally provided by temporary, part-time or seasonal workers or which is normally contracted out, shall maintain documentation that such use of funds does not constitute a violation of paragraph (c) or of any other requirement of this section. Such documentation shall be prepared and maintained in a form which clearly demonstrates that all requirements of this section are complied with and shall be readily available for the inspection of the RA for a period of not less than one year subsequent to the filing of any position to which these provisions are applicable. Prime sponsors shall, at the direction of the RA, submit such documentation or any budgetary expenditure records, revenue statements, and other information relevant to determinations under this section. RA's shall not approve any grant application unless prime sponsors have submitted, when directed by the RA, conclusive evidence that the proposed use of funds fully meets the requirements of this section.

§ 96.25 Responsibility for selecting participants.

(a) The ultimate responsibility for the selection of participants and the maintenance of participant records as indicated in § 98.18(a), rests with the eligible applicant. However, the eligible applicant, subject to its direction, may delegate the administration of this responsibility to program agents, other subgrantees and employing agencies. The selecting agency must provide adequate documentation of each applicant's eligibility and retain in the participant's folder, as provided in § 9818(b), the information on which this documentation is based. The selecting agency shall also retain, as provided in § 98.18(b), the applications of persons not selected for participation and the reasons for their nonselection (sec. 205(c) (2) (26)).

(b) Adequate documentation shall consist of a signed, and dated, complete application for employment, including the last date of employment, which attests that the information in the application is true, to the best of the applicant's knowledge.

§ 96.26 Place of residence for participants.

(a) *General.* (1) (i) At the time of both application and selection, program participants shall reside in an area of substantial unemployment within the jurisdiction for which funds have been designated. A program agent, therefore, may not hire persons outside of its jurisdiction nor may an eligible applicant hire a person from the jurisdiction of another eligible applicant or program agent within its own jurisdiction.

(ii) Because of changes in program agent designations each program year, this policy does not require the layoff of participants eligible under the residency requirement that were applicable at the time of their selection.

(2) An eligible applicant or program agent may receive additional funds as a subgrantee of another eligible applicant or program agent to enroll residents of the other eligible applicant's or program agent's jurisdiction in any public service job or other manpower program under Title II. The eligible applicant or program agent receiving funds must offer jobs or programs which are within reasonable commuting distance of residents of the other eligible applicant's or program agent's jurisdiction.

(b) *Consortia of eligible applicants.* In the case where two or more eligible applicants have formed a consortium to operate programs under Title I and Title II, residents of any designated area of substantial unemployment within the boundaries of the consortium may be employed in public service jobs or enrolled in any other manpower activity either within the geographical boundaries of the consortium or outside such boundaries in which case the provisions of § 96.23(b) (7) shall apply; provided, that the total amount of funds available for residents of each area of substantial unemployment of each participating eligible applicant equals the amount of funds that the area would have received if the consortium had not been formed.

(c) *Consortia of units of general local government formed in order to qualify as program agents; multijurisdictional eligible applicants.* The provisions of paragraphs (a) and (b) of this section shall apply to consortia of units of general local government formed in order to qualify as program agents and shall apply to multijurisdictional eligible applicants.

§ 96.27 Eligibility for participation in a Title II program.

(a) A person residing, as defined in paragraph (f) of this section in an area of substantial unemployment who has been unemployed for at least 30 days prior to application or is underemployed is eligible to participate in a program under Title II of the Act (secs. 201 and 205(a)). A person who obtains permanent, full-time unsubsidized employment after application shall no longer be considered eligible for Title II, unless, even with his full-time employment, he still qualifies as underemployed or unemployed as defined in § 94.4(fff) (2) or § 94.4(hhh) of this title.

(b) A veteran who has served on active duty for a period of more than 180 days or who was discharged or released from active duty for a service connected disability, shall be immediately eligible, upon discharge or release for participation in a program under Title II of the Act without regard to the 30-day unemployment requirement which would otherwise pertain (38 U.S.C. 2013), provided such veteran has not obtained permanent full-time unsubsidized employment between the time of discharge or release from active duty and the time of application for participation in Title II.

(c) A person participating in a public employment program under a section 5 or section 6 grant funded by the Emergency Employment Act (EEA) who is currently, or was at the time of his selection for such participation, geographically eligible may be transferred into the Title II grant program covering that geographical area, in order to provide for the orderly phase out of the EEA grant, provided that maximum efforts have been made to place such an individual in unsubsidized employment or training.

(d) (1) Title I, Section 302 and 303 enrollees under the Act, and participants under Title X of the Public Works and Economic Development Act who are enrolled in Title II or VI activities funded through the Department, may be transferred into a Title II program only if they met the requirements of paragraphs (a) and (f) of this section prior to their entry into the program from which they are being transferred and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a) (5)).

(2) Title VI participants who met the requirements contained in paragraphs (a) and (f) of this section prior to their entry into a Title VI program may be transferred into Title II, except for Title VI participants affected by the Emergency Supplemental Appropriations Act of 1976 who may be transferred to Title II without qualifying under paragraphs (a) and (f) of this section.

(3) A person participating in a WIN public service employment program un-

der Part C, Title IV of the Social Security Act, who leaves or is removed from the public service employment position, and wishes to enroll in Title II shall be treated in the same manner as any other Title II applicant.

(i) If such an individual is still receiving cash welfare payments, that individual meets the definition of unemployed for this title, and is immediately eligible for Title II if the individual also meets the requirements of paragraphs (f) and (g) of this section.

(ii) If the individual is no longer receiving welfare payments, that individual must meet the standard eligibility criteria for Title II, including the appropriate period of unemployment.

(e) A participant in a public service employment program under this Part 96 may change jobs within a particular eligible applicant's jurisdiction without an intervening period of unemployment, but may not be employed in a job for any other eligible applicant without an intervening period of unemployment of at least 30 days.

(f) For the purpose of this section, the term residence shall mean an individual's dwelling place or home, both at the time the individual applies and is selected for participation in a program under Title II of the Act. In determining whether a particular place is an individual's dwelling place or home, the intention of the individual is the key element. Maintenance of an "address" is not necessarily the same as the maintenance of a dwelling place or home.

(g) Program participation shall be limited to citizens of the United States, natives of American Samoa and the Trust Territory of the Pacific Islands, permanent resident aliens and other aliens who have been permitted to accept permanent employment in the United States by the Immigration and Naturalization Service.

(h) While selection of eligible full-time students for participation in programs funded under Title II of the Act is not prohibited, eligible applicants should exercise caution in providing for such participation and should provide for such participation only in accordance with these regulations. In providing for such participation, eligible applicants should give special consideration to those persons most severely disadvantaged in terms of length of time they have been unemployed and their prospects for finding employment without assistance under Title II.

§ 96.28 Equitable service to the unemployed population; serving significant segments.

(a) Providing equitable services to the demographic groups (age, sex, race) within its unemployed population, taking into account the significant segments most in need of service and the incidence of underemployed in the prime sponsor's jurisdiction. Where variances as specified in § 95.14 occur in service to the demographic groups, they shall be adequately justified in the Annual Plan.

(b) The prime sponsor shall take positive steps, such as active recruitment, to insure that the significant segments in its approved plan of service are served.

§ 96.29 Groups to be provided special consideration within the significant segment groups served.

Special consideration shall be given to:

(a) *Veterans.* (1) Eligible applicants shall take appropriate steps to provide for the increased participation of qualified disabled veterans and qualified Vietnam-era veterans who are under 35 years of age in programs under title II. Specific effort should be made to develop appropriate full or part-time opportunities for such veterans. Each eligible applicant shall develop local goals for service to such veterans, taking into consideration their numbers and the number of qualified persons in significant segments of the population in the area served. These goals shall be included in the eligible applicant's Annual Plan. The eligible applicant should utilize the assistance of the State and local veterans' employment service representatives in meeting these goals. In order to insure special consideration for veterans, all public service employment vacancies under title II, except those to which former employees are being recalled, and those into which CETA participants are being transferred, must be listed with the State employment service at least 48 hours (excluding Saturdays, Sundays, and holidays) before such vacancies are filled. During this period those veterans specified above who fall within the significant segments to be served will be referred by SESAs. If sufficient numbers of veterans are not available, the employment service, upon request, may also refer members of other significant segments. In addition, eligible applicants shall, in filling public service jobs, give special consideration to special veterans; and, they shall exercise maximum efforts to design jobs and job training opportunities for veterans who have received other than a dishonorable discharge within four years before the date of their application, (sec. 205(c)(5)).

(2) Each eligible applicant shall, on a continuing and timely basis, provide information on job vacancies and training opportunities funded under Title II of the Act to State and local veterans employment representatives and to other veterans organizations for the purpose of disseminating information to eligible veterans (sec. 104(b) of Emergency Jobs and Unemployment Assistance Act of 1974).

(b) *Welfare recipients.* Eligible applicants shall give special consideration to welfare recipients by taking them into account when selecting participants within significant segments and/or by identifying them as a significant segment in the Annual Plan.

(c) *Former manpower trainees.* Due consideration shall be given, in developing an eligible applicant's plan and enrolling individuals in the manpower programs funded under Title II of the Act to persons falling within the significant segments to be served, who have participated in manpower training programs and for whom work opportunities are not otherwise immediately available (sec. 205(c)(9)).

(d) *Teachers.* In filling teaching positions in elementary and secondary schools, each eligible applicant shall give special consideration to unemployed persons with previous teaching experience who are certified by the State in which that prime sponsor is located (Sec. 205(d)).

§ 96.30 Serving the most severely disadvantaged persons.

In meeting the requirements of §§ 96.28 and 96.29 above, the eligible applicant shall give priority to unemployed persons who are the most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under Title II (secs. 205(c)(7) and 210).

§ 96.31 Training and supportive services.

Eligible applicants may provide training and supportive services to an individual participating in a public service employment program. Training may be that which is auxiliary to a participant's position or that which is of benefit to the participant in obtaining employment not subsidized under the Act. Eligible applicants may use Title II funds to provide training and supportive services or may utilize funds made available to its jurisdiction under other Titles of the Act, provided the funds from each Title are utilized consistent with the regulations for the funding source Title. Training may be provided directly or may be purchased from public or private organizations. Due consideration should be given to the utilization of existing services and facilities which are available, with or without reimbursement of the reasonable cost, from Federal, State and local agencies (secs. 105(a)(3)(B), 105(c)(2) and 205(c)(14) and (19)).

§ 96.32 Linkages with other manpower programs.

An eligible applicant shall, where appropriate, maintain or provide linkages with upgrading and other manpower programs for the purpose of (a) providing public service employment participants who want to pursue work with the employer, in the same or similar work, with opportunities to do so and to find permanent, upwardly mobile careers in that field, and (b) providing those persons so employed, who do not wish to pursue permanent careers in such field, with opportunities to seek, prepare for, and obtain work in other fields. Eligible applicants shall also maintain linkages with agencies, such as State vocational rehabilitation departments, to provide needed supportive services for participants, such as the elimination of any barriers to employment created by the architectural design of the work site.

§ 96.33 Placement goals.

(a) Public service employment programs under the Act shall, to the extent feasible, be designed to enable all individuals to move from such employment programs into unsubsidized full-time jobs in the private or public sector, and shall emphasize the development of new careers and career development opportunities (secs. 201 and 205).

(b) Each eligible applicant, program agent, and subgrantee shall be responsible for efforts to place all participants in unsubsidized employment in both the private sector and the public sector, or in training programs.

(c)(1) To carry out the intent of paragraph (b) of this section, each eligible applicant, program agent and subgrantee, to the extent consistent with law and applicable collective bargaining agreements, shall have the goal of accomplishing on an annual basis at least one of the following:

(i) Placing half of the cumulative number of participants terminated in unsubsidized private or public sector employment;

(ii) Placing participants in half the vacancies occurring in suitable occupations in an eligible applicant, program agent, or subgrantee's permanent work force which are not filled by promotion from within the agency.

(2) When a suitable job offer or offer of referral to a suitable job is made to and rejected by a participant, this can be construed as being acceptable grounds for termination of the participant by the prime sponsor regardless of how long the individual has been in the program. Suitable job shall mean a job which is: comparable to the participant's CETA job in terms of working conditions and benefits; the same or equivalent to the participant's CETA job or otherwise commensurate with his/her skill level; located within a commuting distance of the participant's home comparable to the distance traveled by others in the jurisdiction similarly employed; and not vacant due to a strike or based on a requirement that an employee must join or resign from a union.

(d) Placement goals established consistent with paragraph (c) above are to be understood as goals and are not prescribed as placement requirements. (sec. 211(b)).

(e) Any eligible applicant shall have the right to request a waiver of such placement goals. The request for a waiver may be submitted at any time, and may be granted by the RA when in the RA's judgment local economic conditions and budgetary constraints warrant such a waiver. (sec. 211(b)).

(f) Whenever such a waiver has been granted by the RA, failure to meet the placement goals shall not be cited in any official review or evaluation of that eligible applicant's program. (sec. 211 (b)).

§ 96.34 Compensation for participants.

(a) *Minimum wage for participants.* Each participant shall be paid at a rate no less than the highest of the following:

(1) The minimum hourly wage set out in sec. 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. The exceptions to Section 6(a)(1) shall not apply to public service employment participants.

(2) The State or local minimum wage for the most nearly comparable covered employment;

(3) The prevailing rate of pay for persons employed in similar public occupations by the same employer (sec. 208 (a));

(4) The minimum entrance rate for inexperienced workers in the same occupation in the establishments, or, if the occupation is new to the establishment, the prevailing entrance rate for the occupation among other establishments in the community or area, or any minimum rate required by an applicable collective bargaining agreement; or

(5) The prevailing rate established by the Secretary, in accordance with the Davis-Bacon Act, as amended, for participants involved in employment covered by the Davis-Bacon Act as specified in § 98.29 of this title.

(b) Wages in the Commonwealth of Puerto Rico, the Virgin Islands, and American Samoa shall be consistent with provisions of the Federal, State or local law, otherwise applicable. Wages in the Trust Territory of the Pacific Islands shall be consistent with local law, except on Eniwetok Atoll and Kwajalein Atoll, where Section 6(a)(1) of the Fair Labor Standards Act applies.

(c) *Limitations on participant's salary.* (1) Compensation to any participant from Title II Federal funds is limited to a maximum full-time rate of $10,000 per year, plus the cost of fringe benefits to the extent they do not exceed those paid to workers earning $10,000 a year. This limitation shall also be applicable for participants in public service employment funded under other titles of the Act.

(2) When a participant is eligible for a promotion, a general salary increase or overtime pay that would mean a salary in excess of $10,000, the participant is entitled to it if other employees similarly employed would receive such benefits. The employer must pay the amount above $10,000 from non-CETA funds as well as a prorated share of the increased fringe benefits. Funds from other titles of the Act shall not be used to supplement the maximum salary limitation for participants.

§ 96.35 Administrative staff.

(a) *General.* To the extent possible, administrative staff shall be drawn from the unemployed and underemployed population. However, if necessary technical, supervisory and administrative personnel are not available in the unemployed and underemployed population, staff may be recruited from other available sources (sec. 205(c)(20)).

(b) *Compensation.* Eligible applicants may compensate administrative staff from:

(1) Funds not provided under the Act. No maximum salary limitation will apply in this case;

(2) Administrative funds allowed under Title II as specified in § 96.36. This applies only to non-participants on the administrative staff in which case no salary limitation will apply; or

(3) Funds expended under Title II for wages and fringe benefits for participants as specified in § 96.36 of this Part 96. In this case, the administrative staff member must meet the Title II participant eligibility requirements and be hired as a Title II participant. The salary limitation specified in § 96.34(b) shall apply. Any salary paid to a participant in excess of $10,000 must be paid from funds other than those provided under the Act.

§ 96.36 Use of Title II funds for programs under Titles I and III–A.

Funds available to an eligible applicant may, at its option, be utilized for residents of the areas of substantial unemployment designated under this Part for programs authorized under Title I or Part A of Title III of the Act. Where Title II funds are used for activities other than PSE authorized under other Titles of the Act, all provisions under this part, except § 96.21 (b), (c), (e), (g), and (h), § 96.27(e), § 96.31, § 96.33, § 96.34, and § 96.36, shall apply in addition to those provisions applicable for programs under Title I or Part A of Title III (sec. 210); however, when Title II funds are used to fund public service employment, all of the provisions of this Part 96 shall apply.

Subpart D—Special Conditions for Grants to Indian Tribes on Federal and State Reservations.

§ 96.40 General.

This Subpart D contains special conditions for grants to Indian tribes on Federal and State reservations. To the extent that any provision of this Subpart D differs from any other provision of this Part 96, the provisions of this Subpart D shall govern. In all other matters the requirements of Part 96 apply to this Subpart D. The Division of Indian and Native American Programs in the Office of National Programs shall have full responsibility for all matters pertaining to funds allocated to Indian tribes on Federal and State reservations under Title II of the Act. All references to RA in Part 96 shall be read as Director, Division of Indian and Native American Programs.

§ 96.41 Distribution of funds.

(a) This section describes the methodology for the distribution of funds allocated to Indian tribes on Federal and State reservations as determined by the ratio prescribed in Subpart A, § 96.2.

(b) Funds for Indian tribes eligible for application under Title II shall be distributed as follows:

(1) Funds for use under this Subpart D shall be distributed on the basis of a ratio taking into account the total number of unemployed Indians on all Federal and State Indian reservations which have areas of substantial unemployment and comparing this number with the total number of unemployed persons in

all eligible applicant jurisdictions under this Part 96.

(2) Funds determined under paragraph (b) (1) shall be distributed for use by the individual Indian reservations which have areas of substantial unemployment according to the best available estimates of unemployment on each such reservation as compared to the total unemployment on all such reservations.

(c) Funds shall only be granted for individual reservations which have a governing body and either have a population of at least 1,000 resident Indians or are entitled to a Title III, Section 302, grant of at least $50,000. Reservations which do not meet either of these requirements may, however, be combined to qualify for funds as provided in § 96.42 (sec. 204(c)).

(d) An eligible applicant which represents more than one reservation shall further allocate funds for use among those reservations in accordance, to the extent feasible, with the amounts indicated by the Secretary for each reservation.

(e) Within a single reservation, or within those small reservations which are members of a consortium, the eligible applicant shall, to the extent feasible, allocate granted funds among identifiable areas of high unemployment (sec. 204(c)).

§ 96.42 Eligibility for funds.

(a) An independently eligible applicant shall be an Indian tribe on a Federal or State reservation which includes areas of substantial unemployment.

(b) An eligible applicant shall come under one of the following categories:

(1) *Independently eligible applicant.* An independently eligible applicant shall be an Indian or Alaskan tribe which has:

(i) an identifiable resident population of at least 1,000 individuals or which is entitled to an allocation of at least $50,000 under CETA Title III section 302 regulations, i.e., Part 97, Subpart B of this title; and

(ii) A governing body. A governing body is defined as one having substantive powers, i.e., consists of duly elected representatives who have authority to provide services and to enter into contracts and grants on behalf of the electorate and who are recognized as having such authority by the appropriate Federal or State agencies (sec. 204(c)). In the case of a reservation with more than one tribe, each tribe which is independently eligible according to the criteria of this paragraph shall be entitled to a separate grant. Such tribes, however, will be encouraged to form a consortium for the administration and operation of a comprehensive manpower program.

(2) *Consortium prime sponsor.* Indian or Alaskan entities which do not meet the criteria to be an independently eligible applicant as outlined in paragraph (b) (1) of the section may participate in a consortium as set forth below:

(i) Consortium including an independently eligible applicant. An Indian or Alaskan entity may enter into a consortium with an eligible applicant under paragraph (b) (1) of this section. The consortium thus formed shall be the eligible applicant, and a member of the consortium, or an entity formed by the members, must be designated as the administrative arm and be delegated the responsibility for operating the program. Such a consortium may operate in more than one State. The administrative unit must be capable of performing both the functions required of a governing body and those necessary to carry out a public service employment program as prescribed by this Subpart.

(ii) Consortium where no member meets the criteria to be an independently eligible applicant. A consortium may be formed by Indian or Alaskan entities, none of which is eligible to be an independently eligible applicant under paragraph (b) (1) of this section, provided that:

(A) All of the members are in geographic proximity to one another; and

(B) The combination of entities has a resident population of at least 1,000 persons; or

(C) The combination of entities is entitled to an allocation of at least $50,000, under CETA Title III section 302 criteria (Part 97, Subpart B of this title).

(iii) Consortium involving public or private non-profit agencies. An Indian or Alaskan entity may enter into a consortium with a public or private non-profit agency. The consortium thus formed shall be the eligible applicant and the public or private non-profit agency shall be the administrative arm. This type of consortium may be formed where such entity is not independently eligible to be an eligible applicant, chooses not to be an applicant, or determines that such a consortium will provide for a more effective and efficient program. Whenever an Indian or Alaskan entity joins with a public or private non-profit agency to form a consortium, such agency must be capable of performing both the functions required of a governing body and those necessary to administer a comprehensive manpower program. The minimum combined population requirement of 1,000 persons shall not be applicable to this type of consortium. However, the combined allocations for the members must be of such an amount that, in the opinion of the Secretary, it will be possible and feasible to provide public employment services to those unemployed and underemployed Indians who are in need of such services. Examples of eligible agencies are Intertribal Council, Title I prime sponsors and Tribal Chairman's Associations.

(c) Where there are Indian or Alaskan entities which do not meet the eligibility criteria to be an independently eligible applicant, or which do meet the criteria, but decline to operate a program, the Secretary shall designate an eligible applicant deemed appropriate and capable of providing the required services except that the Indian or Alaskan entities shall have the right of approval of such eligible applicant: *Provided:*

(1) The Indian or Alaskan entity meets the definition for Indian tribe, band, group, or Alaskan native village and can prove that it represents at least 1,000 individuals. In addition, the Indian or Alaskan entity must provide a written explanation of the official procedures utilized to select its spokesman. Such Indian or Alaskan entity shall either have determined it does not wish to sponsor a public service employment program, or have been declared ineligible for independent eligibility because of the lack of a governing body or because of its inability to perform the functions necessary to carry out a public service employment program; or

(2) A combination of entities, as defined in this Subpart, can prove, by providing the Secretary with a list of its members living within the designated areas, that, when combined, such combination represents at least 1,000 individuals. Such combination shall not be an independently eligible applicant either because it chooses not to become one, or lacks the ability to perform the functions required of a governing body, or lacks the ability to perform the functions necessary to administer a public service employment program, as defined by these regulations, or all of the above.

§ 96.43 Funding of eligible applicants.

(a) In order to be funded, a potentially eligible applicant must request to operate a program under Title II by complying with the provisions of § 97.111 of the regulations for Indian Employment and Training Programs funded under Section 302 of the Act.

(b) Each potentially eligible applicant will receive a tentative allocation against which it will prepare and submit its grant application.

(c) *General.* The grant application will consist of two documents, the Prime Sponsor Agreement (PSA) and the Annual Plan (AP). Detailed instructions for completing the application are contained in the Forms Preparation Handbook.

(1) *Prime sponsor agreement.* An applicant applying for the first time shall not later than 30 days prior to submission of the Annual Plan submit to the Director, Division of Indian and Native American Programs (DINAP), a signed copy of the PSA. An applicant who has already effected a PSA shall submit with the Annual Plan to the Director, DINAP, a certification that the PSA remains the same or is revised in certain respects which are attached to the certification. The initial submission and subsequent certifications are subject to the comment and publication procedures of § 96.45. The PSA consists of:

(i) A signatory page (see § 95.14(b) (1));

(ii) A narrative description of general information; and

(iii) Assurances and certifications.

(2) *Annual plan.* On a date set by the Director, DINAP, an Annual Plan must be submitted to the Director, DINAP. The submission of the AP is subject to

the comment and publication procedures of § 96.45. The Annual Plan consists of:

(i) An Application for Federal Assistance. (See § 95.14(c)(1));

(ii) An Annual Narrative Description of program;

(iii) A Program Planning Summary (see § 95.14(c)(3));

(iv) A Budget Information Summary (see § 95.14(c)(4));

(v) A Public Service Employment Occupational Summary (See § 95.14(c)(5));

(vi) A Monthly Schedule (see § 96.14(b)(6)); and

(vii) A Program Summary (see § 96.14(b)(7)).

§ 96.44 Planning process; advisory councils.

Eligible applicants should utilize the services of their planning councils authorized under § 97.113 of the regulations for Indian Employment and Training Programs funded under section 302 of the Act.

§ 96.45 Comment and publication procedures relating to submission of Indian grant applications.

(a) Each eligible Indian applicant which plans to apply for a grant shall, no later than the date of its submission of an application to the Director, Division of Indian and Native American Programs, provide an opportunity to comment on its application to the following officials in accordance with section 206 of the Act:

(1) The Governor;

(2) Appropriate officials of units of general local government; and

(3) Officials of labor organizations representing employees who are engaged in similar work in the same area.

(b) Comments by those individuals and officials listed in paragraph (a) of this section shall be made to the eligible applicant and the Director within 30 days of the receipt of notice of the opportunity to comment.

(c) Eligible Indian applicants shall acknowledge any comments made pursuant to this section by providing the commenting party with appropriate information and notice regarding the actions or revisions the applicant intends to take or adopt, if any, due to the comment. All such comments and responses shall be transmitted to the Director, Division of Indian and Native American Programs.

(d) The Director, Division of Indian and Native American Programs, will notify the appropriate State and areawide clearinghouses of any applications from Federally recognized tribes, upon their receipt.

§ 96.46 Assistance by the Director, Division of Indian and Native American Programs.

Applicants eligible under this Subpart D may request technical assistance from the Director of Indian and Native American Programs in the preparation, submission, and/or implementation of a Title II program. Requests for assistance should be addressed to: Director, Division of Indian and Native American Programs, 601 D Street NW., Washington, D.C. 20213.

§ 96.47 Participant eligibility.

Unemployed and underemployed Indians are eligible to participate in programs funded with eligible applicants under this Subpart D or in programs funded with all other eligible applicants in whose jurisdictions they reside.

§ 96.48 Nepotism.

(a) No eligible applicant or subgrantee under this Subpart D shall hire, or permit the hiring of, any person in a position funded under Title II of the Act if a member of the person's immediate family is employed in an administrative capacity by the eligible applicant. For the purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister; the term "administrative capacity" includes those persons who have overall administrative responsibility for a program, including: All elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under the Act as well as other officials who have any influence or control over the administration of the program, such as the project director, deputy director, and unit chiefs and persons who have selection, hiring, or supervisory responsibilities for participants in a program under this Part 96, or operational responsibility for the program.

(b) If a subgrantee under this Subpart D cannot hire program participants without an immediate family member being included, the Director, Division of Indian and Native American Programs may waive the requirement of paragraph (a) if adequate justification is received from such subgrantee that no other persons within the subgrantee's jurisdiction are eligible and available for participation.

(c) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the eligible applicant shall follow the tribal rule in lieu of this policy.

§ 96.49 Non-discrimination.

Section 98.21 shall be applicable to Indian programs funded pursuant to Title II of the Act, except to the extent that such provisions conflict with 42 U.S.C. 2000e(b).

§ 96.50 Subgrants.

In addition to the requirements as set forth in § 98.27 concerning subgrants, Indian tribes may require that subgrantees agree, to the maximum extent feasible, to hire qualified Indians to provide services called for pursuant to the subgrant in accordance with 42 U.S.C. 2000e-2(i).

§ 96.51 Travel requirements.

Travel regulations for grantees under this subpart shall be consistent with the travel regulations at § 97.161(f)(7) of this title.

PART 98—ADMINISTRATIVE PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

33. The table of contents for Part 98 is revised to read as follows:

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98.1 General.
98.2 Payment.
98.3 Letter of credit.
98.4 Payment by Treasury check.
98.5 Financial management systems.
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98.7 Reporting requirements in general.
98.8 Program Status Summary, Financial Status Report and Monthly Progress Report.
98.9 Quarterly Summary of Participant Characteristics.
98.10 Report of Federal Cash Transactions.
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98.23 Special limitations on participant activities.
98.24 General benefits and working conditions for program participants.
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98.47 Hearings.
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AUTHORITY: Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203), 87 Stat. 839; Pub. L. 93-567, 88 Stat. 1845), sec. 702(a), unless otherwise noted.

Subpart A—Grant Administration

§ 98.1 General.

(a) This Subpart A describes Federal requirements relating to the administration of grants by grantees (secs. 703(14) and 713). Administrative requirements found in this subpart apply to all programs under the Act unless stated to the contrary for any specific program.

(b) The Secretary will provide each grantee with the specific procedures to be followed to comply with the requirements of this Subpart A (Sections 703 (14) and 713).

(c) Statutory authority for the regulations contained in this Part 98 may be found in section 702(a) of the Act, as well as other substantive provisions of the Act. Applicable statutory provisions, other than section 702(a), are noted generally in these regulations.

§ 98.2 Payment.

(a) Advance payments will be made to all grantees able to satisfy the following criteria established consistent with Treasury Department regulations (31 CFR Part 205), and Attachment J of FMC 74–7 (34 CFR Part 256): (1) demonstrated willingness and ability to established procedures for minimizing the time elapsing between the transfer of cash and its disbursement by the grantee; (2) establishment of substantially identical procedures for advances to subgrantees and other secondary recipients; (3) a financial management system able to satisfy the requirements of § 98.5; and (4) performance of all other obligations incident to the receipt of funds under the Act to the satisfaction of the RA. Advance payments may be made by means of a letter of credit or a request for advance.

(b) When the grantee is unable or unwilling to satisfy the criteria in paragraph (a) of this section, the preferred method for making payments shall be reimbursement of disbursements made using the grantee's own cash.

(c) When the grantee contracts under a Joint Funding Simplification Program he may authorize direct advances from the Department of Labor. These advances may be by letter of credit or U.S. Treasury check under that contract.

(d) In the event that a grantee cannot meet the criteria for advance payments described in paragraph (a) of this section and reimbursement as described in paragraph (b) is not feasible, arrangements may be made to provide cash on a working capital advance basis, as described in § 98.4(c).

(e) Grantees should use minority banks and encourage subgrantees and contractors to do the same. (Attachment A of FMC 74–7).

§ 98.3 Letter of credit.

(a) When a grantee is able to satisfy the criteria described in § 98.2(a), grants will be financed by means of a letter of credit when the following conditions are met:

(1) The grant is for $250,000 or more;

(2) A continuing relationship exists for at least 12 months;

(3) The grantee can assure that the timing and amount of drawdowns will be as close as possible to disbursement needs as provided in the Department of the Treasury Regulations found at 31 CFR Part 205; and

(4) The grantee's accounting system will meet the recordkeeping and reporting requirements of this subpart.

§ 98.4 Payment by Treasury check.

(a) A grantee which does not meet the requirements for the letter of credit must submit a request for advance or reimbursement in order to obtain its cash requirements as provided in Attachment H of FMC 74–7. The RA will determine whether such Treasury check payments will be made on an advance, working capital advance, or reimbursement basis. In making such a determination, the RA will consider the grantee's ability to satisfy the criteria of § 98.2(a), particularly the accounting and recordkeeping capabilities of its financial management system.

(b) Grantees are authorized to submit the request for advance or reimbursement at least monthly.

(c) Grantees ineligible for advance financing under either the letter of credit or request methods may be provided cash on a working capital advance basis when they lack sufficient working capital to be placed on the reimbursement basis. Under this procedure, a cash advance is made to the grantee to cover its expected disbursements for an initial period generally geared to the grantee's disbursing cycle. The grantee is thereafter reimbursed for its actual cash disbursements reported on the Request for Advance or Reimbursement form OMB No. 29–RO223.

(d) Prime sponsors other than State and local governments which are operating programs under Titles I and II may be required by the RA to maintain special bank accounts, as provided in 41 CFR 1–30, 413–414. Where special accounts are required, all receipts of grant funds must be deposited in the special account and all grant disbursements must be made from the account. The RA may also require the use of special bank accounts by secondary recipients if the prime sponsor is required to maintain a special account unless the secondary recipient is a State or local government unit.

(e) Advance by Treasury check will provide for advance payments through use of predetermined payment schedules or upon the request of the grantee. When the request method is used, payments will be made to a grantee based upon a schedule contained on the Request for Advance or Reimbursement.

§ 98.5 Financial management systems.

(a) Each grantee and subgrantee shall maintain a financial management system which complies with the standards in Attachment G of FMC 74–7. In general this means the system will provide accurate, current, and complete disclosure of the financial results of each program activity by title of the Act, including Title II program activities by each area of substantial unemployment; provide the ability to evaluate the effectiveness of program activities; include an audit program which provides for the audit of subgrantees and contractors to determine the fiscal integrity of financial transactions, as defined in § 98.6(e); and meet the reporting requirements of this subpart.

(b) Each grantee and subgrantee shall maintain its fiscal accounts in a manner sufficient to permit the reports required by the Secretary to be prepared therefrom.

(c) To be acceptable for audit under the Act a Report of Federal Cash Transactions, Monthly Progress Report, and Financial Status Report shall be:

(1) current as of the cut-off date of the audit;

(2) taken directly from or linked by worksheet to the sponsor's books of original entry;

(3) traceable to source documentation of the unit transaction; and

(4) on an accrual basis as provided for in FMC 74–7 Attachment H (with the exception of the Report of Federal Cash Transactions). In cases where these financial records do not meet these requirements, the auditor shall submit a letter to the contracting officer within ten days of such a determination delineating the reason for such a determination and recommendations as to the action required to place the records in condition for audit.

§ 98.6 Audit.

(a) The Secretary of Labor, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the State and local government and their subgrantees and contractors which are pertinent to a specific grant program under the Act for the purpose of making surveys, audits, examinations, excerpts, and transcripts (sec. 713(2)).

(b) The Secretary shall be responsible for scheduling surveys, audits or examinations of grantees and their subgrantees and contractors. These schedules will be coordinated with the grantee, to the extent practical.

(c) The Secretary shall, with reasonable frequency, survey, audit or examine, or arrange for the survey, audit or examination of grantees and their subgrantees and contractors using city or state auditors; or certified or licensed public accountants. Such surveys, audits, or examinations shall normally be conducted annually but not less than once every two years. The cost of the Secretary's audits shall be funded by the Department of Labor and shall not be a part of the grantees administrative cost under the grant.

(d) Surveys, audits and examinations will conform to *The Standards for Audit of Governmental Organizations, Programs, Activities, and Functions*, issued by the Comptroller General of the United States and guides issued by the Secretary. Surveys, audits or examinations contracted by the Secretary will conform, at a minimum to the first element of the

Comptroller General's Standards: An audit to determine (1) whether financial operations are properly conducted, (2) whether the financial reports are fairly presented, and (3) whether the available information indicates that the entity has complied with applicable laws, regulations, and administrative requirements. (In addition, selected Federal audits will include reviews of the economy and efficiency and/or program results of programs under the Act. As as result of such audits a report including appropriate recommendations will be issued to the Employment and Training Administration). Existing audit systems, where acceptable under the Comptroller General's Standards, such as State audits of city and county activities will be used to the maximum possible extent (sec. 713(1)).

(e)(1) Each grantee shall establish and maintain an audit program for its contractors and subgrantees to the extent necessary to insure adequate financial management and conformance with Federal requirements. The Governor shall also establish and maintain such an audit program for vocational education services and activities funded pursuant to § 95.2(c)(4).

(2) Each grantee shall conduct at least once every two years an independent audit of each contractor or subgrantee providing activities and services amounting to a cost of $100,000 or more during one grant year. Audits of those subgrantees or contractors providing activities and services under $100,000 may be conducted on a sample basis as coordinated with and approved by the Regional Administrator for Audit.Of the awards of less than $100,000, the sample selected shall include at least 25% of the total number of awards or 25 percent of the total dollars awarded during a two-year period. The auditing of contractors and subgrantees on a sample basis in no way lessens the prime sponsor's responsibility to insure that program activities and related costs incurred by contractors and subgrantees are in compliance with Federal requirements as stated in § 98.5(a). Fixed price contracts for nonprogram, administrative type procurements such as typewriter maintenance, administrative supplies, etc., do not require independent audits. The two-year audit period shall begin with Fiscal Year 1976.

(3) Audits may be conducted by certified or licensed public accountants under contract to the grantee, by the grantee, or by State and local government audits staff. The audits required in paragraph (e)(2) of this section, shall be conducted in accordance with the provision of paragraph (d) of this section. Copies of reports of audits conducted to comply with paragraph (e)(2) of this section shall be sent to the Regional Administrator for Audit.

(4) The cost of these audits are allowable and shall be charged to the Administration cost category.

(f)(1) Upon making a new Annual Plan or a significant increase in the funding level of an on-going grant, the Secretary may conduct a preliminary audit survey to evaluate the adequacy of the grantee's accounting system and internal controls as established by these regulations including but not limited to §§ 95.14, 98.8, 98.18, 98.24, 98.25, 98.26, 98.27, and 98.31.

(2) On the basis of the findings, conclusions and recommendations of the survey, the grantee will be advised in writing what action, if any, is needed to satisfy Department of Labor requirements.

(g)(1) Audit reports shall be written in the format prescribed by the Department of Labor Audit Program. Previous audit reports considered relevant and the full text of any sponsor's comments will be included as an appendix to the report.

(2) Department of Labor audit reports will be distributed by the appropriate Department Regional Administrator for Audit.

(3) Grantees shall respond in writing to the findings, conclusions and recommendations in the audit reports when requested to do so by the RA. Unless an extension of time is expressly granted, the response shall be submitted to the responsible Regional Administrator with a copy to the responsible Regional Administrator for Audit within thirty calendar days from the date of Department of Labor notification of the findings and recommendations.

(4) The grantee may take exception to particular findings and recommendations. The rationale for such exceptions should be included in the response. The response should point out corrections already made and state what action is proposed and the estimated completion date of such action.

(5) The RA will consider the grantee's response and any additional information provided by the prime sponsor when determining whether specific expenditures should be disallowed. The appropriate RA will notify the prime sponsor in writing of the determination to disallow expenditures.

§ 98.7 Reporting requirements in general.

(a) Each grantee will be required to submit four periodic reports which will be used by the Secretary to assess its performance in carrying out the objectives of the Act. These four reports are: The Program Status Summary, The Financial Status Report, The Quarterly Summary of Participant Characteristics and The Report of Federal Cash Transactions. In addition, grantees may from time to time be required to prepare and submit reports requested by other Federal agencies for the performance of the legal responsibilities of these agencies. Detailed descriptions of the four reports are in the *Forms Preparation Handbook*.

(b) In order to avoid duplication of payments by unemployment insurance and CETA programs, prime sponsors shall, upon request, provide SESA's a current list of all CETA participants enrolled in their programs receiving wages.

§ 98.8 Program Status Summary, Financial Status Report and Monthly Report.

The Program Status Summary (PSS) and the Financial Status Report (FSR) will be used to measure accomplishments in achieving objectives stated in the Program Planning Summary and the Budget Information Summary, respectively.

(a) Program Status Summary. Each grantee will include the following items in this report together with a comparison of the same items as they appear in the Program Planning Summary:

(1) The total number of enrollments with granted funds during the grant period;

(2) The total number of individuals (participants) placed in unsubsidized employment at termination from the project and the number entering school, other training or military service;

(3) The level of enrollment associated with each program activity;

(4) The number of individuals within each significant segment of the population being served by the program; and

(5) The objectives and accomplishments other than those established by the Secretary. If a prime sponsor or eligible applicant elects to include these other activities in its report, they will be used by the Secretary in his evaluation of the performance of the prime sponsor or eligible applicant's program.

(b) Financial Status Report. Each grantee will submit a Financial Status Report (FSR) which includes the following items:

(1) The distribution of total accrued expenditures among program activities and percent of Annual Plan accomplished;

(2) Indirect costs for the grant period to date;

(3) The distribution of total accrued expenditures to date by cost category; and

(4) A certification of the correctness of the costs reported.

(c) If performance goals are not being achieved, the RA may request additional information from grantees including reasons for the failure to achieve the goals.

(d) The reports required by paragraphs (a) and (b) of this section shall be prepared to coincide with the ending dates of Federal fiscal year quarters. These reports shall be sent by the grantee to be received by the RA no later than 30 days after the end of the reporting period. If a grantee's grant period ends at a date other than the Federal fiscal year quarter, a fifth set of reports, covering the entire grant period will be required. These reports shall also be submitted by the grantee to the Governor of the State.

(e) Accountability must be maintained by the grantee for each of the activities authorized under the Act. Therefore, separate reports will be required for the Title I Grant, the Title II Grant and the special grant.

(f) The Secretary reserves the right to require the submittal of these reports by grantees more frequently than quarterly in cases of major deviation from

the Program Planning Summary and Budget Information Summary.

(g) *Monthly Progress Report.* Grantees operating a Title II or VI funded program shall be required to submit the Monthly Progress Report (MPR) on which they will record the cumulative participants served and terminated, the number of participants on board at the end of the month, and the actual versus planned accrued expenditures cumulative for the program year to the end of the month. The monthly report period is the calendar month. This report will be submitted to the appropriate RA no later than 20 working days after the end of the report period. The monthly report will be phased out when economic conditions and programmatic consideration no longer warrant its submission.

(h) Specific procedures for meeting these reporting requirements will be furnished to each grantee in the *Forms Preparation Handbook.*

§ 98.9 Quarterly Summary of Participant Characteristics.

(a) The Quarterly Summary of Participant Characteristics (QSPC) contains aggregate characteristics data on all participants in the program. The Summary is to be submitted to the RA with the Program Status Summary and Financial Status Report.

(b) The Summary will include characteristics data aggregated for all participants, as set forth in the report form and will include data on all participants terminated from the program including those entering unsubsidized employment during the reporting period.

(c) For those participants who entered employment during the report period, the Summary will also aggregate the average wage before enrollment and at termination.

(d) A separate report will be required for Title I, Title II and special grants.

(e) Specific reporting procedures and appropriate definitions will be furnished to each grantee in the *Forms Preparation Handbook.*

(f) This report will be submitted by the grantee to the Governor of the State.

§ 98.10 Report of Federal Cash Transactions.

(a) Each grantee shall submit periodically a report of Federal cash transactions. The report will be used to monitor cash advances and to obtain disbursement information. This report will be submitted monthly by each grantee receiving annual grants totalling $1 million or more, and quarterly by other grantees (sec. 713(3)).

(b) Specific reporting procedures will be furnished to each grantee in the *Forms Preparation Handbook.*

§ 98.11 Reallocation of funds.

(a) *General.* The Secretary may reallocate funds from a grantee under the circumstances and in accordance with the procedures described in this section (secs. 103(i) and 702(b)).

(b) *Reallocation based on nonperformance.* (1) Pursuant to section 702(b) of the Act, when the Secretary considers through review of the grantee's reports, monitoring or auditing of the program that its performance may be inadequate or that it may have failed to comply with the Act or regulations, he shall give due notice and opportunity for a public hearing as provided in subpart C.

(2) If the Secretary then decides to reallocate funds based on a ground set forth in paragraph (b)(1) of this section, he shall:

(i) revoke the grantee's grant for the area, in whole or in part;

(ii) make no further payments under the Act to the grantee, to the extent which he deems necessary; and

(iii) notify the grantee of the amount of funds which shall be returned from unexpended funds paid to the grantee during that fiscal year.

(3) The Secretary shall make provision for the reallocation of funds to be used by the State or other alternative prime sponsor to service the area which was served by the prime sponsor before the reallocation, or the Secretary may serve such an area directly. (See § 95.20).

(c) *Reallocation based on need.* (1) In a limited number of circumstances, the Secretary may determine that the unobligated portion of a grantee's Title I grant should be reallocated to another area because the funds are not needed where they were originally allocated. Such reallocations may be made only after the ninth month of the fiscal year for which the grant was made.

(2) Before reallocating funds as set forth in paragraph (c)(1), the Secretary must determine that:

(i) The grantee's plan will be carried out without expending all the funds previously made available for that grant; and

(ii) The excess funds identified under paragraph (c)(2)(i) cannot reasonably be expected to be needed in the following grant period.

(d) *Reallocation.* When the Secretary determines that funds should be reallocated based on the criteria in paragraph (c), he will take the following actions:

(1) *Notice of intent to reallocate funds.* When the Secretary determines that a reallocation is appropriate, he will notify the grantee and the appropriate Governor of the proposed action to remove funds from the grant. The notice shall include the basis for the proposed reallocation.

(2) *Comments by prime sponsor or eligible applicant and the Governor.* The grantee and the Governor will be invited to submit comments on a proposed reallocation of funds out of their area. These comments shall be submitted to the appropriate RA within 30 days of receipt of the notice. The Secretary shall consider these comments before making a final determination to reallocate.

(3) *Notification of final determination.* After reviewing any comments submitted by the grantee or Governor, the Secretary will notify them of his decision. A final decision to reallocate funds of a grantee will be published in the FEDERAL REGISTER and a modification will be made to the grant.

(4) *Reallocation procedures.* In reallocating such funds to supplement other grantee grants, the Secretary shall first consider the need for additional funds by other grantees within the same State. A decision to increase a grantee's grant with reallocated funds will not be made without prior consultation with the grantee as to how the funds will be expended, and prior notification to the Governor. Such a decision will be published in the FEDERAL REGISTER with an announcement of the grantee(s) receiving additional allocations and the amounts.

§ 98.12 Allowable Federal costs.

(a) *General.* Except as modified in these regulations, Federal funds granted under the Act may be expended only for purposes permitted under the provisions of Part 1–15 of Title 41 of the Code of Federal Regulations; 41 CFR 1–15.2 which applies to commercial and nonprofit organizations; 41 CFR 1–15.3 which applies to educational institutions; and 41 CFR 1–15.7 which applies to State and local governments. Allowable costs include both direct and indirect costs. Costs are intended to be directed to increase the employability of participants.

(1) Direct and Indirect Costs. Direct costs are those which can be identified specifically with a particular cost objective such as an organizational unit, function or object, as well as ultimate cost objectives including specific grants, projects, contracts, and other activities. Indirect costs are those costs of a grantee organization which are not readily identifiable with a particular function or project but nevertheless are necessary to the general operation of the grantee organization and the conduct of the activities it performs. Indirect costs are usually grouped into a common pool and distributed to those activities which benefit from them through the expedient of an indirect cost rate.

(2) Policies and Procedures. Cost allocation plans including indirect cost rate proposals shall be developed and approved in accordance with the applicable cost principles and procedures set forth in 41 CFR 1–3.7 and 1–15. Whenever costs jointly serve one or more CETA titles and CETA is the only source of funding, a cost allocation plan must be developed to allocate those costs among the titles if these are shared services. These plans are to be used and retained for future audits. Where there are multiple sources of funding, such as other Federal programs or State or local funded programs simultaneously operated by the grantee organization, a cost allocation plan is necessary if there are shared services. This cost allocation plan must equitably allocate costs between the programs (and within the CETA program, among the various titles).

(i) Cost allocation plans of State prime sponsors must be approved in advance by the Department.

(ii) Cost allocation plans of other prime sponsors shall be submitted to the Department for negotiation and approval only when specifically requested to

do so. Otherwise, the plans are to be retained for future audits.

(b) *Restriction on use of funds.*—(1) *Public service employment programs.* (i) Not less than 85 percent of the funds appropriated pursuant to the Act which are used by an eligible applicant for public service employment programs shall be expended for wages and fringe benefits to persons employed in public service jobs (sec. 203(b)).

(ii) The remaining 15 percent may be used for administration, training, supportive services to public service employment participants; for the acquisition, rental, or leasing of necessary supplies, equipment, and materials, except as limited by paragraph (c) of this section; and for the rental or leasing of real property. An eligible applicant which does not itself administer the entire program may not retain the entire 15 percent for its own use unless this is agreed to by its subgrantees. Unless otherwise agreed to, at least 50 percent of the amount used for the administration of the program shall be available to subgrantees for administrative costs.

(2) No funds granted under the Act may be used, directly or indirectly, as a contribution for the purpose of obtaining Federal funds under any other law of the United States which requires a contribution from the grantee in order to receive such funds, except, if authorized under that law. However, the use of funds granted under the Act as a matching contribution in order to obtain additional funds under the Act is not prohibited.

(3) Unless otherwise provided in Parts 94–99, funds provided under one grant under the Act may not be used to support costs of another grant under the Act.

(c) *Expenditures for repairs, maintenance, and capital improvements and for construction; home repair; winterization/weatherization.* (1) Funds for construction, as defined in § 94.4(o), and for repairs, maintenance and capital improvements to existing facilities are allowable only under the following conditions:

(i) To pay wages and fringe benefits for public service employment participants;

(ii) To purchase equipment, materials, and supplies for use by public service employment participants while on the job and for use in the training of public service employment participants, excluding materials which become part of the construction;

(iii) To cover costs of a training program in a construction occupation, including costs such as instructors' salaries, training tools, and books, and allowance and wages; but not including materials which become part of the construction, and only when such construction would not normally be performed by an outside contractor.

(2) Consistent with maintenance of effort requirements of this subtitle, the cost of participant salaries and fringe benefits shall be allowable costs when such participants are used in home repair and winterization/weatherization activities where work performed will not inure primarily to the benefit of a profit-making organization. Home repair and winterization/weatherization activities shall be limited to dwellings of individuals who are at or below 125 percent of the poverty level (as defined in § 94.4) which are privately owned and owner-occupied, privately owned by a nonprofit organization, units of public housing, or privately owned rental housing projects funded and approved by the Federal Energy Administration or the Community Services Administration. (704(f)).

(3) Costs associated with building repairs, maintenance, and capital improvements of existing facilities used primarily for programs under the Act are allowable.

(d) *Allowable cost categories.* Allowable costs shall be reported against the following cost categories: Administration; wages; training; fringe benefits; allowances and services (secs. 208(e), 313(b), 703(12)).

(1) Costs are allocable to a particular cost category to the extent of benefits received by such category.

(2) All grantees are required to plan, control, and report expenditures against the aforementioned cost categories.

(3) All grantees are responsible for assuring that subgrantees and contractors plan, control, and report expenditures against the aforementioned cost categories.

(4) When required by § 98.24 or State Unemployment Insurance Laws to pay unemployment insurance costs, prime sponsors shall plan for those obligations to be incurred during the grant year. This responsibility includes unemployment insurance charges which will be incurred by subgrantees and contractors because of unemployment insurance liabilities incurred under programs under the Act. Unemployment insurance benefit costs are allowable for administrative staff hired in accordance with the administrative provisions of these regulations, and for participants in other than public service employment. Unemployment insurance benefit costs for public service employment participants, including such participants who are also administrative staff, who become eligible for unemployment insurance by reason of their participation in the program shall be paid not from funds under the Act, but from funds appropriated pursuant to Part B, Section 220(a) of Pub. L. 94–444. However, administrative costs associated with the recordkeeping requirements necessary to implement Part B, Section 220(a) of Pub. L. 94–444, shall be allowable as an administrative cost under the Act. Each grantee, subgrantee, or contractor shall cooperate with the SESA's in providing data necessary to implement the provisions of Part B of Pub. L. 94–444.

(e) *Classification of costs by category.* The following principles shall be followed in classifying costs by cost category:

(1) Participants' wages shall be charged to wages.

(2) Participants' fringe benefits shall be charged to fringe benefits (premiums for medical and accident insurance for participants enrolled in classroom training and services to participants is considered to be a training or service cost as appropriate).

(3) Allowances paid to program participants shall be charged to allowances.

(4) Training costs consisting of goods and services which directly and immediately affect program participants shall be charged to training. Such costs should be those incurred for instruction of participants in either a work environment or classroom. Goods and services which have direct and immediate impact on participants are limited to those actually involved in the participant training process itself as opposed to those which are supportive of that process. For examples of training-related costs which may and may not be charged to training see paragraph (f)(4), Training.

(5) Supportive and manpower services costs which consist of goods and services which directly and immediately affect program participants shall be charged to Services. Goods and services considered to have direct and immediate impact on participants are limited to those actually involved in the process of providing participants with supportive and manpower services as opposed to those which are ancillary to that process. For examples of services-related costs which may and may not be charged to Services see paragraph (f)(5), Services.

(6) Administration costs shall consist of all indirect and direct costs associated with the management of the grant. Such costs are those which do not directly and immediately benefit participants but are necessary for effective delivery of direct participant benefits. These costs are generally identified with supervision, and management, fiscal and recordkeeping systems. These costs shall also include the administration costs both direct and indirect of subgrantees and contractors. For examples of administration costs see paragraph (f)(6), Administration.

(7) When contractors bill the grantee with a single unit charged containing costs which are chargeable to more than one cost category the grantee will endeavor to obtain the detail necessary to charge these costs to the proper cost categories. For unit charges such as tuition fees for which the necessary detail cannot be provided, an estimate of the breakdown of the single unit charge among cost categories will be obtained; except when such unit charges are normally billed as a single charge and the cumulate amount of the common charges such as tuition fees and doctors' bills do not exceed $25,000. These exempted charges do not need to be prorated among the benefiting categories but can be charged to the category receiving the most benefit. Any profit (or loss) should be prorated among all the affected cost categories.

(8) Classification of equipment costs present special problems since many items of equipment can be used for various purposes. In the case of multiuse equipment there must be a proration of cost or, if there is a predominant usage

relating to one cost category, a charge shall be made to that category.

(9) Any single cost such as staff salaries and/or fringe benefits, which is properly chargeable to more than one cost category shall be prorated among the affected categories.

(f) *Following are examples of cost properly chargeable to each of the cost categories*—(1) *Wages.* All wages paid to participants receiving on-the-job training in public or private nonprofit organizations, and all wages paid to participants in transitional subsidized employment and in work experience will be allowed. Cost of living increases are considered wages. Wages paid to participants while receiving on-the-job training from a private employer organized for profit cannot be supported by funds under the Act (sec. 101(5)).

(2) *Fringe Benefits.* Allowable fringe benefit costs for participants include, but are not limited to the following: annual, sick, court and military leave pursuant to an approved leave system; employer's contribution for social security, employees' life and health insurance plans, unemployment insurance where applicable, workers' compensation insurance and retirement benefits, provided such benefits are granted under an approved plan, and, under public service employment programs, training materials, work tools, uniforms, or other equipment ordinarily provided by the employer to its regular employees, provided these are for the benefit and ownership of the participants. Cost of living increases may not be charged to fringe benefits.

(3) *Allowances.* All allowances paid to program participants pursuant to § 95.34 of this title shall be charged to this cost category.

(4) *Training.* Training costs include, but are not limited to the following: Salaries, fringe benefits, equipment, and supplies of personnel engaged in providing training; books and other teaching aides; equipment and materials used in providing training to participants; classroom space and utilities costs; and that part of tuition and entrance fees which represent instructional costs having a direct and immediate impact on participants (see § 98.12(e)(7) for exceptions). The following are examples of costs not properly chargeable to training: General and administrative costs of the training facility, supervision, clerical support for non-instructors, and training (skill maintenance and upgrading) of instructors, staff travel except when such travel is an integral part of the instruction, costs of non-classroom space and utilities, transportation of participants to training sites, and costs of processing allowance payments. The compensation of individuals who both instruct and supervise other instructors must be prorated among the Training and Administration cost categories on the basis of time records or other equitable means. Similarly, tuition fees and the costs of supplies used in the course of both participant instruction and other activities should be prorated among the benefitting uses.

(5) *Services.* Services include, but are not limited to services to applicants, supportive and manpower services, as set forth in § 95.33(d)(5).

(i) Services to applicants include outreach and intake.

(ii) Supportive services include child care, health care, medical and dental services, residential support, assistance in securing bonding, transportation, family planning and legal services.

(iii) Manpower services include orientation, counseling, job development, job placement, and employability assessment.

(iv) Allowable services costs include, but are not limited to salaries and fringe benefits, space, utility, equipment and travel costs when an integral part of the job, of personnel engaged in providing services to participants; and that part of single unit charges for child care, health care, and other services which represent only the costs of services directly beneficial to participant (see § 98.12(e)(7) for exceptions). Transportation of participants is properly chargeable to services.

(v) The following are examples of costs not properly chargeable to Services: General and administrative costs of the services provided; supervision, clerical support not directly involved in providing services, staff training, travel of supervisory staff, rent and other facilities costs (except as provided for in (iv)), and costs of supplies, materials, and equipment not used directly in providing services to participants.

(6) *Administrative costs.* (i) Administrative costs shall be limited to those necessary to effectively operate the program. They shall not exceed 20 percent of the total planned costs for all program activities other than public service employment unless the Program Narrative Description under § 95.14(b)(2)(i) sets forth an explanation of how all Administration costs have been determined and a detailed documentation to support that amount. The restriction on the use of funds for administration in public service employment programs is set forth in § 98.12(b)(1) (sec. 108(d)(2)).

(ii) Supportive costs are comprised of general and administrative costs, overhead, and similar cost groupings representing the general management and support functions of an organization as well as secondary management and support functions at the bureau or division level. Included are salaries and fringe benefits of personnel engaged in executive, fiscal, personnel, legal, audit, procurement, data processing, communications, maintenance, and similar functions, related materials, supplies, equipment, office space costs, and staff training.

(iii) Direct program costs which are not an integral part of training and services provided participants are comprised of goods and services which neither contribute to the general management and support functions of an organization nor directly and immediately affect participants. Included are direct program salaries and fringe benefits of such administrative positions as supervisors, program analysts, labor market analysts, and project directors. Additionally, all costs of clerical personnel, materials, supplies, equipment, space, utilities, and travel which are identifiable with these direct program administration positions shall be charged to administration. Some examples of administrative costs are the salary of a clerical assistant to a supervisor, that part of an instructor's salary representing time spent supervising other instructors, desk-top supplies used by supervisors, and in general office administration, rent, depreciation or maintenance of non-classroom space, staff training, consultants services under contract not involving direct training or services to participants, costs incurred in the establishment and maintenance of State Manpower Services Councils, or prime sponsor's Planning Councils or in publishing a grant application, and costs of monitoring and providing technical assistance to contractors and subgrantees.

(iv) Services normally chargeable to Administration when performed by staff personnel shall be charged to Wages or Fringe Benefits, as appropriate, when performed by program participants.

(g) *Travel costs.* (1) The cost of participant travel and staff travel necessary for the operation or administration of programs under the Act is allowable as provided herein.

(2) Travel costs of the Governor of a State or the chief executive of a political subdivision, (and their immediate staff but that do not have continuing programmatic responsibilities), are allowable only if the travel specifically relates to programs under the Act and is approved in advance by the RA. These costs shall be charged to administration.

(3) Travel costs of other governmental officials charged with overall governmental responsibilities are allowable if costs specifically relate to programs under the Act. Prior approval by the RA is not required. These costs shall be charged to administration.

(4) Travel costs for administrative staff, including participants in administrative positions, are allowable when the travel is specifically related to the operation of programs under the Act.

(5) Travel costs, based on mileage, for participants using their personal automobiles in the performance of their jobs are allowable if the employing agency normally reimburses its other employees in this way. These costs shall be charged to fringe benefits.

(6) Travel costs to enable participants to obtain employment or to participate in programs under the Act are allowable as supportive services. Such travel shall be restricted to the grantee's jurisdiction or within daily commuting distance, except:

(i) As provided under § 98.29a(f);

(ii) To pay for transportation costs at the beginning and end of a training course which is more than daily commuting distance but within the State in which the prime sponsor is located;

(iii) As permitted for good cause by the RA, on a case by case basis, within the United States.

§ 98.13 Allocation of allowable costs among program activities.

The program activities against which program costs shall be planned, controlled and reported upon are: Classroom training; on-the-job training; public service employment; work experience; services to participants and other activities. The cost categories under each of these activities are defined in § 98.12(e). The extent to which these cost categories are chargeable to specific program activities is set forth below (sec. 101), except when the option provided under § 95.33(d)(7) is exercised by the grantee. When the option in § 95.33(d)(7) is exercised, wages and fringe benefits may be charged to classroom training and allowances may be charged to on-the-job training, public service employment, or work experience, as appropriate.

(a) *Classroom training.* Cost categories chargeable are: Administration, training, allowances, and services.

(b) *On-the-job training.* Cost categories chargeable are: Wages and fringe benefits (attributable to public or private nonprofit employers only); administration; training; and services.

(c) *Public service employment.* Cost categories chargeable are: administration, wages, fringe benefits, services and training.

(d) *Work experience.* Cost categories chargeable are: Administration, training, services, wages and fringe benefits.

(e) *Services to participants.* Cost categories chargeable are:

(1) *Allowances.* This includes all allowances paid for short periods of time to participants who are registered for training, but are waiting for startup of a component.

(2) *Services.* This includes all manpower and supportive services including post-placement services which are not part of another program activity and which are provided to participants by a prime sponsor, eligible applicant, contractor or subgrantee.

(3) *Administration.* This includes all allowable administrative costs directly associated with this activity and a pro rata share of each prime sponsor or eligible applicant's administrative costs under the Act not directly associated with any program activity.

(f) *Other activities.* Costs categories chargeable are: administration, training, allowances, and services.

§ 98.14 Basic Personnel Standards for Grantees.

(a) Methods of personnel administration will be established and maintained by each prime sponsor and eligible applicant in the public agencies administering the program for employees including participants engaged in the administration of the Act. Such methods shall be in conformity with the Intergovernmental Personnel Act (IPA) Merit Principles, Pub. L. 91–648, Section 2, administered by the U.S. Civil Service Commission. Prime sponsors whose personnel systems have been accepted by the U.S. Civil Service Commission as being in conformity with the Standards for a Merit System of Personnel Administration (45 CFR Part 70), including any amendments thereto, shall be deemed to be in compliance with this section (Sec. 703.14).

(b) Except as provided in paragraph (c) of this section, any prime sponsor or eligible applicant whose personnel system has not been accepted as meeting the requirements of this section shall provide to the RA for approval a plan and steps to be taken for attaining an acceptable system and a reasonable date for completing the plan; and also shall provide a list of those steps it has already taken to provide for merit based personnel system coverage. This plan and description of steps taken shall be submitted to the RA as part of the grant application.

(c)(1) The following are not subject to the requirements of paragraphs (a) and (b) of this section;

(i) Any non-governmental prime sponsor:

(ii) A consortium administrative unit which is not a unit of government;

(iii) Staff of contractors, subgrantees, title II program agents and employing agencies and titles I, II, and VI program participants; and

(iv) Employees of the prime sponsor's jurisdiction not engaged in the administration of CETA.

(2) A consortium administered by one of the member governments or a unit thereof or a unit of government not a member shall be subject to paragraphs (a) and (b) of this section.

(d) Units whose staff are exempt under paragraph (c) of this section shall insure equal employment opportunity based on objective procedures of recruitment, selection, promotion, classification, compensation, performance evaluation, and employee management relations and are encouraged to develop procedures reflective of the principles contained in the IPA.

(e) Prime sponsors and eligible applicants should include individuals on their CETA administrative staffs which at all levels are reflective of the composition of the population to be served by the program within its jurisdiction.

§ 98.15 Adjustments in payments.

(a) If any funds are expended by a grantee, subgrantee, or employing agency in violation of the Act, the regulations or grant conditions, the Secretary may make necessary adjustments in payments on account of such expenditures. He may draw back unexpended funds which have been made available in order to assure that they will be used in accordance with the purposes of the Act, or to prevent further unauthorized expenditures, and he may withhold funds otherwise payable under the Act in order to recover any amount expended for unauthorized purposes in the current or immediately preceding fiscal year (secs. 108(b)(2) and 702(b)).

(b) No action taken by the Secretary of Labor under paragraph (a) of this section shall entitle the grantee to reduce program operations, or allowances for any participant or to expend less during the effective period of the contract or Annual Plan than those sums called for in the grant. Any such reduction in expenditures may be deemed sufficient cause for termination (secs. 108(b)(2) and 108(d)).

§ 98.16 Termination of grant; suspension of grant in emergency situations.

(a) If a grantee violates or permits a subgrantee, contractor or an employing agency to violate the regulations, or grant terms or conditions which the Secretary has issued or shall subsequently issue during the period of the Annual Plan, the Secretary may terminate the grant in whole or in part: *Provided, however,* That the grantee may request a hearing under § 98.47 within a 30 day period and that such request will stay the determination pending the outcome of the hearing.

(b) Termination shall be effected by a notice of termination which shall specify the extent of termination and the date upon which such termination becomes effective. Upon receipt of notice of termination, the grantee shall: (1) discontinue further commitments of grant funds to the extent that they relate to the terminated portion of the grant; (2) promptly cancel all subgrants, agreements, and contracts utilizing funds under this grant to the extent that they relate to the terminated portion of the grant; (3) settle, with the approval of the Secretary, all outstanding claims arising from such termination; (4) submit, within a reasonable period of time after the receipt of the notice of termination, a termination settlement proposal which shall include a final statement of all unreimbursed costs related to the terminated portion of the grant, but in case of terminations under paragraph (a) of this section will not include the cost of preparing a settlement proposal (secs. 108(b)(2), 110(b), and 702(b)).

(c) In emergency situations where the Secretary believes that there has been illegal use of program funds under the Act, and that immediate action is necessary to protect the integrity of the grant program, the Secretary may immediately suspend payments and withdraw unexpended funds as he deems appropriate under the grant and make alternative temporary arrangements to carry out the grant program. In such a situation the Secretary shall notify the grantee of the reasons for his action and set a date for a prompt hearing on the matter, after which the Secretary shall make an appropriate determination.

§ 98.17 Annual Plan settlement procedures.

(a) The settlement of an Annual Plan is the process by which the Department of Labor determines that all applicable administrative actions and all required work of the Annual Plan have been com-

pleted by the grantee and the grantor. The following procedures will be complied with during the process of determination:

(b) By a date specified by the RA, each grantee shall submit a TWX containing the following information on each expiring annual plan:

(1) Total fund availability;

(2) Estimated accrued expenditures;

(3) Estimated carryout.

(c) The RA shall issue a notice of fund availability to transfer carryout from the previous Annual Plan. A second notice of fund availability shall be issued by the RA to transfer the carryout from the previous Annual Plan into a new Annual Plan.

(d) By a date specified by the RA, each prime sponsor shall submit:

(1) A final FSR for the previous year's annual plans;

(2) A final Report of Federal Cash Transactions for the previous year's annual plans; and

(3) If applicable, a list of unliquidated liabilities for the previous year's annual plans.

(e) If the final reports are acceptable, the RA shall effect settlement by transferring remaining funds into the current year's annual plans. Final settlement of expired Annual Plans shall not be complete until a final audit has been performed, audit findings have been resolved and final reports have been submitted.

(f) *End of Prime Sponsor Agreement.* The Prime Sponsor Agreement has no end or termination date. However, under the following conditions the Prime Sponsor Agreement shall no longer be in effect:

(1) When all activity under all Annual Plans has been completed and final settlement under those Annual Plans including an inventory settlement under the PSA has been reached.

(2) When the PSA is a multiparty agreement and one or more signatory parties has legally withdrawn from the agreement and an inventory settlement under the PSA has been reached.

(3) When all annual plans have been terminated, as provided in § 98.16, and final settlement under those annual plans, including an inventory settlement under the PSA has been reached.

§ 98.18 Maintenance and retention of records.

(a) Grantees shall maintain records on each applicant. The following types of information shall be recorded:

(1) For each applicant:

Personal identifying and eligibility information;

(2) For each eligible applicant:

Other socio-economic characteristics and work history; and

(3) For each participant:

(i) Program activities in which the individual participated;

(ii) Supportive services received; and

(iii) Status of participant at termination from program.

Specific items, instructions, and definitions are contained in the *Forms Preparation Handbook.*

(b) Pursuant to the provisions set forth in Attachment C of FMC–74–7 the following shall apply with regard to the retention of records pertaining to any grant program under this Act (secs. 703 (12) and 713).

(1) Financial records, supporting documents, statistical records and all other pertinent records shall be retained for a period of 3 years. Such financial records related to PSE programs shall be public information. No Federal requirements for records retention which exceed those established by State or local govenments shall be otherwise imposed, except that: (sec. 704(d)).

(2) The retention period shall start from the date of submission of the annual or final expenditure report, whichever applies to the particular grant.

(3) The substitution of microfilm copies in lieu of original records may be authorized by the RA upon request of the grantee.

(4) The Secretary will request State and local prime sponsors to transfer grant records to the Department's custody when it is determined that such records have long-term retention value. However, suitable arrangements to avoid duplicate recordkeeping shall be made where the Department and any grantee need such records for joint use.

(5) (i) The names of all participants supported under the Act are considered public information unless otherwise noted in this subtitle. The names, addresses, positions and salaries of all persons employed in public service employment positions under the Act are public information (sec. 704(d)).

(ii) Other information regarding applicants, project participants, or their immediate families, which may be obtained through application forms, interviews, tests, reports from public agencies or counselors or any other source, shall be made available to the public by the grantee to the same degree it makes such information available about its own employees in the governmental jurisdiction. Without the permission of the applicant or participant, such information which is not normally made available to the public on the grantee's own employees in the governmental jurisdiction shall be divulged only as necessary for purposes related to the performance or evaluation of the grant under the Act to persons having responsibilities under the grant, including those furnishing services to the project under subgrant or contract, and to governmental authorities to the extent necessary for the proper administration of law.

(iii) The names of all individuals employed in staff positions under the Act are considered public information. A grantee shall make other information available to the public pertaining to individuals employed in staff positions under the Act in the same manner and to the same extent as such information is made available on its regular employees. A grantee shall make other information available to the public on individuals employed in staff positions by the administrative unit of a consortium, who are not also employed by a member jurisdiction, in accordance with the policy of the member jurisdiction which has the least restrictive policy.

(iv) Irrespective of any other provision in these regulations, this subparagraph (5) is applicable to participants and staff for programs in Fiscal Year 1975, as well as thereafter.

§ 98.19 Program income.

(a) The State and any agency or instrumentality of a State which is a grantee shall not be held accountable for interest earned on grant-in-aid funds pending their disbursement for program purposes under the Act (FMC 74–7).

(b) Units of local government shall be required to return to the Federal Government interest earned on advances of grant-in-aid funds in accordance with a decision of the Comptroller General of the United States (42 Comp. Gen. 289). Interest income shall be returned to the RA within 30 days after the end of each grant quarter.

(c) Proceeds from the sale of real and personal property, either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with the MA Property Handbook which implements Attachment N of FMC 74–7.

(d) Royalties received from copyrights and patents during the grant period shall be retained by the grantee and be added to the funds already committed to the program. After termination or completion of the grant, the Federal share of royalties in excess of $200 received annually shall be returned to the Secretary (FMC 74–7).

(e) All other program income earned during the grant period shall be retained by the grantee and, in accordance with the grant agreement, shall be added to funds committed to the project and be used to further eligible program objectives (FMC 74–7). Expenditures of program income shall be subject to the provisions of this part. Further, program income shall be expended according to the provisions of the Title of the Act under which the income was generated.

(f) The prime sponsor shall record the receipt and expenditure of revenues (such as taxes, special assessments, levies, fines, etc.) as a part of grant project transactions.

§ 98.20 Procurement and property management standards.

(a) *Procurement standards.* (1) Subgrant means an agreement between the grantee and units of State or local government, public agencies or private nonprofit organizations whereby the grantee provides funds or aid in-kind to carry out specific programs, services, or activities authorized under the Act and the prime sponsor's grant. (See § 98.27 (b).)

(2) Contract means a legally binding agreement between the grantee and any party, public or private for the provision of specific services authorized under the prime sponsor's grant and the Act wherein the grantee agrees to pay therefor. (See § 98.27(a).)

(3) The standards to be used for the procurement of supplies, equipment, and other materials and services with Federal grant funds are those described in Attachment O of FMC 74–7 with the following exceptions. On-the-job training contracts are not subject to the sole source approval requirement under paragraph 6(b) of Attachment O and selection of subgrantees is exempt from the requirements of Attachment O. When on-the-job training contracts are made under this exception a record of the name of the contractor, the amount and the services to be provided must be made available to the RA upon request. These standards are furnished to assure that such materials and services are obtained in compliance with the provisions of applicable Federal laws and Executive Orders.

(4) Where applicable, State and local laws which are more restrictive than the provisions of this paragraph shall apply.

(b) *Property management standards.* (1) All prime sponsors shall comply with the provisions of FMC 74–7 Attachment N as implemented by the MA Property Handbook.

(2) Prime sponsors shall obtain prior approval from the RA for all purchases of nonexpendable personal property having an acquisition cost of $1,000 or more and a life of more than one year. Approval may be requested by itemizing such purchases in the grant application.

§ 98.21 Nondiscrimination and Equal Employment Opportunities.

(a) Nondiscrimination generally. Every grant made under the Act shall contain an assurance concerning the provision of equal employment opportunity under the grant.

(b) (1) No person shall on the ground of race, creed, color, handicap (as defined in paragraph (h)) of this section, national origin, sex, age, as provided in subparagraph (2) of this paragraph, political affiliation, or beliefs be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the Act (Sections 703(1), 712, and Vocational Rehabilitation Act, Section 504).

(2) The prohibition against age discrimination shall not be interpreted to prohibit establishment of training and employment programs under the Act designed to serve the legitimate needs of specific age groups. The prohibition against age discrimination shall not be interpreted to prohibit establishment of bona fide qualifications for participation in any program under the Act.

(c) When the Secretary determines the requirements of paragraph (b) of that a grantee has failed to comply with this section, he shall notify the grantee of the noncompliance and request the grantee to secure compliance. If within a reasonable time, not to exceed 60 days, the grantee fails or refuses to secure compliance, the Secretary may, subject to the hearing requirements of this Part 98, terminate financial assistance under the Act and:

(1) May refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) May exercise the powers and function provided by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 (d)); and

(3) May take other actions as may be provided by law.

(d) When a matter under this section is referred to the Attorney General, or when the Attorney General believes that a pattern or practice of discrimination exists, the Attorney General may bring a civil action in any appropriate United States District Court, including injunctive relief.

(e) The Secretary shall enforce the provisions of paragraph (b) of this section with regard to discrimination on the basis of sex in accordance with Section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce these provisions.

(f) This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under the Act.

(g) The grantee shall be responsible for assuring that no discrimination prohibited by this section occurs in any program for which it has responsibility, and shall establish an effective mechanism for this purpose which is described in its plan. The grantee may, as one recommended means of establishing this mechanism, assign the responsibility for administering the Equal Employment Opportunity (EEO) program to one individual and require subgrantees and contractors to prepare affirmative action plans. In such cases, the grantee may include in its grant application a description of its EEO program and the related affirmative action plans of its subgrantees and contractors, including the procedures established for monitoring these activities.

(h) The term "handicapped individual" means any individual who (1) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment, and (2) can reasonably be expected to benefit in terms of employability from an activity under the Act.

§ 98.22 Nepotism.

(a) *Restriction.* No grantee, subgrantee, contractor, or employing agency may hire a person in an administrative capacity, staff position or public service employment position funded under the Act if a member of his or her immediate family is engaged in an administrative capacity for the same grantee or its subgrantees, contractors, or employing agencies. Where a State or local statute regarding nepotism exists which is more restrictive than this policy, the eligible applicant should follow the State or local statute in lieu of this policy.

(b) *Definitions.* For purposes of this section: (1) The term "member of the immediate family" includes: wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, and stepchild.

(2) The term "staff position" includes all CETA staff positions funded under the Act, such as instructors, counselors, and other staff involved in administrative, training on services activities.

(3) The term "person in an administrative capacity" includes: those persons who have overall administrative responsibility for a program, including all elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under the Act, such as members of the prime sponsor planning council, as well as other officials who have an influence or control over the administration of the program, such as the project director, deputy director and unit chiefs; and persons who have selection, hiring, placement or supervisory responsibilities for public service employment participants.

§ 98.23 Special limitations on participant activities.

(a) *Political activities.* (1) (i) No program under the Act may involve political activities. (ii) Neither the program nor the funds provided therefor, nor the personnel employed in the administration of the program, shall be in any way or to any extent, engaged in the conduct of political activities in contravention of Chapter 15 of Title 5, United States Code (secs. 208(g) and 710).

(2) Participants employed by State and local government in the administration of the program and participants whose principal employment is in connection with an activity financed by other Federal grants or loans are covered by the Hatch Act (secs. 208(g) and 710).

(3) Participants may not be employed or outstationed in the offices of a Member of Congress or a State or local legislator.

(4) Participants may not be employed or outstationed in positions involving political activities in the offices of other elected officials such as mayors, county executives or governors. However, since under the responsibility of such elected officials are non-political activities, placement of participants in such positions is permissible.

(b) *Political patronage.* No program will be funded if the eligible applicant discriminates with respect to political affiliation. Specifically, no eligible applicant, subgrantee or employing agency may select, reject, or promote a participant based on that individual's political

affiliation or beliefs. The selection or advancement of employees as a reward for political services or as a form of political patronage, whether or not the political service or patronage is partisan in nature, is discrimination based on political belief or affiliation, and is prohibited (sec. 208(f)).

(c) *Lobbying activities.* No funds made available under this Act may be used for lobbying activities as prohibited in 18 USCA 1913.

(d) *Sectarian activities.* No participant in any program under the Act may be employed in the construction, operation, or maintenance of such part of any facility as is used or will be used for sectarian instruction or as a place of religious worship (sec. 208(h)).

(e) *Labor disputes.* No participant may be placed into or remain working in any position which is affected by a labor dispute. If a labor dispute occurs during the grant period, participants in affected positions must either be relocated to positions not affected by the dispute, or be suspended through administrative leave or other means. However, participants belonging to labor unions involved in the dispute shall be treated in the same manner as any other person who is a member of the union. Every effort should be made to relocate participants who wish to remain working, and who are nonunion members, into suitable public service positions unaffected by the labor dispute. (sec. 208(a)(1), 103(7)).

§ 98.24 General benefits and working conditions for program participants.

(a)(1) Each participant in an on-the-job training, work experience or public service employment program under the Act shall be assured of workers' compensation at the same level and to the same extent as other employees of the employer who are covered by a State or industry workers' compensation statute. Whether provided through the State's compensation agency or a private insurance carrier, this coverage includes medical and accident insurance as well as income maintenance insurance.

(2) Where a participant is employed or engaged in any CETA program activity, i.e., work experience, public service employment, on-the-job training, classroom training, services to participants and other activities where others similarly employed or engaged are not covered by an applicable workers' compensation statute, the participant shall be provided with medical and accident insurance coverage. Whether provided through the State's workers' compensation agency or a private insurance carrier, the prime sponsor shall provide such participants with medical and accident insurance coverage comparable to the medical and accident insurance provided under the applicable State workers' compensation statute. However, prime sponsors shall not be required to provide these participants with the income maintenance insurance coverage in the statute.

(b) Each participant in an on-the-job training, work experience, or public service employment program shall also be assured of health insurance, unemployment insurance (to the extent such benefits are allowable), coverage under collective bargaining agreements and other benefits at the same levels and to the same extent as other employees similarly employed, and to working conditions and promotional opportunities neither more nor less favorable than such other employees similarly employed (secs. 208(a)(4), 703(5) and 703(6)). Nothing in this section shall be interpreted to require coverage for health insurance, unemployment insurance and similar benefits for participants, such as work experience participants, where there is no employee of the employer performing the same or similar work in the employment situation. In determining whether the work is the same or similar to that of a person regularly employed, the prime sponsor will take into consideration, but shall not be limited to, employment status, type of work performed, job classification and method of appointment to the position.

(c) Every participant must be advised prior to entering upon employment of the name of his employer, and of his rights and benefits in connection with his employment (sec. 208(a)(8)).

(d) No participant will be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health or safety. In the case of participants employed or trained for jobs inherently dangerous, e.g., fire or police jobs, participants will be assigned to work in accordance with reasonable safety practices. The provisions of section 2(a)(3) of Pub. L. 89-286 (relating to health and safety conditions) shall apply to such programs or activity (secs. 208(a)(5) and 703(5)).

§ 98.25 Retirement programs.

(a) The Act provides for temporary training and employment. Therefore, the inclusion of CETA participants in a retirement system is not encouraged. Funds under the Act, however, may be paid into a retirement system on behalf of participants in on-the-job training, work experience and public service employment in public or private non-profit agencies who:

(1) Obtain unsubsidized employment with the employer, provided the time spent as a CETA participant is accredited service under the employer's retirement plan;

(2) Obtain unsubsidized employment with another employer provided benefits are portable; or

(3) Obtain vesting.

(b) Examples of methods of administering such retirement system accounts are as follows:

(1) Payments are made first into a reserve account and are not paid into the retirement fund until the participant obtains a status described in paragraphs (a)(1) through (3) of this section. The amount held in the reserve account is then adjusted quarterly to reflect the turnover of participants and the projected funds needed to cover current participants; or

(2) Payments are made first into a reserve account for the actuarily determined number of participants who can be expected to obtain a status described in paragraphs (a)(1) through (3) of this section, and the payments are not paid into the retirement fund until the participants obtain that status. If this method is used, the amount held in the reserve account and the actuarial rate shall be adjusted or determined at least annually; or

(3) Payments are made directly into the retirement fund for the actuarily determined number of participants who can be expected to obtain a status described in paragraphs (a)(1) through (3) of this section. The amount held in the fund shall be adjusted or redetermined at least quarterly to reflect the actual number of participants who have acquired a status described in paragraph (a)(1) through (3) of this section. If this method is used, the amount of accumulated principal and interest earned on contributions made on behalf of participants not described in paragraphs (a)(1) through (3) of this section who terminate their program participation or who, for whatever reason, are no longer considered members in the retirement program must be retrievable.

(c)(1) If other than an actuarial method of benefit determination is used, there shall be at least a quarterly reprogramming back into the CETA program of any contributions (principal and interest) made on behalf of participants not described in paragraphs (a)(1) through (3) of this section who terminate their program participation, or who, for whatever reason, are no longer considered members in the retirement program.

(2) If an actuarial method is used in determining the number of participants who will benefit, a redetermination of the actuarial rate shall be made at least annually.

(3) Funds set aside in a reserve account may earn interest. Any interest earned shall be retained in the reserve account and shall be taken into consideration during reprogramming. Any interest earned on what may reasonably be determined to be a participant's portion of the reserve fund account may also be paid into the retirement fund when the participant obtains a status described in paragraphs (a)(1) through (3) of this section.

(d) Effective October 1, 1977, costs for retirement programs will be allowed only under an approved plan that meets the requirements of paragraph (a) of this section.

(e) Expenditures may be made from program funds for taxes under the Federal Insurance Contributions Act (FICA), 26 U.S.C. 3101 et seq.

§ 98.26 Procedures for resolving issues between grantees and complainants.

(a) Each prime sponsor or eligible applicant shall establish a procedure for resolving any issue arising between it

including any subgrantee or subcontractor of the prime sponsor) and a participant under any Title of the Act. Such procedures shall include an opportunity for an informal hearing, and a prompt determination of any issue which has not been resolved. When the prime sponsor or eligible applicant takes an adverse action against a participant, such procedures shall also include a written notice setting forth the grounds for the adverse action and give the participant an opportunity to respond.

(b) Each prime sponsor or eligible applicant shall establish informal review procedures including an opportunity for an informal hearing to deal with issues arising between it and any of its subgrantees or contractors.

(c) Each prime sponsor or eligible applicant should establish informal review procedures such as informal hearings or some other process, to deal with issues arising between it and any aggrieved party.

(d) Final determinations made as a result of the review process shall be provided to the complainant in writing. Such notice shall include the procedures by which the complainant may appeal the final determination, set forth in Subpart C of this part. No individual or organization subject to the issue resolution requirements of this section may initiate the hearing procedures of subpart C of this Part until all remedies under this section have been exhausted.

§ 98.27 Grantee contracts and subgrants.

(a) Contracts may be entered into between a grantee and any party, public or private, for purposes set forth in a grant agreement except as indicated in paragraph (c) of this section. Procurement standards shall be those set forth in § 98.20.

(b) Subgrants may be entered into only between the grantee and units of State and local general government, public agencies and nonprofit organizations.

(c) Contracts or subgrants which propose to expend Federal funds for a public service employment program may be entered into only with other public agencies or with private nonprofit agencies, except for the provision of administrative services (e.g., auditing, payroll, staff training), which may be entered into with private profit-making organizations. These services shall not include direct public service employment program services such as the employment of participants.

(d) Grantee responsibility for development, approval and operation of contracts and subgrants. (1) The grantee is responsible for development, approval and operation of all contracts and subgrants and shall require that its contractors and subgrantees adhere to the requirements of the Act, regulations promulgated under the Act, and other applicable law.

(2) It shall require contractors and subgrantees to maintain effective control and accountability over all funds, property and other assets covered by the contract or subgrant.

(3) The grantee shall assure that contractors and subgrantees shall maintain and make available for review by the grantee and the Department of Labor all records pertaining to the operations of programs under such contracts and subgrants, consistent with the maintenance and retention of records requirements of § 98.18 (secs. 105(a)(1)(B) and 208(d)).

(e) *Cancellation.* If a contractor or subgrantee does not comply with any requirement of the Act, the regulations promulgated under the Act, and other applicable law, the grantee shall, as appropriate, cancel the contract or subgrant in whole or in part. The grantee may cancel for noncompliance with additional conditions established by the grantee for the contract or subgrant.

(f) *Continuity of service when contract or subgrant is cancelled.* If a contract or subgrant is cancelled, in whole or in part, the grantee shall develop procedures for assuring continuity of service to participants and provide adequate notice to affected staff of the change (secs. 105(a)(1)(B) and 208(d)).

(g) *Contracts and subgrants extending beyond the term of the Annual Plan.* The nature of certain training programs may make it necessary for contracts or subgrants to be entered into by the grantee which will extend beyond the term of the Annual Plan under the Act. The grantee is authorized to enter into contracts or subgrants which extend past the termination date of the Annual Plan but such extension shall not exceed one year and shall be subject to the provisions of § 98.15 and § 98.16. In such cases, the grantee shall continue to be responsible for the administration of such contracts and subgrants.

§ 98.28 Non-Federal status of participants.

Except where specifically provided to the countrary, participants in a program under the Act shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits.

§ 98.29 Applicability of Davis-Bacon Wage Rates to projects under the Act.

(a) All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5) in accordance with the following:

(1) Such rates shall be paid such laborers and mechanics who are employed by contractors or subcontractors, and who are not participants or regular employees of the grantee and who are employed in connection with covered employment related to a facility or building which is used primarily for programs under the Act.

(2) Such rates shall be paid all such laborers and mechanics including participants who are employed by contractors or subcontractors on such construction projects which are assisted in whole or in part with funds under the Davis-Bacon Act and other statutes, other than CETA, which provide for the payment of Davis-Bacon Act determined wages to laborers and mechanics engaged in such employment.

(3) Such rates shall be paid all such laborers and mechanics including participants who are employed on projects in areas of excessively high unemployment wherein the eligible applicant has certified that the application of the provisions of Section 604 of the Act is necessary and wherein the projects are assisted in whole or in part with Title VI funds. (604(b)(3), 706).

(b) The application of the provisions of this section shall be in accordance with the provisions and procedures of 29 CFR Parts 1 and 5.

§ 98.29a Job Corps training opportunities for CETA grantees.

(a) Grantees under Titles I, II, III, and VI of the Act, including contractors under § 303 of the Act, may purchase services and training authorized under their titles of the Act from a Job Corps center; such a transaction shall be called a buy-in.

(b) In participating in the buy-in program, grantees shall make expenditures in accordance with the regulations under their appropriate titles of the Act except as otherwise permitted by paragraph (f) of this section. In participating in the buy-in program, Job Corps shall make expenditures in accordance with the provisions of Part 97a of this subtitle.

(c) A buy-in plan shall be established by a negotiated agreement between a grantee and a center operator. Prior to execution of the agreement by the Job Corps center operator, the center operator must obtain the written approval of the appropriate ETA office.

(d) Two types of buy-in plans may be negotiated:

(1) *Job Corps Enrollees (Residential and Nonresidential).* Participants who meet the eligibility criteria for Job Corps under Title IV of the Act, as well as the eligibility criteria of the grantee's title of the Act, may be fully enrolled in Job Corps as residents or nonresidents. Such enrollees shall be treated as and receive the same services, protections, allowances, etc., as regular corpsmembers except as otherwise provided in paragraph (f) of this section.

(2) *Trainees (Nonresidential).* Participants ("trainees") who are not eligible for, or who do not want or require residential services must meet the eligibility criteria of the grantee's title of the Act only, and may receive training from the Job Corps center operator under the following options:

(i) *Vocational Trainees.* These will be trained in the requisite entry-level skills for the vocation designated in the buy-in agreement.

(ii) *Basic Education and GED Trainees.* These will be individually assessed for reading, arithmetic, job-seeking skills and general education development and trained to meet entry-level requirements for specified job clusters and/or a GED certificate, as appropriate.

(iii) *Combined Basic Education-Vocational Trainees.* These will receive both specified vocation and education training.

(iv) Other options include:

(A) Grantee use of center facilities, including nights or weekends.

(B) Grantee use of centers for training youths during the summer with charges to the grantee based on the pro rata hourly costs.

(e) Allocation of Funds. Slots available for purchase by grantees shall be over and above the current budgeted center capacity. Funds received by the Job Corps center contract or program operating plan.

(f) Prime Sponsor Responsibility. In addition to paying for training at Job Corps centers, grantees shall be responsible for spending funds received under their own titles of the Act to recruit enrollees and trainees, provide them with support services prior to their arrival at centers and following the completion of training, provide their transportation to and from the center, and provide job placement assistance. Grantees shall also supply associated administrative services in accordance with the regulations under this Part as agreed upon with the center. In addition, grantees are authorized to pay any transportation costs for buy-in enrollees and trainees in excess of that allowed by § 98.12(g)(6).

(g) The terms of a buy-in agreement involving trainees shall state the amount and system of payment, and shall include provisions that:

(1) Pay and allowances for trainees shall be borne by the grantee and paid in accordance with regulations under the grantee's title of the Act;

(2) The center will assure that its liability insurance covers the trainees;

(3) Trainees shall be covered by the workers' compensation required by the regulations under the grantee's title of the Act;

(4) As appropriate, the center shall provide trainees with first aid, emergency health care, and initial outpatient visits. First aid and emergency health care shall mean care provided by professionals or lay persons to prevent death or aggravation of serious illnesses or injury, including ambulance service. Initial outpatient visits shall mean single visits to the dispensary or sick call for the purpose of the initial evaluation of an acute health condition. Treatment will be limited to that which can be given by the center staff at the time of the visit. Any additional evaluation, diagnosis or treatment must be obtained through other arrangements by the prime sponsor or the trainee; and

(5) Every trainee under the age of majority shall furnish a statement from a parent or legal guardian agreeing to permit Job Corps to provide the health care set forth in the agreement. Trainees who are over the age of majority shall themselves sign a similar statement.

(h) *Accounting.* For buy-ins involving trainees, the center shall maintain separate accounts for funds received under each title of the Act. Contract centers shall report all buy-in funds received on the Job Corps Form MA 2–111, Center Financial Status Report, and on Form MA 2–223A, Center Financial Report under "Other Income (identify separately by source)." CCC's shall report funds on Form MA 2–223B, Center Financial Report. Grantees shall account for funds expended in support of a Job Corps buy-in accordance with current CETA procedures and cost categories.

(i) *Reporting Credits.* Grantees participating in the buy-in plan will receive credit for the recruiting, training, placement, and support services provided trainees and enrollees and will report activity under the buy-in agreement in accordance with current CETA procedures on reporting and accountability provided in this part. The Job Corps centers will provide the data required by the grantee data system to allow the reports for credit to be completed. The Job Corps center will report on total center population as currently required and will, thus, receive credit for serving enrollees and trainees.

Subpart B—Assessment and Evaluation

§ 98.30 General.

(a) This Subpart B sets forth the assessment and evaluation responsibilities of the grantee (§ 98.31) and the Secretary of Labor (§ 98.32). The grantee shall, as part of its general responsibility to carry out the purposes and provisions of the Act, establish adequate program management for the purposes of examining, in a systematic fashion, the performance of its program in meeting the goals and objectives contained in the Annual Plan and measuring the effectiveness and impact of its program in resolving manpower problems identified in that Annual Plan (secs. 105(a)(1)(B) and 703(14)).

(b) The Secretary shall assess grantees to determine whether they are carrying out the purposes and provisions of the Act in accordance with their approved plans. The Secretary shall also evaluate the overall programs and activities conducted under the Act to aid in the overall administration of the Act (secs. 311(c)(d) and 313(b)).

§ 98.31 Responsibilities of the prime sponsor or eligible applicant.

(a) As prescribed under Subpart A of this Part 98, the grantee shall submit periodic reports on the performance of its program in relation to its plan as required by the Secretary (secs. 313(b) and 703(12)). The grantee shall implement and maintain the necessary recordkeeping required to complete these periodic reports. While such recordkeeping will support reports to the Secretary, it is principally for the use of the grantee to provide basic internal management information.

(b) The grantee is required to establish internal program management procedures (sec. 703(14)). Such procedures shall be used by the grantee in the monitoring of day-to-day operations, to periodically review the performance of the program in relation to program goals and objectives, and to measure the effectiveness and impact of program results in terms of participants, program activities, and the community. The objective of such procedures shall be the improvement of overall program management and effectiveness.

(c) The grantee shall monitor all activities for which it has been provided funds under the Act to determine whether the assurances and certifications made in its grant application and the purposes and provisions of the Act are being met, and to identify problems which may require the grantee to take corrective action in order to assure such compliance. The grantee shall fulfill this monitoring function through the use of internal evaluative procedures, the examination of program data, or through such special analysis or checking as it deems necessary and appropriate (secs. 105(a) and (b), 108(d), and 703).

(d) The grantee shall cooperate with the Secretary's evaluation and assessments by providing special reports on program activities and operations as requested; the findings of evaluations of effectiveness and impact; and access to its records and program operations.

(e) When the grantee finds that operations do not equal planned performance, it shall develop and implement appropriate corrective action.

§ 98.32 Responsibilities of the Secretary.

(a) As used in this section, the term "assessment" refers to the Federal review of grant applications and performance of individual grantees, and the term "evaluation" refers to the Federal study of the overall effectiveness and impact of programs and activties under the Act.

(b) The Secretary has the responsibility to determine that the grantee is operating in general accordance with its approved grant application in carrying out the purposes and provisions of the Act, and has demonstrated maximum efforts to implement the provisions in its prior year's Annual Plan.

(1) The Secretary shall assess the grantee's program and activities in order to determine compliance with assurances and certifications of its grant, compliance with the purposes and provisions of the Act, compliance with the regulations promulgated under the Act and performance in the achievement of goals and objectives specified in the approved Annual Plan (secs. 105, 108(d), and 703).

(2) Such assessment shall be conducted through the review of required peri-

odic reports and shall be supplemented by special reports from the grantee, the examination of records maintained by the prime sponsor or eligible applicant, selective on-site reviews including in certain instances, reviews of contractors and subgrantees after prior consultation with the grantee, the investigation of allegations or complaints, or other examination as deemed necessary and appropriate by the Secretary (secs. 311(c)(d), 313(a)(b), 703(12), and 108).

(3) Assessment may also be conducted for purposes of the offering of technical assistance and/or recommendations for corrective actions to grantees as considered necessary. Such assessments will be made in consultation with grantees.

(c) The Secretary has the responsibility to provide for the continuing evaluation of all programs and activities conducted pursuant to the Act. Such studies shall include examination of:

(1) Cost in relation to effectiveness;

(2) Impact on communities and participants;

(3) Implication for related programs;

(4) Extent to which needs of various age groups are met;

(5) Adequacy of mechanisms for the delivery of services;

(6) Comparative effectiveness of grantee programs with similar programs conducted by the Secretary under Section 110 or Title III;

(7) Opinions of participants about the strengths and weaknesses of the programs;

(8) Relative and comparative effectiveness of programs under this Act and Part C of Title IV of the Social Security Act (Work Incentive Program for Welfare recipients) (sec. 313 (a) and (b));

(9) The effectiveness of programs in meeting the employment needs of disadvantaged, unemployed, and underemployed persons; and

(10) The extent to which artificial barriers restricting employment and advancement opportunities in agencies receiving funds under the Act have been removed.

(d) The Secretary shall compile, on a State, regional and national basis, information obtained from periodic reports or special reports, surveys, or samples required from grantees, including information on:

(1) Enrollee characteristics, including age, sex, race, health, education level, and previous work and employment experience;

(2) Duration in training and employment situations, including information on the duration of program participation, for at least a year following the termination of participation in federally-assisted programs and comparable information on other employees or trainees or participating employers; and

(3) Total dollar cost per trainee, including breakdown between salary or allowance, training and supportive services, and administrative costs (sec. 313 (b)).

(e) Evaluations carried out in accordance with paragraph (d) of this section may be conducted directly by Department of Labor staff or thorough contract, grant or other arrangement, as the Secretary deems necessary or appropriate (sec. 311(c)).

§ 98.33 Limitation.

No prime sponsor or eligible applicant nor the Secretary shall, in arranging for evaluation of any program under the Act, utilize for such evaluation any non-governmental individual, institution, or organization which is associated with that program as a consultant, technical advisor or in any similar capacity (sec. 704(c)).

§ 98.34 Consultation with the Secretary of Health, Education, and Welfare.

The Secretary shall consult with the Secretary of Health, Education, and Welfare with respect to arrangements for services of a health, education, or welfare character in plans under this Act. This consultation shall focus on the relationship of such services to be delivered under this Act with those being delivered under other applicable laws for which the Secretary of Health, Education, and Welfare is responsible. The RA will provide copies of Title I and II grant applications to the Regional Director of Health, Education, and Welfare for review and comment on proposed activities of a health, education, and welfare character as provided for in the Memorandum of Agreement signed June 3, 1974, and July 25, 1974, by the Secretary of Labor and the Secretary of Health, Education, and Welfare, respectively.

Subpart C—Hearings and Judicial Review

§ 98.40 Purpose and policy.

(a) The regulations set forth in this Subpart C contain the procedures established by the Secretary for carrying out his responsibilities under the Act for the review of comprehensive manpower plans and applications for financial assistance, and for the receipt, investigation, hearing and determination of questions of noncompliance with the requirements of the Act and the regulations promulgated under the authority of the Act (sec. 108).

(b) It is the policy of the Secretary to receive information concerning alleged violations of any title of the Act and the regulations promulgated pursuant thereto from any person, or any unit of Federal, State or local government. Assistance in the filing of a formal allegation may be secured from the appropriate Regional Solicitor, by any person who desires and needs such assistance.

(c) A participant in a program under the Act must exhaust the administrative remedies established by the prime sponsor or eligible applicant for resolving matters in dispute prior to utilizing the procedures under this Subpart C. The filing of such a complaint shall not, however, automatically act as a stay of the decision rendered by the prime sponsor or eligible applicant. A participant may initiate an action under this subpart within 30 days of any final decision by a grantee.

§ 98.41 Review of plans and applications, violations.

(a) The Secretary shall not finally disapprove any Comprehensive Manpower Plan or Application for financial assistance submitted under any title of the Act (except where other procedures are set forth e.g., § 97.292), or any modifications, or amendments thereof without first affording the grantee submitting the plan or application reasonable notice and opportunity for a hearing as provided in § 98.47 et seq.

(b) When information available to the Secretary indicates that a grantee may be:

(1) Maintaining a pattern or practice of discrimination in violation of Section 703(1) or Section 712(a) of the Act or otherwise failing to serve equitably the economically disadvantaged unemployed, or underemployed persons in the area it serves;

(2) Incurring unreasonable administrative costs in the conduct of activities and program, as determined pursuant to regulation;

(3) Failing to give due consideration to continued funding of programs of locally demonstrated effectiveness including those previously conducted under provisions of law repealed by Section 714 of the Act; or

(4) Otherwise materially failing to carry out the purposes and provisions of the Act or regulations issued pursuant to the Act; he shall, before taking final action on such grounds, notify the grantee of his proposed action and provide the grantee a reasonable time within which to respond. All further proceedings shall be conducted as provided in § 98.46 and § 98.47 et seq.

(c) Every other person claiming legal injury because of any action under the Act may be heard only by initiating a complaint under § 98.42.

§ 98.42 Complaints; filing of formal allegations; dismissal.

(a) Every complaint by any complainant, whether in writing or not, shall be filed as a formal allegation before the commencement of any investigation or corrective action is required under this part.

(b) All formal allegations shall be filed with the appropriate RA. A formal allegation so filed may be withdrawn only with the consent of the Secretary.

(c) A formal allegation pending more than 6 months after filing because the complainant has failed to cooperate or make himself available during investigation of the matter may be dismissed by the RA upon notice to the last known address of the complainant.

§ 98.43 Form.

Every formal allegation shall be in writing and signed by the complainant, and shall be sworn to before a Notary Public, or other duly authorized person. A formal allegation need not be in any particular form, but should be neat, legible and suitable for flat filing.

§ 98.44 Contents of formal allegations; amendment.

(a) The formal allegation should contain the following:

(1) The full name and address of the person making the charge.

(2) The full name and address of the party against whom the formal allegation is made (hereinafter referred to as the respondent(s)).

(3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged unlawful practice.

(4) Where known, the provisions of the Act, regulations, grant, and application of the grantee believed to have been violated.

(5) A statement disclosing whether proceedings involving the Act complained of have been commenced before a State or local authority, and, if so, the date of such commencement and the name of the authority.

(6) A statement that the administrative procedures established by the grantee have been, if applicable, followed to completion by the complainant.

(b) Notwithstanding the provisions of paragraph (a) of this section, a formal allegation will be considered to have been filed when the RA receives from the complainant a written statement sufficiently precise to both identify those against whom the allegations are made, and to fairly afford the respondent an opportunity to prepare a defense. A formal allegation may be amended to cure technical defects or omissions, including failure to swear to the allegation, or to clarify and amplify allegations made therein, and such amendments relate back to the original filing date. An amendment alleging additional acts not directly related to or growing out of the subject matter of the original formal allegation will be permitted only where at the date of the amendment the allegation could not have been timely filed as a separate formal allegation and the rights of any respondent will not be prejudiced.

§ 98.45 Investigations.

(a) The RA will make a prompt investigation of each formal allegation filed as provided in this part. The investigation may include, where appropriate, a review of pertinent practices and policies of any grantee, the circumstances under which the possible noncompliance with the Act or regulations issued thereunder occurred, and other factors relevant to a determination as to whether the respondent has failed to comply with requirements of the Act, the regulations, and the grant.

(1) If an investigation pursuant to paragraph (a) of this section indicates to the RA a failure to comply with the Act, the regulations, or the grant, the RA will so inform the respondent and the complainant and the matter, will if possible, be resolved by informal means. If informal resolution does not occur within a reasonable period of time, action will be taken as provided in this part or as otherwise provided by law.

(2) If an investigation does not warrant action pursuant to paragraph (a) (1) of this section, the RA will so inform the respondent and the complainant in writing.

(b) No grantee, participant, respondent or other persons shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the Act, the regulations, the grant, or the application of an eligible applicant because he has made a complaint, formal allegation, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of every complainant shall be kept confidential except to the extent ncessary to carry out the purpose of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 98.46 Opportunity for hearings; when required.

An opportunity for a public hearing shall be extended in each of the following instances:

(a) When the RA receives a formal allegation from an affected unit of general local government that a grantee has changed its grant application so that it no longer complies with Section 105 of the Act, or that in the administration of the grant there is a failure to comply substantially with any provision of the grant or with the requirements of Sections 703 and 704 of the Act and the matter has not been resolved informally within a reasonable period of time; or

(b) After the completion of an investigation, pursuant to § 98.45, or any formal allegation which indicates there is substantial evidence of facts supporting a conclusion of probable cause that a violation of the Act, or regulations issued pursuant thereto, has occurred or is occurring, or is about to occur, and the matter has not been resolved by informal means; or

(c) When the Secretary has reasonable cause to believe that a violation set forth in § 98.41(b) has occurred, or when the Secretary determines that fairness and the effective operation of programs under the Act would be furthered by an opportunity for a public hearing, including a finding under § 98.41 that a hearing should be provided.

§ 98.47 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by the Act, or § 98.46, and the issue has not been resolved informally, the Secretary or RA shall give reasonable notice by registered or certified mail, return receipt requested, to the affected respondent and complainant, if any. This notice shall advise the respondent of the allegations to be heard, the proposed remedial actions which may be taken, and the matters of act or law asserted as the basis for the action. The notice shall (1) fix a date not less than 20 days after the date of such notice within which the respondent may request the Secretary or RA that the matter be scheduled for hearing, or (2) advise the respondent and the complainant that the matter in question has been set by a Hearings Officer for hearing at a stated place and time. The time and place shall be fixed by a Hearings Officer in accordance with paragraph (b) of this section and shall be subject to change for cause. A respondent may waive a hearing and submit written information and argument for the record. The failure of a respondent to request a hearing under this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under the Act and this part, and shall be respondent's consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearings.* Hearings shall be held in Washington, D.C., at a time fixed by a Hearings Officer. At the request of the respondent or Department, and upon a determination by the Hearings Officer that the relative conveniences of the respondent and Department so warrant, and no issue presented involved a determination which has been made at the Department's national office can only be made at the Department's national office, the Hearings Officer may select a place for hearing in the city of the regional office of the Department or any oher appropriate city.

(c) *Right to counsel.* In all proceedings under this section, the respondent and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with Section 5–8 of the Administrative Procedure Act, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the respondent shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the Hearings Officer conducting the hearings at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination, shall be applied where reasonably necessary by the Hearings Officer conducting the hearing. The Hearings Officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall

be based upon the hearing record and written findings shall be made.

(3) The general provisions governing discovery as provided in the Rules of Civil Procedure for the United States District Court, Title V, 28 U.S.C., Rules 26 through 37, may be made applicable in any hearing conducted under this part to the extent that the Hearing Officer concludes that their use would promote the efficient advancement of the hearing.

(4) When a public officer is a respondent in a hearing in his official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the proceeding does not abate and his successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantive rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies or noncompliance with this part and the regulations of one or more other Federal departments or agencies, the Secretary may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 98.48.

(f) *Hearing Officers.* Hearings shall be held before an Administrative Law Judge of the Department or by such other person as may be designated by the Secretary.

§ 98.48 Initial certification, decisions, and notices.

(a) *Authority of hearing officer to render decision.* The Administrative Law Judge or other designated hearing officer is authorized to make an initial decision unless the Secretary otherwise limits this authority in a particular case.

(b) *Decisions and certifications by hearing officers.* The Administrative Law Judge, or other persons designated to hear the matter, shall make an initial decision, if so authorized (see § 98.47(f) or certify the entire record including his recommended findings of fact, conclusions of laws, and proposed decision to the Secretary for a final decision, and a copy of such initial decision of certification shall be mailed to the respondent and the complainant. When an initial decision is made the respondent may, within 30 days of mailing of such notice of initial decision, file with the Secretary his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the Secretary may on his own motion within 45 days after the initial decision serve on the respondent a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review, the Secretary shall review the initial decision and issue his own decision thereon including the reasons therefor. The decision of the Secretary shall be mailed promptly to the respondent and the complainant, if any. In the absence of either exceptions or a notice of review, the initial decision shall constitute the final decision of the Secretary.

(c) *Decisions on record or review by the Secretary.* Whenever a record is certified to the Secretary for decision or he reviews an initial decision pursuant to paragraph (a) of this section, the respondent shall be given reasonable opportunity to file with him briefs or other written statements of its contentions. A copy of the final decision of the Secretary shall be given in writing to the respondent and to the complainant, if any.

(d) *Decisions on record where a hearing is waived.* Whenever a hearing is waived under this part, a decision shall be made by the Secretary on the record and a copy of such decision shall be given in writing to the respondent, and to the complainant, if any.

(e) *Rulings required.* Each decision of an Administrative Law Judge or the Secretary shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to the Act or regulations issued thereunder with which it is found that the respondent has failed to comply.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved in accordance with the Act, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and regulations issued thereunder, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the respondent determined by such decision to be in default in its performance of an assurance given by it pursuant to the Act or regulations issued thereunder, or to have otherwise failed to comply with the Act or regulations issued thereunder, unless and until it corrects its non-compliance, and satisfies the Secretary that it will fully comply with the Act and regulations issued thereunder.

§ 98.49 Judicial review.

Action taken pursuant to Section 108 of the Act is subject to judicial review as provided in Section 109 of the Act. All other action initiated under the Act and regulations issued thereunder shall be final upon a determination by the Secretary.

PART 99—PROGRAMS UNDER TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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Subpart A—General

§ 99.1 Scope and purpose of this Part 99.

(a) This part contains the Department of Labor's regulations governing the establishment and operation of a public service and employment and training program under Title VI of the Act, as amended by the Emergency Jobs and Unemployment Assistance Act of 1974, Pub. L. 93–567, 88 Stat. 1845, and the Emergency Jobs Programs Extension Act of 1976, Pub. L. 94–444.

(b) This program is intended to sustain enrollment under Titles II and VI of the Act throughout Fiscal Year 1977, and to create project opportunities with funds in excess of those needed for sustaining enrollment.

(c) Provision is also made for a shift in emphasis toward serving persons who are long-term unemployed or AFDC recipients and whose family incomes are 70 percent or less of the lower living standard income level. All persons enrolled in projects must meet the above criteria. In addition, at least 50 percent of the vacancies which occur or which already exist in the Title VI level of sustainment must be filled with long-term unemployed persons and AFDC recipients. Persons filling the remaining vacancies may meet the orginal Title VI eligibility criteria. A prime sponsor, however, may fill all vacancies with long-term unemployed persons and AFDC recipients.

(d) Definitions for terms and abbreviations used in this part which are not found in this Part may be found at § 94.4 of this title.

(e) Prime sponsors are encouraged to develop to the maximum extent feasible ways of assuring participation of veterans in the newly created public service employment positions.

(f) Pursuant to § 98.21 of this title, prime sponsors shall assure equal employment opportunity in the selection of eligible participants for projects. In the establishment of eligibility pools for participants, prime sponsors shall have ample lead time to assure that those in the pool adequately reflect the characteristics of their unemployed populations (i.e., minorities, women).

(g) Statutory authority for the regulations contained in this part is found in section 702(a) of the Act. Other relevant sections of the Act are generally noted at the end of the substantive regulations in this part.

(h) Pub. L. 94–444 was signed into law on October 1, 1976. Therefore, as of October 1, 1976, certain provisions of Pub. L. 94–444 became immediately applicable, including sections 3(a)(1), 3(a)(2), and 11.

§ 99.2 Allocation of funds.

(a) The Secretary shall allocate not less than 2 percent of the funds available for Title VI of the Act to those eligible applicants defined in § 99.3 which are Indian tribes, bands, and groups qualified under section 302(c)(1) of the Act (sec. 602(e) and sec. 603(a)(1)).

(b) Not less than 90 percent of the funds remaining after the application of paragraph (a) of this section shall be allocated among eligible applicants defined in § 99.3 which are prime sponsors under Title I of the Act according to the following basic formula (sec. 603(a)(1)):

(1) Fifty percent of the funds shall be allocated among eligible applicants in proportion to the relative number of unemployed persons who reside in areas within the jurisdiction of such applicants compared to the number of unemployed persons who reside in all eligible applicants' areas in all the States (sec. 603(a)(2)(A)).

(2) Twenty-five percent of the funds shall be allocated among eligible applicants on the basis of the ratio of the excess number of unemployed persons, as defined below, who reside within the jurisdiction of the eligible applicant, to the total excess number of unemployed persons who reside within the jurisdictions of all eligible applicants. In allocating funds to an eligible applicant which is not a State, the term "excess number" shall mean the number of unemployed persons in excess of 4.5 percent of the labor force who reside in the jurisdiction of the eligible applicant. For allocating funds to an eligible applicant which is a State, the term "excess number" shall mean either the number of unemployed persons in excess of 4.5 percent of the labor force who reside in the jurisdiction of the eligible applicant, or the number of unemployed persons in excess of 4.5 percent of the labor force in areas eligible for assistance under Title II of the Act in the geographical area served by such State prime sponsor (under Title I or Title II), whichever is greater (sec. 603(a)(2)(C)).

(3) Twenty-five percent of the funds shall be allocated for use on behalf of residents of areas of substantial unemployment. An area of substantial unemployment, other than in relation to Indian tribes, bands, and groups, is any area within a prime sponsor's jurisdiction which has a population of at least 10,000 persons, qualifies for a minimum allocation of $25,000 under Title II of the Act, and has a rate of unemployment of at least 6.5 percent for a period of three consecutive months as determined by the Secretary of Labor at least once each fiscal year. These funds shall be allocated in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the eligible applicant as compared to the total number of unemployed persons residing in all areas of substantial unemployment (sec. 603(a)(2)(b)).

(c)(1) The remaining funds, not to exceed 10 percent of the funds remaining after application of paragraph (a) of this section, may be distributed to prime sponsors under Title VI by the Secretary as the Secretary deems appropriate to carry out the purpose of Title VI, taking into account both changes in rates of unemployment, and the need for additional funds to continue the same level of public service employment activities previously supported under the Act within the jurisdiction of the eligible applicant (sec. 603(b)).

(2) When any portion of these funds is to be allocated using a formula, the Secretary shall not later than 30 days prior to such allocation publish in the FEDERAL REGISTER the specific formula for such distribution, the rationale behind the selection of the formula and the proposed amount for distribution to each eligible applicant. After consideration of comments received within 30 days of the FEDERAL REGISTER notice, the Secretary shall publish final allocations (sec. 603(d)).

(d) For purposes of paragraphs (b) and (c) of this section, the term "jurisdiction" means the jurisdiction of each unit of general local government as described in § 95.3(a)(2) of this subtitle, whether or not such unit has entered into a consortium of units of general local government for the purposes of § 95.3(a)(3) of this subtitle (sec. 603(c)).

(e)(1) An eligible applicant shall distribute to a program agent, as defined in paragraph (e)(3) of this section, funds to be utilized to serve residents of the program agent's area unless the program agent declines to operate a program. In which case, the eligible applicant shall make other arrangements to serve the residents of the program agent's jurisdiction (sec. 204(d)(1)).

(2) If the Secretary does not specify an amount to be distributed to a program agent, the eligible applicant shall distribute funds to the program agent using the same rationale used by the Secretary in distributing funds to eligible applicants.

(3) The term "program agent" under this part shall mean any unit of general local government (or combination of such units) located within an eligible applicant's jurisdiction which has a population of 50,000 or more (sec. 204(d)(1)).

(4) Notwithstanding paragraph (e)(1) of this section, a program agent which is a member of a consortium may make agreements agreed to by the consortium for the administration of funds for the benefit of the residents of the eligible program agent's area:

§ 99.3 Eligibility for funds.

(a) Funds shall be allocated by the Secretary only to eligible applicants. The

term "eligible applicant" shall mean prime sponsors qualified for Fiscal Year 1977 under Title I of the Act and Indian tribes, bands, and groups qualified for Fiscal Year 1977 under section 302(c)(1) of the Act (sec. 602(e)).

(b) A State shall not qualify as an eligible applicant for any geographical area within the jurisdiction of any other eligible applicant which is a unit of local government, within the State unless the non-State eligible applicant has not submitted an approvable application for Title VI funds, or has stated to the Regional Administrator, in writing, its desire to be served by the State (sec. 204(a)).

(c) A unit of general local government shall not qualify as an eligible applicant with respect to any area within the jurisdiction of another eligible unit of general local government unless the other unit has not submitted an approvable application for such areas, or has stated its desire to the RA, in writing, to be served by such larger unit (sec. 204(a)).

(d)(1) An eligible applicant shall distribute funds to program agents as provided in § 99.2(e) (sec. 204(d)(2)).

(2) No program agent shall receive or continue to receive funds for any area within the jurisdiction of another program agent unless the RA determines that the other program agent has not carried out its administrative responsibility consistent with the application for financial assistance developed by the eligible applicant for developing, funding, overseeing, and monitoring programs within its area (sec. 204(d)(3)).

(e) Funds for areas of substantial unemployment.

(1) An eligible applicant or program agent which contains an area or areas of substantial unemployment shall make available for services to residents of each such area those funds allocated to the eligible applicant under § 99.2(b)(3) (sec. 603(a)(2)(b)).

(2) An eligible applicant other than a State, or a program agent, whose entire jurisdiction qualifies as an area of substantial unemployment, shall, to the extent feasible, allocate funds allocated under § 99.2(b)(3) according to § 96.3(f)(1) of this subtitle.

(3) If the eligible applicant is a State whose entire jurisdiction qualifies as an area of substantial unemployment, the eligible applicant shall, to the extent feasible, allocate the funds allocated to it under § 99.2(b)(3) according to § 96.3(f)(2) of this subtitle.

(4) If an eligible applicant believes that there is an area of substantial unemployment within its jurisdiction that has not been designated as such by the Secretary it may recommend that such area be considered by the Secretary. In making any such recommendation, the eligible applicant must include a precise geographical definition of the area to be served and population data. Such recommendation shall be submitted to the RA. The Secretary shall, within a reasonable time, make a determination on the recommendation and inform the eligible applicant of the decision and the reasons therefor.

Subpart B—Grant Application

§ 99.10 General.

(a) This subpart contains the procedures for obtaining grants to operate programs under Title VI of the Act (sec. 602(a)).

(b) The Secretary reserves the right to temporarily waive any of the grant procedures in this subpart and provide immediate funding authority when, and if, strict adherence to a procedure would result in a funding delay which would necessitate the lay-off of currently employed participants.

§ 99.11 Planning process; advisory councils.

To receive financial assistance under Title VI of the Act, eligible applicants shall submit an appropriate comprehensive Title VI plan, pursuant to § 99.12. In developing and modifying such a plan, an eligible applicant shall utilize the planning process and the advisory councils pursuant to § 95.13 (b), (c), (d), and (e) of this subtitle.

§ 99.12 Content and description of grant application.

(a) To apply for a grant, each eligible applicant shall complete and submit a grant application.

(b) Copies of all grant application forms and instructions are contained in the Forms Preparation Handbook (ET Handbook No. 311).

(c) Each grant application shall consist of an Application for Federal Assistance, a Comprehensive Title VI Plan, Assurances and Certifications, and a Grant Signature Sheet. Sections 99.13–16 describe the contents of the grant application.

§ 99.13 Application for Federal Assistance.

The Application for Federal Assistance identifies the eligible applicant and the amount of funds requested. It provides information concerning the area to be served and the number of people expected to benefit from the program. The Standard Form 424 contained in Federal Management Circular (FMC) 74–7 is being used as the Application for Federal Assistance.

§ 99.14 Comprehensive Title VI Plan.

(a) The Comprehensive Title VI Plan is a statement of how the eligible applicant intends to use Title VI funds and to coordinate its activities with other employment and training programs and services operating within its jurisdiction. The Comprehensive Title VI Plan consists of the Narrative Description of the Title VI Program, the Program Planning Summary, the Budget Information Summary, the Monthly Schedule, the Public Service Employment Occupational Summary, the Project Data Summary, and the Program Summary which are described below in paragraphs (b) through (h) of this section.

(b) The Narrative Description of the Title VI program identifies and explains the employment and training problems within the eligible applicant's jurisdiction, describes proposed program activities and delivery systems to deal with those problems, and states the results expected from the program. The Narrative Description requirements in this paragraph (b) are an abbreviated version of the Narrative Description requirements for Title II (§ 96.14(b)(2)(1) of this title.) If the information required has already been provided in the current Title II Narrative Description, a copy of the Title II Narrative Description may be attached in order to comply with the requirements in this paragraph. The Narrative Description of the Title VI program must include the following items:

(1) *Objectives and needs for the assistance.* (i) Program purpose; and

(ii) Analysis of need—A brief description of the labor market of the area including labor force and a description of the population groups most in need of services at this time.

(2) *Results and benefits expected.* This item should explain how the quantified results in Section I of the PPS impact on the needs of the labor force and the community services to be provided.

(3) *Approach.* (i) What provisions have been made to sustain the June 30, 1976, level of enrollment in both Titles II and VI, or to retain the October 31, 1976 level, if higher?

(A) Identify the June 30, 1976, level of enrollment in Titles II and VI. Identify the October 31, 1976, level, if different.

(B) Identify the level of enrollment at the time of grant execution, if higher than either of the preceding. If the level of enrollment is higher, describe how these excess participants will be accommodated (e.g., transfer to projects, terminate, place in jobs).

(C) Estimate the amount of funds it will take to sustain the June 30, 1976, level of enrollment or to retain the October 31, 1976, level of enrollment, whichever level of enrollment is higher.

(D) Identify the number of participants that will be sustained under Title II.

(E) Identify the number of participants that will be in the Title VI level of sustainment.

(F) If any former participants are to be reinstated in the program under the provisions of § 99.40(c), state the number of individuals involved. Submit adequate documentation to allow the RA to determine that such individuals qualify for reinstatement, including the name, position, date of termination and reason for termination of each participant and any additional information required by the RA.

(ii) Describe the methods which will be used to provide any training and supportive services to long-term unemployed persons.

(iii) Provide the estimated average annual wage rate for PSE occupations and the method of obtaining this wage rate, keeping in mind the aim of obtaining a nationwide rate of $7,800.

(iv) Describe unmet public service needs.

(v) Describe the method of recruiting low-income AFDC recipients and long-

term unemployed persons, and the method which will be used to verify such persons' eligibility for the program. Describe the procedures that will be used to track and monitor the flow of participants in order to comply with the different eligibility requirements of § 99.42 (a) and (b).

(vi) Explain the basis for distributing funds within the eligible applicant's area.

(vii) Describe what steps will be taken to provide services to disabled, special and recently discharged veterans and to welfare recipients.

(viii) For newly eligible applicants, eligible applicants operating independently for the first time and eligible applicants serving geographical area(s) in addition to that served in the previous program year, describe the continuity of service to be provided.

(ix) Describe the process for selecting delivery agents and project operators including:

(A) The methods and criteria to be used in the selection of delivery agents and project operators;

(B) The methods and criteria to be used for soliciting and approving project applicants.

(x) Describe the linkages established with other employment and training and related agencies.

(xi) Identify the percentage of Title VI positions planned to be filled with veterans.

(4) *Management and administrative plan.* (i) Provide an organizational chart.

(ii) Describe internal administrative controls, including personnel or merit system and grievance procedures.

(5) *Maintenance of effort data.* Estimate the number of jobs that will be filled by rehiring former employees who have been terminated or laid off. (Under § 99.34, the RA may request additional documentation on this item.)

(c) *Program planning summary.* The program planning summary requires an eligible applicant to provide a quantitative statement of planned enrollment levels, the participants to be served by each program activity (classroom training, on-the-job training, public service employment, work experience, and other activities), and planned outcomes for program participants. It also requires an identification of the significant segments of the population and the number of individuals in each to be served.

(d) *Budget information summary.* The budget information summary requires an eligible applicant to:

(1) Provide a quantitative statement of planned expenditures and obligations;

(2) Indicate yearly planned expenditures by cost category (administration, allowances, wages, fringe benefits, training, and services); and

(3) State planned quarterly obligations and planned expenditures by program activity.

(e) *Monthly schedule.* The monthly schedule contains an estimate of total number of participants who will be enrolled in Title VI programs at the end of each month and of the total cumulative expenditures expected to have been incurred by the end of each month.

(f) *Public service employment occupational summary.* The public service employment occupational summary provides a description of proposed job opportunities, occupations and wages for similar nonsubsidized jobs in the employing agency at the sustaining level. The above information should not be provided for projects.

(g) *Project data summary.* The project data summary provides a description of each proposed project.

(h) *Program summary.* The program summary presents a distribution of jobs, training slots, and funds to be provided to eligible applicants and subgrantees. It designates the area to be served, the population and employing agencies of each area. The above information should not be provided for projects.

§ 99.15 Assurances and certifications.

(a) The assurances and certifications form is a signature sheet on which the eligible applicant assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable Federal Management Circulars and Office of Management and Budget (OMB) circulars. The assurances and certifications form will be provided in the grant application package.

(b) When prime sponsors are planning to fund job opportunities authorized under Section 304(a) of the Act, paragraphs (3), (4), (5), and (6), they must submit a certification to the RA in the grant application that such activities are necessary to provide sufficient job opportunities in the area served by the prime sponsor (sec. 604(a)).

§ 99.16 Grant Signature Sheet.

The Grant Signature Sheet records the acceptance by the grantee and grantor of the terms and conditions of the grant and any changes to the grant. It records the time period for which the grant is effective, the grant allotment, the amount of funds obligated by the RA to the grantee, the Title of the Act under which funding is authorized and the name, title and signature of the approving official on both sides.

§ 99.17 Comment and publication procedures relating to submission of grant application.

(a) Each eligible applicant shall provide an opportunity for comment on the application as set out in § 95.15 of this subtitle, except that newspaper publication and provision of the application to Governors, appropriate units of government, appropriate Indian prime sponsors, and appropriate labor organizations may be simultaneous with submission of the grant application to the RA.

(b) Each eligible applicant shall submit a copy of its grant application to appropriate State and sub-state clearinghouse(s) at the same time that it submits its application to the RA.

§ 99.18 Submission of grant application; standards for reviewing grant applications.

(a) Each eligible applicant shall submit its grants application to the RA on or before a date set by the Secretary.

(b) A grant application shall include all items set out in § 99.12.

(c) A grant application will be reviewed to determine if it meets the requirements of the Act, the regulations promulgated under the Act, and other applicable law. In reviewing a grant application, the RA shall use the standards set forth in § 95.17(b) of this subtitle.

§ 99.19 Application approval; application disapproval; grant agreement.

The procedures set forth in §§ 95.18 and 95.19 of this subtitle shall apply for Title VI applications and grant agreements.

§ 99.20 Use of alternative eligible applicant; services by the Secretary.

The provisions detailed in § 95.20 of this subtitle shall apply to applications and grants made pursuant to Title VI of the Act.

§ 99.21 Modifications.

The modification procedures set forth in § 95.21 of this subtitle shall apply to Title VI grants.

Subpart C—Program Operation Requirements for Prime Sponsors

§ 99.30 General.

(a) This subpart contains the program operation requirements governing prime sponsors with respect to the creating and expanding of public service job opportunities for unemployed and underemployed persons (secs. 205, 602(a)).

(b) This subpart also contains special provisions governing prime sponsors of areas of excessively high unemployment, which include:

(1) Prime sponsors of areas having an average unemployment rate in excess of 7 percent for the most recent three consecutive months based upon the best available information and subject to review by the RA, and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area;

(2) Prime sponsors which are "exceptional circumstance" prime sponsors under section 102(a)(4) of the Act and which certify to the RA in the grant application or a request for modification that application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area;

(3) Prime sponsors which are "concentrated employment program" prime sponsors under section 102(a)(5) of the Act and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in

order to provide sufficient job opportunities in the area; and

(4) Prime sponsors which are State prime sponsors serving areas which are eligible for assistance under Title II of the Act and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the Title II area.

§ 99.31 Basic responsibilities of prime sponsors; basic responsibilities of program agents.

(a) (1) A prime sponsor shall administer its programs under Title VI of the Act pursuant to the provisions of § 96.21 of this subtitle.

(2) A prime sponsor of an area of excessively high unemployment shall administer its programs under Title VI of the Act pursuant to the provisions of § 96.21 of this subtitle, except that the provisions of § 96.21 (c), (d) and (e) of this subtitle shall not apply.

(b) The responsibilities of program agents, as defined in § 99.2(e)(3), shall be those provided in § 96.22 of this subtitle.

§ 99.32 Program performance requirements for prime sponsors.

(a) A prime sponsor shall use funds under Title VI of the Act in accordance with the expenditure levels and enrollment levels described in the approved Comprehensive Title VI Plan and within the monthly schedule.

(b) (1) The RA shall review the program performance of each prime sponsor on a monthly basis and determine the adequacy of the prime sponsor's performance with respect to the expenditure and enrollment levels provided for in the Program Planning Summary, Budget Information Summary, and the monthly schedule.

(2) If a prime sponsor operates at a level in variance from the monthly schedule, the RA may prescribe corrective action and/or technical assistance.

(c) The RA, on a monthly basis, shall make a general review of the prime sponsor's performance and goals to determine the responsiveness of the prime sponsor's program to the unemployment rates of its area and the employment needs of the persons within its jurisdiction.

§ 99.33 Public service job activities in the Title VI level of sustainment.

(a) A prime sponsor may use funds reserved for sustaining enrollment, under Title VI to provide:

(1) Public service jobs which provide maximum employment opportunities for eligible persons (sec. 602(a));

(2) Public service employment programs which meet the requirements of § 96.23 of this subtitle (sec. 602.(a));

(3) Basic manpower activities and services described in § 95.33(d) (1), (2), (4), (5), and (6) of this title (sec. 201);

(4) Job opportunities with public employers, as described in paragraphs (3), (4), (5), and (6) of section 304(a) of the Act, if the prime sponsor certifies to the RA in the grant application or a modification that such activities are necessary to provide sufficient job opportunities in the area served by the prime sponsor (sec. 640(a));

(5) Where funds are utilized pursuant to paragraphs (a)(3) and (a)(4) of this section, all provisions under this part shall apply, except for references in such provisions to §§ 96.20, 96.21 (b), (c), (d), (e), (g), and (h), 96.23, 96.31, 96.32, 96.33, and 96.34 of this subtitle. In addition, those provisions applicable for program under Title I, or Part A of Title III shall apply. However, when the Title VI funds are used to fund public service employment, all of the provisions of this part shall apply.

(b) Funds allocated to prime sponsors of areas of excessively high unemployment may also be used for public service employment programs which meet the requirements of § 96.23 of this subtitle, except that § 96.23(b) (2), (3), and (8) shall not apply.

§ 99.34 Maintenance of effort.

(a) Public service jobs funded under Title VI of the Act shall only be in addition to employment which would otherwise be financed by the prime sponsor without assistance under the Act (sec. 602(c), 205(c)(25)).

(b) To assure maintenance of effort, the prime sponsor shall see that all programs under Title VI of the Act:

(1) Shall result in an increase in employment opportunities over those which would otherwise be available;

(2) Shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of nonovertime work, wages, or employment benefits;

(3) Shall not impair existing contracts for services or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

(4) Shall not substitute public service jobs for existing federally assisted jobs under federally supported programs other than those under the Act (secs. 602(c), 208(a)(1)).

(c) Prime sponsors, program agents and subgrantees may not terminate, layoff, or reduce the working hours of, an employee in anticipation of hiring an individual with funds available under Title VI. In addition, no participant shall be used to fill positions or provide services normally provided by temporary, part-time, or seasonal workers or contracted out, or to fill full-time vacancies, unless documentation is maintained, as provided in paragraph (h) of this section, that such action does not constitute a substitution of Federal funds for purposes that would otherwise have been supported by other resources.

(d) No prime sponsor shall hire or allow the hiring of any person into any job funded under this part when any other person is on lay-off from the same or any substantially equivalent job (secs. 602(c), 205(c)(7)(8)). If layoffs of regular employees occur during the grant period, participants may not remain working in the same or substantially equivalent job within the employing agency that is affected by the lay-off. Such participants shall be transferred to positions not affected or be laid off or terminated. Prime sponsors shall try to transfer them to Title I, if appropriate, or shall attempt to place them into unsubsidized employment before laying them off or terminating them (secs. 602(c), 205(c)(7)(8)).

(e) Former employees who lost their jobs due to a bona fide lay-off may be hired into positions supported under this Part provided that such hiring does not constitute a violation of the maintenance of effort provisions of the Act and these regulations.

(f) No participant may be placed or remain working in any position substantially equivalent to a position which is vacant due to a hiring freeze unless the prime sponsor can demonstrate that:

(1) The freeze resulted from a lack of funds to sustain former staff levels and was not established because of the availability of funds under this part; and

(2) The promotional opportunities of regular employers will not be infringed upon.

(g) Prime sponsors shall notify the RA in writing of any layoff or hiring freeze in a department or agency where participants are employed in positions substantially equivalent to those affected by the layoff or hiring freeze.

(h) Prime sponsors, program agents, or subgrantees which utilize funds under this part to hire persons to fill positions previously supported by funds other than funds available under the Act or to provide services which are normally provided by temporary, part-time or seasonal workers or which are normally contracted out, shall maintain documentation that such use of funds does not constitute a violation of paragraph (c) of this section nor of any other requirements of this section. Such documentation shall be prepared and maintained in a form which clearly demonstrates that all requirements of this section are complied with and shall be readily available for the inspection of the RA for a period of not less than one year subsequent to the filling of any position to which these provisions are applicable. Prime sponsors shall, at the direction of the RA, submit such documentation or any budgetary expenditure records, revenue statements, and other information relevant to determinations under this section. RA's shall not approve any plan unless prime sponsors have submitted, when directed by the RA, conclusive evidence that the proposed use of funds fully meets the requirements of this section.

(i) Funds shall not be used to provide public services, through a private or nonprofit organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area if such funding will result in a reduction of the customary level of such service by the State,

political subdivision, or local educational agency.

(j) RAs and prime sponsors shall carefully review all programs to insure compliance with all maintenance of effort requirements.

§ 99.35 Linkages with other employment and training programs; training and supportive services.

(a) Each prime sponsor, where appropriate, shall maintain linkages with other employment and training programs as provided under the provisions of § 96.32 of this subtitle.

(b) As appropriate, each prime sponsor shall provide training and supportive services for participants as specified by § 96.31 of this subtitle.

§ 99.36 Placement goals.

Public service employment programs, to the extent feasible, shall meet placement goals as described in § 96.33 of this subtitle (secs. 602(c), 211(b)). The provisions of § 96.33 (c)–(f), however, shall not be applicable to participants in projects as described in § 99.40(a)(2).

§ 99.37 Compensation and working conditions for participants.

(a) Participants in public service employment programs and projects shall be compensated pursuant to § 96.34 of this subtitle.

(b) A prime sponsor may establish, on an area basis, jobs and wage structures for participants, taking into account the average wages in the area served and the cost of living in such areas, with the aim of effecting a nationwide, federally supported annual average wage rate equivalent of $7,800 per full-time position within the overall $10,000 federally supported salary limitation provided to public service jobholders. However, this provision in no way is intended to relieve a prime sponsor from compensating participants in accordance with paragraphs (a), (c), (d), (e), and (f) of this section. The RA is authorized to make recommendations, on an area basis, to prime sponsors pertaining to the provisions set forth in this paragraph.

(c) Participants in classroom training programs shall be compensated pursuant to § 95.34 of this subtitle.

(d) Participants in on-the-job training programs and projects shall be compensated pursuant to § 95.35 of this subtitle.

(e) Participants in work experience programs shall be compensated in accordance with § 95.33(d)(4)(viii) of this subtitle. When participants enrolled in work experience are working in projects, wages shall equal the highest of either of the rates specified in § 95.33(d)(4)(viii) of this subtitle or the prevailing rates of pay for persons employed in similar occupations by the same employer. When a participant in a work experience activity is performing the tasks of a regular public service employment type job, wages must be comparable to those paid for the regular public service job, as specified in § 96.34 of this subtitle.

(f) The salary limitations specified in § 96.34(c) of this subtitle shall apply to compensation provided participants under Title VI.

(g) Participants in public service employment may only be placed in above entry level positions or in supervisory positions in projects to the extent consistent with the provisions of § 96.23(b)(11) and (12) of this subtitle.

§ 99.38 Place of residence for participants.

(a) *General.* (1)(i) At time of both application and selection, program participants shall reside within the geographic area for which funds have been designated. A program agent, therefore, may not hire persons outside of its jurisdiction nor may a prime sponsor hire a person from the jurisdiction of another prime sponsor or of a program agent within its own jurisdiction.

(ii) Because of changes in program agent designations each program year, this policy does not require the layoff of participants eligible under the residency requirements that were applicable at the time of their selection.

(2) A prime sponsor or program agent may receive additional funds as a subgrantee of another prime sponsor or program agent to enroll residents of the other prime sponsor's or program agent's jurisdiction in any public service job or other manpower program under Title VI. The prime sponsor or program agent receiving funds must offer jobs or programs which are within reasonable commuting distance of residents of the other prime sponsor's or program agent's jurisdiction.

(3) *Consortia of eligible applicants.* If two or more jurisdictions eligible to be prime sponsors have found a consortium to operate programs under Titles I, II, and VI, residents of any designated area within the boundaries of the consortium may be employed in public service jobs or enrolled in any other manpower activity either within the geographical boundaries of the consortium or outside such boundaries in which case the provisions of § 96.23(b)(7) of this subtitle shall apply: *Provided*, That the total amount of funds spent for residents of each participating prime sponsor equals the amount of funds that the area would have received if the consortium had not been formed.

(b) Funds provided under § 99.2(b)(3) shall be used only on behalf of residents of geographic areas eligible for assistance under Title II of the Act.

(c) *Consortia of units of general local government formed in order to qualify as program agents; multijurisdictional prime sponsors.* The provisions of paragraphs (a) and (b) of this section shall apply to consortia of units of general local government formed in order to qualify as program agents and shall apply to multijurisdictional prime sponsors.

Subpart D—Program Operation Requirements Under the Emergency Jobs Programs Extension Act of 1976

§ 99.40 Apportionment of the prime sponsor's allocation.

(a) *General.* (1)(i) Each prime sponsor shall reserve from the funds available during Fiscal Year 1977 for its use under Title VI, an amount which, when added to the funds available during Fiscal Year 1977 for its use under Title II, shall be sufficient to sustain throughout FY 1977 the number of Titles II and VI participants who were in the program on June 30, 1976.

(ii) However, if the number of participants enrolled in Titles II and VI of October 31, 1976, plus any rehires who were terminated from Titles II and VI and who are approved for reinstatement in accordance with paragraph (c) of this section, is higher than the June 30, 1976, level of participants, the prime sponsor may reserve funds to carry the higher level into the new grant period. The prime sponsor should be aware, however, that its allocation, which shall be keyed to the June 30, 1976 level, may not be sufficient to operate at the higher level throughout FY 1977.

(iii) (A) Funds reserved in accordance with paragraph (a)(1)(i) of this section shall not be used to support a level of opportunities in excess of the June 30, 1976, level or the level of opportunities on the date of grant execution.

(B) Funds reserved in accordance with paragraph (a)(1)(ii) of this section shall not be used to support a level of opportunities in excess of the October 31, 1976, level plus any rehires who have been approved for reinstatement under paragraph (c) of this section or the level of opportunities on the date of grant execution.

(iv) Where the enrollment level at the time of grant execution is higher than the Title VI level of sustainment, prime sponsors may transfer these excess participants into projects or into their programs under Titles I or II, to the extent that the participants being transferred met the appropriate eligibility criteria at the time of enrollment in CETA.

(2) Funds remaining after the application of paragraph (a)(1) of this section shall be used for new projects as defined in § 94.4(000) of this title, not to exceed 12 months and subject to the approval procedures in § 99.41 (sec. 607(b)).

(b) *Enrollment of Title VI participants.* (1) At least fifty percent of the participants enrolled in vacancies or openings in the Title VI level of sustainment shall meet the eligibility criteria in § 99.42(a).

(2) Those vacancies not filled by individuals meeting the new eligibility criteria shall be filled by individuals meeting the eligibility criteria in § 99.42(b).

(3) All participants enrolled in projects as specified in § 99.40(a)(2) and § 99.41 shall meet the eligibility criteria in § 99.42(a) of this Part.

(4) Individuals enrolled in Title VI may be rehires as defined in § 94.4(qqq), of this title, provided that the maintenance of effort provisions of § 99.34 are not violated. In addition, prime sponsors may give preference to unemployed, qualified former health and safety personnel for public health and safety positions, when selecting individuals pursuant to paragraph (b) (2) of this section (sec. 607(c) (2)).

(5) The cumulative and current number of participants meeting the eligibility criteria in § 99.42(a) who are enrolled in vacancies or openings in the Title VI level of sustainment shall at all times approximate 50 percent or greater of all participants enrolled in vacancies or openings in the Title VI level of sustainment.

(6) In paragraphs (b) (1), (2), and (3) of this section, persons enrolled after grant execution shall not include Title II participants who are moved into Title VI during the initial separation of Titles II and VI participants.

(c) Any rehire who, after June 30, 1976, and before October 1, 1976, was laid off from a job supported under Titles II and VI because of the provisions of § 96.24 (e) and (f) of this subtitle may be reinstated by the prime sponsor into a Title VI position supported pursuant to paragraph (a) (1) of this section without regard to requirements of paragraphs (b) (1) and (2) of this section. However, reinstatement shall be subject to RA determination that they were laid off because of § 96.24 (e) and (f), after review of information provided in § 99.14 (b) (3) (i) (F). The reinstatement provision of this section shall not relieve a prime sponsor from compliance with § 99.34(d) (sec. 609(c)).

§ 99.41 Project approval.

(a) Funds remaining after funds are reserved for supporting the level of opportunities determined in § 99.40(a) (1) shall be utilized for public service jobs in new projects, as defined in § 94.4(ooo), not to exceed one year in duration. (As part of these new projects, prime sponsors may utilize those funds for manpower program activities as described in § 95.33(d) (1), (2), (4), (5), (6), and (7) of this title (sec. 607(b)).

(b) Such projects shall be funded as follows:

(1) Each prime sponsor shall establish procedures for its own use and the use of its program agents for notifying potentially eligible project applicants (as defined in § 94.4(ppp) of the application process and cut-off date for acceptance of applications.

(2) Each prime sponsor is responsible for establishing procedures for its own use and the use of its program agents, whereby, upon receipt, a copy of each project application shall be submitted to the prime sponsor's planning council to allow the council to submit comments and recommendations with respect to the application (sec. 609(a)).

(i) No member of a prime sponsor's planning council shall cast a vote on any matter in connection with a proposed project in which that member (or any organization with which that member is associated) has a direct interest (sec. 609(a)).

(3) Prime sponsors and program agents should give consideration to providing a substantial portion of the project funds to project applicants which are nonprofit agencies.

(4) In reviewing project applications, prime sponsors and program agents should carefully consider any proposed expenditures for materials, supplies, equipment, and space in relation to the duration of the proposed projects.

(5) Prime sponsors and program agents shall not disapprove a project application without first considering any comments and recommendations submitted by the planning council and providing the project applicant and the council with a written statement of the reasons for the disapproval (sec. 609(b)).

(6) In program agent areas, decisions on approving or disapproving project applications shall be made in accordance with § 96.22 of this subtitle.

(7) Appropriate labor organizations should be consulted in the design of projects where collective bargaining agreements exist with the employing agency.

§ 99.42 Eligibility for participation in Title VI programs.

(a) The following criteria shall be used by prime sponsors in determining participant eligibility pursuant to § 99.40(a) (2) and (b) (1) and in selecting participants for these positions (sec. 608(a)).

(1) An eligible person must either be economically disadvantaged as defined in § 94.4(s) of this subtitle or be a member of a family which has a current total family income, determined pursuant to paragraph (a) (2) of this section, at or below 70 per centum of the lower living standard income level, as defined in § 94.4 (nnn), and must meet the residency requirements of § 99.38, and must be a person.

(i) Who, during 15 of the 20 weeks immediately prior to application, has been unemployed as defined in § 94.4 (uuu) of this subtitle or has been receiving unemployment compensation: *Provided*, That during the 20 week period, the eligible person shall not have obtained permanent, unsubsidized, full-time employment; or

(ii) Who, during 15 of the 20 weeks immediately prior to application, has had a combination of weeks of unemployment and weeks of receiving unemployment compensation as described in paragraph (a) (1) (i) of this section: *Provided*, That during the 20 week period, the eligible person shall not have obtained permanent, unsubsidized, full-time employment; or

(iii) Who is unemployed as defined in § 94.4 (uuu) of this subtitle at the time of application and is an exhaustee as defined in § 94.4 (rrr) of this subtitle; or

(iv) Whose family is receiving Aid to Families with Dependent Children (AFDC) including AFDC-Unemployed Fathers, under Title IV of the Social Security Act.

(2) (i) In determining current family income, the prime sponsor shall annualize, based on the three months preceding application, total family income, utilizing the same exclusions (e.g., unemployment compensation) used to determine family income for the Participant Record.

(ii) In instances where, due to seasonal employment, summer employment for youth, or other circumstances, the three months period is unrepresentative, the prime sponsor shall compute family income by totaling all family income received during the twelve months prior to application, except for those exclusions indicated in paragraph (a) (2) (i) of this section (sec. 608(a) (2)).

(3) The prime sponsor shall take reasonable steps to insure that funds used pursuant to § 99.40 (a) (2) and (b) (1) are equitably allocated among the categories of eligible persons described in subdivisions (i), (ii), (iii), and (iv) of paragraph (a) (1) of this section. Such equitable allocation shall be made in light of the composition of the population of unemployed eligible persons served by the primary sponsor, to the extent that such data are available. No one group shall be served exclusively, and no group shall be excluded from service (sec. 608(c)).

(4) Participants under Title I. Title IV, section 302 and section 303 of the Act, participants under Sections 5 and 6 of the Emergency Employment Act, and participants under Title X of the Public Works and Economic Development Act who are enrolled in Title II or VI activities funded through the Department, may be transferred pursuant to § 99.40 (a) (2) or (b) (1) if they met the requirements of paragraph (a) (1) of this section and § 99.38 at the time of their entry into the program from which they are being transferred, and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a) (2)).

(5) A veteran who has served on active duty for a period of more than 180 days or who was discharged or released from active duty for a service connected disability, shall be immediately eligible, upon release or discharge, for participation in a project under § 99.40 (a) (2) and (b) (1) without regard to paragraphs (a) (1) (i), (ii), (iii), and (iv) of this section which would otherwise pertain (38 U.S.C. 2013): *Provided*, The veteran has not obtained permanent full-time unsubsidized employment between the time of release and the time of application for participation in Title VI.

(b) In order to be eligible pursuant to § 99.40(b) (2), an individual shall be:

(1) (i) A person who has been unemployed for at least 30 days, as defined in § 94.4(hhh), prior to application, or who is underemployed, as defined in § 94.4 (fff), and who meets the residence requirements of § 99.38, is eligible pursuant to § 99.40(b) (2). The term residence is defined in § 96.27(f) of this subtitle; or

(ii) A person who has been unemployed for at least 15 days, as defined in § 94.4(hhh), except for the provision of § 94.4(hhh)(3), prior to application, or who is underemployed, as defined in § 94.4(fff) and who meets the residence requirements of § 99.38, is eligible for a job funded under § 99.40(b)(2) in areas of excessively high unemployment.

(2) A veteran who has served on active duty for a period of more than 180 days or who was discharged or released from active duty for a service connected disability, shall be immediately eligible, upon release, for participation in an activity under § 99.40 (a)(1) and (b)(2) without regard to the 15- or 30-day unemployment requirement which would otherwise pertain (38 U.S.C. 2013): *Provided,* The veteran has not obtained permanent, full-time unsubsidized employment between the time of release and the time of application for participation in Title VI.

(3) A person participating in a public employment program under a Section 5, or Section 6 grant funded by the Emergency Employment Act (EEA) may be transferred into an activity under § 99.40 (b)(2), in order to provide for the orderly phaseout of the EEA grant, if he/she met the requirements of § 99.38 at the time his/her entry into EEA, and provided that maximum efforts have been made to place such an individual in unsubsidized employment or training.

(4) Title I, Title II, Title IV, section 302, and section 303 participants under the Act, and participants under Title X of the Public Works and Economic Development Act, who are enrolled in Titles II or VI activities funded through the Department may be transferred pursuant to § 99.40(b)(2) only if they met the requirements of paragraph (b)(1) of this section at the time of their entry into the program from which they are being transferred, and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a)(2)).

(5) A person participating in a WIN public service employment program under Part C, Title IV, of the Social Security Act, who leaves or is removed from a public service employment position, shall be treated in the same manner as any other such applicant with respect to eligibility pursuant to § 99.40(b)(2):

(i) If such an individual is still receiving cash welfare payments, that individual meets the definition of unemployed for this title, and is immediately eligible if the individual also meets the requirements of § 99.38.

(ii) If the individual is no longer receiving welfare payments, that individual must meet the standard eligibility criteria for paragraph (b)(1) of this section.

(c) The following requirements are applicable in the selection process of participants for all jobs and activities filed under Title VI:

(1) The selection of participants shall be made in accordance with the provisions of § 96.25 of this subtitle.

(2) A person who obtains permanent full-time unsubsidized employment after application shall no longer be considered eligible for Title VI, unless even with such full-time employment, an applicant pursuant to § 99.40(b)(2) still meets the requirement of paragraph (b)(1) of this section.

(3) Citizenship may not be used as a criterion to prevent persons from participating in a program under Title VI. However, program participation shall be limited to nationals of the United States and aliens who have been accorded the privilege of residing in the United States as lawful permanent residents or refugees, including refugees who are parolees.

(4) While the selection of eligible full-time students for participation in programs funded under Title VI is not prohibited, prime sponsors should exercise caution in providing for such participation and should provide for such participation only in accordance with these regulations. Prior to providing for such participation, prime sponsors should give special consideration to those persons most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under Title VI.

(5) A participant in a Title VI program may change jobs within a particular prime sponsor's or program agent's jurisdiction without reestablishing eligibility pursuant to paragraphs (a) or (b) of this section, but may not be employed in a job or activity for any other prime sponsor or program agent without again establishing eligibility pursuant to paragraphs (a) or (b) of this section.

(6) The provisions of §§ 96.28 and 96.30, special consideration for most severely disadvantaged persons and groups to be provided special consideration, shall apply to programs funded under Title VI.

(7) The significant segments of a prime sponsor's population shall be served on an equitable basis, as provided in § 96.29 of this subtitle. In selecting individuals eligible pursuant to paragraph (a) of this section, the requirements of paragraph (a)(3) of this section are in addition to serving significant segments equitably.

§ 99.43 Verification of participant eligibility.

(a) A prime sponsor is responsible for assuring the eligibility of all participants under Title VI. The eligibility requirements of subdivisions (i), (ii), (iii), and (iv) of § 99.42(a)(1) are verifiable. Prime sponsors shall be liable for any payments made to participants determined ineligible during program audits or reviews or otherwise. Decisions on whether to verify eligibility and on the method of verification rest with the prime sponsor except as provided in paragraphs (b) and (c)(3) of this section.

(b) To facilitate the rapid implementation of this program, the prime sponsor may enroll without prior verification, applicants who attest to their eligibility. Within 60 days of these participants' enrollment, the prime sponsor shall obtain written verification of their eligibility from the State employment security agencies (SESAs) and/or welfare agencies. Participants who are found to be ineligible shall be terminated immediately and the prime sponsor shall not be liable for wages and benefits paid to these participants prior to the receipt of the written verification.

(c) In order to protect their liability, prime sponsors are encouraged to develop arrangements and procedures for the verification of participants as follows:

(1) Arrangements, including cooperative agreements, with SESAs for the verification of individuals whose applications indicate that they qualify pursuant to subdivisions (i), (ii), and (iii) of § 99.42(a)(1); and

(2) Arrangements with public welfare agencies for the verification of individuals whose applications indicate that they qualify as an AFDC recipient (§ 99.42(a)(1)(iv)).

(3) To the extent that there are arrangements pursuant to paragraphs (c)(1) and (2) of this section and these arrangements are described in an approved grant, the prime sponsor shall not be responsible for verifying those eligibility requirements covered in those arrangements, nor shall it be liable for any costs resulting from its reliance on such arrangements.

(d) As unemployment compensation recipients approach their 15th week or their exhaustion status, SESAs will be informing them of their possible eligibility for Title VI programs. Prime sponsors shall work with the SESA in the development of arrangements for informing these individuals of their possible eligibility for available opportunities.

§ 99.44 Special considerations on selection.

(a) In filling teaching positions in elementary and secondary schools, each prime sponsor shall give special consideration to eligible unemployed persons with previous teaching experience who are certified by the State in which that prime sponsor is located (sec. 602(f)).

(b) In providing public service jobs and determining hours of work for individuals eligible pursuant to §§ 99.40(a)(2) and 99.40(b)(1), each prime sponsor shall take into consideration the household support obligations of the individuals and shall give special consideration to such alternative working arrangements as flexible hours of work, shared time and part-time jobs, for participants with particular needs, e.g., parents of young children, older persons, and handicapped individuals (sec. 608(d)).

§ 99.45 Administrative staff selection and compensation.

(a) The Title VI administrative staff shall be selected and compensated in accordance with the provisions of § 96.35 of this subtitle.

(b) When administrative funds are utilized to pay the wages of supervisory personnel for projects, the promotional rights of existing employees to fill the supervisory positions shall be protected.

Subpart E—Administrative Provisions

§ 99.70 General.

This subpart contains regulations on the administration of grants under Title VI of the Act. The regulations in this subpart reference the sections of Part 98 of this subtitle which apply to Title VI grants.

§ 99.71 Payments, financial management systems and audit.

Sections 98.2 through 98.6 of this subtitle relating to payments, financial management systems and audits apply to grants under Title VI of the Act (secs. 702(b), 713).

§ 99.72 Reporting requirements.

(a) Section 98.7 of this subtitle shall apply to Title VI programs (secs. 702(12), 713).

(b) Section 98.8 of this subtitle requiring submission of the Program Status Report and Monthly Report shall apply to programs under Title VI. To assure the effective implementation of the program and the least disruption during its phase-down, the Secretary may require the prime sponsor to submit information on a more frequent basis.

(c) Section 98.9 of this subtitle requiring submission of a Quarterly Summary of Participant Characteristics shall apply to programs under Title VI.

(d) Section 98.10 of this subtitle requiring submission of a Report of Federal Cash Transactions shall apply to programs under Title VI.

§ 99.73 Reallocation of funds.

(a) Irrespective of requirements under § 98.11 of this subtitle, the RA may make such reallocation, as he deems appropriate, of any amount of any allocation under Title VI of the Act to the extent that he determines that an eligible applicant will not be able to use such amount within a reasonable period of time.

(b) When the RA determines that a reallocation is appropriate, he shall give the grantee and the appropriate Governor 30-day notice of the proposed action to remove funds from the grant. Such notice shall include the specific reasons for the action being taken.

(c) The grantee and the Governor will be invited to submit comments on a proposed reallocation of funds. These comments shall be submitted to the RA within 30 days from the date of the notice. The RA shall notify the Governor and affected prime sponsors on any decision to reallocate funds and shall have any such decision published in the FEDERAL REGISTER.

(d) The procedures set out in this section are in lieu of any other procedure which might otherwise be applicable under § 98.40, et seq. of this subtitle.

(e) Any reallocation of funds shall be to an alternate eligible applicant to serve the same area or to eligible applicants to serve other areas. In reallocating such funds to serve other areas, priority shall be given first to eligible applicants within the same State and then to eligible applicants within other States, taking into consideration the number of eligible unemployed individuals in those areas (sec. 606).

§ 99.74 Allowable Federal costs.

(a) Section 98.12 of this subtitle concerning allowable Federal costs shall apply to Title VI grants. In addition, the 15 percent administrative funds may be used to purchase construction supplies and materials to be used in projects.

§ 99.75 Grantee contracts and subgrants.

Section 98.27 of this title shall apply to Title VI grants, except that contracts and subgrants may not extend more than 6 months beyond the term of the grant.

§ 99.76 Allocations of allowable costs among program activities.

Section 98.13 of this subtitle shall apply to Title VI grants.

§ 99.77 Basic personnel standards for eligible applicants.

(a) Section 98.14 of this title shall apply to Title VI grants (sec. 703(14)).

(b) The basic personnel standards, as set forth in § 98.14 of this subtitle, shall apply only to an eligible applicant's staff and not to program participants. However, in filing public service jobs funded under Title VI of the Act, eligible applicants shall insure that applicable personnel procedures and collective bargaining agreements have been met.

§ 99.78 Adjustments in payments.

Section 98.15 of this subtitle shall apply to Title VI grants (sec. 702(b)).

§ 99.79 Termination of grant and closeout procedures.

Sections 98.16 and 98.17 of this subtitle shall apply to Title VI grants (sec. 702(b)).

§ 99.80 Retention of records.

Section 98.18 of this subtitle shall apply to Title VI grants (sec. 703(a)(12)).

§ 99.81 Program income and procurement standards.

Sections 98.19 and 98.20 of this subtitle shall apply to Title VI grants.

§ 99.82 Nondiscrimination, equal employment opportunities, nepotism and restriction on political activities.

(a) Sections 98.21, 98.22 and 98.23 of this subtitle apply to Title VI programs (secs. 703(1), 710 and 712);

(b) Sections 98.24, 98.25, 98.26, 98.28, and 98.29 of this subtitle relating to general benefits and working conditions, retirement programs, procedures for resolving issues, nonfederal status of participants, and Davis-Bacon Act provisions, shall apply to Title VI programs.

§ 99.83 Assessment and evaluation.

Sections 98.30 through 98.34 shall apply to Title VI grants (sec. 703(14)).

§ 99.84 Hearings and judicial review.

Sections 98.40 through 98.49 of this subtitle shall apply to Title VI grants (except as otherwise provided in this part).

Subpart F—Special Conditions for Grants to Indian Tribes and Alaskan Native Villages

§ 99.90 General.

This subpart contains special conditions for grants under Title VI of the Act to Indian tribes on Federal and State reservations, recognized tribes in the State of Oklahoma, and Alaskan Native Villages in the State of Alaska. To the extent that any provisions of this subpart differ from any other provision of this part, the provisions of this subpart shall govern. Otherwise, the requirements of this Part 99 apply to programs under this subpart.

§ 99.91 Grant responsibility.

The Division of Indian and Native American Programs in the Office of National Programs shall have full responsibility for all matters pertaining to funds allocated to eligible applicants as defined under § 99.90 above. For purposes of this subpart, all references to RA in this Part 99 shall be read as Director, Division of Indian and Native American Programs.

§ 99.92 Distribution of funds.

Funds for use under this subpart shall be not less than 2 percent of all funds appropriated for Title VI programs. Such funds shall be allocated among the designated prime sponsors on the basis of the prime sponsor's Indian and Alaskan Native rate of unemployment compared to the rate of unemployment in all eligible areas. In making such allocations, the Secretary shall use the best data available. Within prime sponsors which are consortia, the Secretary shall allocate funds among the member reservations on the basis of identifiable areas of high unemployment. To the extent feasible, a nonconsortium prime sponsor shall allocate funds within its area on the basis of identifiable areas of high unemployment.

§ 99.93 Eligibility for funds.

Indian tribes on Federal or State reservations, recognized tribes in Oklahoma and Alaskan Native villages shall be eligible for Title VI funds provided they meet the requirements of § 96.42 of this subtitle, except that recognized tribes in Oklahoma and Alaskan Native villages are exempt from the Federal or State reservation requirement.

§ 99.94 Funding of prime sponsors.

(a) A prime sponsor, if necessary, shall update its Preapplication for Federal Assistance (SF–424) to include a request for funding pursuant to Title VI of the Act. An eligible applicant which has not previously submitted a Preapplication shall comply with § 97.111 of this subtitle.

(b) A consortium, if necessary, shall amend its consortium agreement to insure that it covers activities funded under Title VI of the Act.

(c) Funds made available pursuant to Title VI shall be included in existing Fiscal Year 1977 grants via a modification if appropriate. If new grants are executed, they shall be for a period not to exceed 12 months.

(d) The Title VI modification of the new grant shall consist of the Employment Plan and the Grant Sheet. New grants shall also include appropriate Assurances and Certifications. The Employment Plan shall consist of:

(1) A full narrative description of the program;

(2) A program planning summary;

(3) A budget information summary;

(4) An occupational summary;

(5) A program summary; and

(6) A monthly plan.

§ 99.95 Participant eligibility.

Indian and Alaskan Natives who meet the eligibility and residency requirements of this part shall be eligible to participate in programs funded under Title VI.

§ 99.96 Comments and publication procedures relating to submission of application for funding.

Each eligible applicant shall provide an opportunity for comment on its Title VI plan as set out in § 97.115 of this subtitle.

§ 99.97 Planning process; advisory councils.

Eligible applicants shall utilize in their planning process the services of their planning councils authorized under § 97.113 of this subtitle. In addition, the provision of § 99.41 shall apply to the project application approval process.

§ 99.98 Travel requirements.

Travel regulations for grantees under this subpart shall be those at § 97.161(f)(7) of this subtitle.

§ 99.99 Nepotism and conflict of interest.

(a) No prime sponsor, subgrantee or contractor shall hire, or permit the hiring of, any person in a staff position, nor shall they accept any person as a participant, if a member of the person's immediate family is employed in an administrative capacity by the prime sponsor, subgrantee or contractor. For the purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister. The term "staff position" includes all positions such as instructors, counselors, administrators, and suppliers of training and services. The term "employed in an administrative capacity" includes those persons who have overall administrative responsibility for a program, including: All elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under this subpart as well as other officials who have any influence or control over the administration of the program, such as the project director, deputy director and units chiefs; and persons who have selection, hiring, placement, or supervisory responsibilities for public service employment participants. The Secretary may waive this requirement if adequate justification is received that no other persons within the subgrantee's jurisdiction are eligible and available for participation or employment by the prime sponsor.

(b) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the prime sponsor shall follow the tribal rule.

(c) Each prime sponsor shall establish safeguards to prohibit employees under the grant, board members, or tribal council members from using their positions for private gain for themselves or others with whom they have family, business or other ties.

§ 99.100 Non-discrimination; political activities.

Sections 98.21 and 98.23 shall be applicable to programs under this subpart except to the extent that those provisions conflict with 42 U.S.C. 2000e(b).

§ 99.101 Subgrants.

In addition to the requirements concerning subgrants, Indian tribes may require that subgrantees agree, to the maximum extent feasible, to hire as staff qualified Indians in accordance with 42 U.S.C. 2000e-2(i).

Signed in Washington, D.C., this 7th day of October 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training Administration.

[FR Doc.77-30225 Filed 10-17-77;8:45 am]

federal register

TUESDAY, OCTOBER 18, 1977

PART IV



DEPARTMENT OF THE TREASURY

Comptroller of the Currency

■

TRUTH IN LENDING

Joint Notice of Proposed Statement of Enforcement Policy

[4810-33]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[Reg. Z]

TRUTH-IN-LENDING

Joint Notice of Proposed Statement of Enforcement Policy

AGENCIES: The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration.

ACTION: Proposed statement of interagency enforcement policy, Regulation Z.

SUMMARY: This proposed statement of enforcement policy sets forth uniform guidelines which the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration propose to use to enforce the Truth-in-Lending Act and Regulation Z. It is intended that specific, standardized guidelines will promote improved and uniform enforcement of the Truth-in-Lending Act through corrective action, including reimbursement, for borrowers who have been overcharged or otherwise harmed by violations of the Act. Realizing the value of public participation in the formulation of these guidelines, the agencies are requesting comments on these guidelines and have designated specific issues for comment.

DATES: Comments must be received on or before November 17, 1977.

ADDRESSES: Written comments should be addressed to: Interagency Enforcement Policy, Regulation Z, Wash., D.C. 20219.

FOR FURTHER INFORMATION CONTACT:

Mark Medvin, Federal Reserve Board, 202-452-2412; William Resnik, Comptroller of the Currency, 202-447-1600; Peter M. Kravitz, Federal Deposit Insurance Corporation, 202-389-4427; Harry W. Quillian, Federal Home Loan Bank Board, 202-376-3556; Harry J. Blaisdell, National Credit Union Administration, 202-254-8760.

SUPPLEMENTARY INFORMATION: This document is intended as a statement of the guidelines that the Federal regulatory agencies involved propose to use in enforcing the Truth-in-Lending Act and Regulation Z.

It is felt that coordination among the agencies is desirable in order to bring about uniformity in the administrative actions that will be taken when violations of the Act are detected. To that end, the agencies have developed a set of proposed policy guidelines for measuring and correcting the conditions resulting from certain violations of the Truth-in-Lending Act.

It is administratively impossible to fashion an appropriate remedy for every type of violation. The guidelines which follow outline the corrective action that the agencies intend to require when violations which have caused measurable monetary injury to customers are discovered. It should be emphasized that it will continue to be the policy of the enforcing agencies that, whenever any violation of the Act is detected, prospective correction of the violation will be required—that is, creditors will be required to take whatever action is necessary to insure that the violation does not recur. For example, a creditor which is found to be using forms that do not comply with the type size requirements will be required to obtain new forms which do comply. These guidelines, however, are intended to address the most serious types of violations, those which result in overcharges to customers. Based upon the expertise and experience acquired by the various agencies through examinations of lending institutions throughout the country and investigations of consumer complaints, several substantives violations which cause measurable damage to customers have been identified, and guidelines for correcting the conditions resulting from these violations are proposed.

These guidelines are not intended to substitute for any other administrative authority that any of the agencies has to enforce the Act, nor are they intended to foreclose the customer's right to bring a civil action to recover for violations of the Act. Further, where apparently willful and knowing violations are found, the agencies will notify the Department of Justice. The guidelines serve only to reflect the enforcement policies of the agencies and to specify the actions which the agencies feel are appropriate to correct the conditions resulting from violations which cause overcharges to customers. As guidelines, they may be modified in the discretion of the agency so as to be more responsive to specific or unique circumstances which may exist. As new examination data concerning the extent and type of violations are received, the guidelines will be reviewed and revised as appropriate. In all cases, the financial condition of the creditor and the cost of corrective action will be considered in applying the guidelines.

This statement of enforcement policy is proposed to announce formally and to solicit public comment on the course which the federal regulatory agencies involved propose to follow in enforcement actions. It is hoped that the publication of this proposed general statement of policy will promote uniformity of enforcement and provide notice to consumers and creditors of the type of action that can be expected when violations resulting in overcharges are found. Comments are requested on the entire proposal and specifically on the designated issues.

AUTHORITY

These guidelines are proposed pursuant to the enforcement authority contained in 15 U.S.C. 1607 and 12 U.S.C. 1818(h) in the cases of the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, pursuant to 15 U.S.C. 1607 and 12 U.S.C. 1464(d)(2) and 1730(e) in the case of the Federal Home Loan Bank Board, and pursuant to 15 U.S.C. 1607 and 12 U.S.C. 1786(e)(1) in the case of the National Credit Union Administration.

DRAFTING INFORMATION

The principal drafters of this document were Mark Medvin, Federal Reserve Board; Roberta Boylan, Comptroller of the Currency; Peter M. Kravitz, Federal Deposit Insurance Corporation.

PROPOSED STATEMENT

In consideration of the foregoing, the following statement of enforcement policy is proposed:

STATEMENT OF ENFORCEMENT POLICY

DEFINITIONS

1. "Act" means the Truth-in-Lending Act, 15 U.S.C. 1601 et seq., and Regulation Z, 12 CFR Part 226.

2. "Actuarial method based on scheduled payments" means a method of computing rebates of unearned finance charges in which the ratio of interest earned in a given period of time to the amount of the principal owed during that time is constant; the scheduled payment is allocated first to interest earned and the remainder is used to reduce principal.

3. "Annual percentage rate (APR)" means "annual percentage rate" as defined in 12 CFR 226.2(g).

4. "Corrective action" means a course of conduct to be undertaken by a creditor at the direction of an enforcing agency to correct the conditions resulting from past violations of the Act.

5. "Creditor" means a "creditor" as defined in 12 CFR 226.2(s) and which is supervised by an enforcing agency.

6. "Customer" means "customer" as defined in 12 CFR 226.2(u).

7. "Enforcing agency" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration.

8. "Established average overcharge" means the average amount each customer is overcharged for a specific violation within the scope of these guidelines, based on a sampling of similar types or classes of loan accounts by an examinear of an enforcing agency.

9. "Finance charge" means "finance charge" as defined in 12 CFR 226.2(w).

10. "Intentional violation" means (1) any violation which an enforcing agency can reasonably determine to have been knowingly committed, permitted or approved by managerial personnel or the board of directors of a creditor; or (2) a violation which, in the determination of an enforcing agency, resulted from a deliberate or sustained ignorance of or indifference to the requirements of the Act on the part of a creditor's management, including the board of directors, or a deliberate or sustained omission concerning or misrepresentation of the requirements of the Act in the creditor's policies and procedures.

11. "Lump sum method" means a method of adjustment for determining the amount that will be returned to a customer when a

loan has been paid in full; the amount will be calculated in accordance with the maturity reduction method.

12. "Lump sum/payment reduction method"—means a method of adjustment under which a cash payment equal to the amount the customer has overpaid (including time value) will be returned to the customer and the remaining payments on the loan will be reduced to the level at which they would have been had the payments been computed at the understated APR at the outset.

13. "Maturity reduction method"—means a method of adjustment under which a loan will be restructured to reduce the number of payments that the customer is required to make to pay off the loan so that the customer will not pay at a rate in excess of the understated APR.

14. "Method of adjustment"—means a calculation to determine the adjustment necessary to correct overcharges resulting from APR violations.

15. "Overcharge" means a charge imposed by the creditor in excess of charges disclosed or required to be disclosed in accordance with 12 CFR Part 226 and as computed in accordance with these guidelines.

16. "Payment reduction method" means a method of adjustment under which the amount of each remaining payment on the loan will be lowered so that the customer will not pay at a rate in excess of the understated APR.

17. "Reimbursement" means corrective action involving monetary adjustment for overcharges for other than APR violations.

18. "Understated APR" means a disclosed APR, rounded to the next higher one-eighth of one percent, which is less than the APR calculated in accordance with the ACT.

19. "Understand finance charge" means a finance charge disclosed at a dollar amount which is less than the finance charge calculated in accordance with the Act.

20. "Violation" means a violation of the Act.

GENERAL POLICIES

1. *Intentional violations.—All intentional violations of the Act by a creditor which result in an overcharge shall require corrective action regardless of the dollar amount of the overcharge.*

2. *UNINTENTIONAL VIOLATIONS.*—(a) *All unintentional violations which result in overcharges shall require corrective action if the overcharge or the estimated average overcharge per customer is one dollar or more.*

(b) *If the overcharge or the estimated average overcharge per customer for a type or class of loans is determined to be less than one dollar, no corrective action shall be required except as provided in paragraph (c) unless, in the discretion of the agency, the aggregate amount of all overcharges is considered substantial.*

Alternate paragraph (b):

(b) *If the overcharge or the estimated average overcharge for a type or class of loans is less than one dollar, no corrective action shall be required except as provided in paragraph (c).*

(c) *Where the estimated average overcharge for a type or class of loans is less than one dollar, any customer accounts identified in the sample which have been overcharged by one dollar or more shall be subject to corrective action.*

DISCUSSION

In many cases, the costs involved in the corrective action may be far greater than the amount of monetary damage suffered by the customer. The agencies believe that the imposition of a corrective action program on a creditor who had unintentionally violated the law may be unnecessary where there is negligible harm to any customer. Therefore, the agencies propose that, in cases of unintentional violations, if an examiner, by sampling or some other technique, detects a type of loan (e.g. mortgage, installment, open-end) or a class within that type of loan (e.g., all loans involving amounts financed greater than $1,000) for which the overcharge or the estimated average overcharge is $1 or more, corrective action will be ordered for that type or class of loans. Further, to afford creditors the opportunity to confirm or rebut the accuracy of estimated average overcharges they will be given the right to produce their own average overcharge estimates.

When estimated average overcharges are less than $1 per customer but the total of all overcharges is substantial, it may not be equitable to allow the creditor to keep amounts to which it is not entitled. It has been suggested that, in these cases, each agency may exercise its discretion to order the creditor to use such amounts in a manner which would further the purposes of the Truth in Lending Act.

It should be noted that, where estimated average overcharges are less that $1, any account in the sample which has been identified as having been over-charged $1 or more should be reimbursed since the cost of identifying those accounts and computing the overcharge has already been incurred.

The agencies have advanced the estimated average overcharge proposal under the assumption that the costs involved in requiring corrective action for amounts less than $1 would probably outweigh the benefits of such action and would be unnecessarily burdensome when the violation was unintentional. In the case of intentional violations, however, corrective action should presumably always be ordered because the creditor has inflicted financial harm upon its customers.

In distinguishing between intentional and unintentional violations of the Act, the agencies do not mean to equate "intentional" violations as defined in these guidelines with "willful and knowing" violations as defined in 15 U.S.C. 1611. However, if, in the determination of the agencies, an intentional violation was committed willfully and knowingly, the matter will be referred to the Department of Justice.

DESIGNATED ISSUES

1. Is one dollar a reasonable minimum estimated average overcharge amount to trigger corrective action for unintentional violations of the Act?

2. Where the estimated average overcharge is less than the amount that would trigger corrective action, but the total of all overcharges is substantial, should corrective action be ordered? If so, in what form?

3. *Period for Which Corrective Action Is Required.—Corrective action shall be required for all violations within the scope of these guidelines occurring since July 1, 1969.*

Alternate guideline 3.

3. *Period for Which Corrective Action is Required.—Corrective action shall be required for all violations within the scope of these guidelines occurring within one year prior to the date of the examination by the enforcing agency.*

DISCUSSION

The agencies have considered the time period for which corrective action will be required. One proposal is that corrective action should be required for all violations within the scope of the guidelines since 1969 when the Act became effective. Another proposal is that the creditor only be required to take corrective action for violations occuring within one year prior to the date of examination to maintain consistency with the one-year statute of limitations for Truth-in-Lending civil actions.

The enforcing agencies have concluded that the statute of limitations for civil remedies in the Act does not control administrative enforcement of the Act. The agencies are concerned, however, about the desirability of requiring creditors to take corrective action for violations occurring as far back as 1969 since retroactive corrective action has only recently been imposed by the agencies. On the other hand, it is recognized that a corrective action program which addresses violations occurring within any limited time frame will provide no relief for some customers who have suffered harm as a result of a violation.

DESIGNATED ISSUE

3. Should corrective action be required for violations occurring since July 1, 1969, when the Act became effective, or should it be limited to violations occurring within one year prior to the date of examination? Is any other time period appropriate? Should a longer time period be specified for long-term obligations (e.g. real estate loans) than for short-term obligations (e.g. auto loans).

CORRECTIVE ACTION FOR SPECIFIC VIOLATIONS

4. *Violators Involving the Improper Disclosure of the APR or Finance Charge.*—(a) *Where there is an understated APR and the finance charge is either correct or not disclosed, the creditor shall take corrective action to insure that the customer's true cost of credit does not exceed the understated APR.*

(b) *Where no APR is disclosed and the finance charge is either correct or not disclosed, the creditor shall calculate the APR it charged the customer and shall take corrective action to insure that the customer's true cost of credit does not exceed the actual APR reduced by one-quarter of one percent in the case of first lien real estate transactions, and one percent in all other consumer credit transactions.*

Alternate paragraph (b):

(b) *Where no APR is disclosed and the finance charge is either correct or not disclosed, the rate disclosed on the note or conditional sales contract evidencing the transaction will be considered the "disclosed APR"; the creditor shall calculate the APR it charged the customer and shall take corrective action to insure that the customer's true cost of credit does not exceed the "disclosed APR". If no rate is disclosed on the note, the creditor shall calculate the APR it charged the customer and shall take corrective action to insure that the customer's true cost of credit does not exceed the actual APR reduced by one-quarter of one percent in the case of first lien real estate transactions, and one percent in all other consumer credit transactions.*

(c) *Where there is an understated finance charge and the APR is correct, the creditor shall reimburse the overcharge which is the difference between the actual and the understated finance charge.*

(d) *Where no finance charge is disclosed and the APR is properly disclosed, no reimbursement is required.*

(e) *Where there is an understated finance charge and an understated APR, the creditor shall take appropriate corrective action for the larger overcharge.*

(f) *Corrective action for understated APR violations will be made by a method of adjustment as defined in the guidelines.*

DISCUSSION

1. APR Violations.—One of the most important items of information furnished to a borrower under the Truth-in-Lending Act is the Annual Percentage Rate (APR). The APR is a term of art which is described in 12 CFR

226.5. Essentially, it represents the true cost of the credit extended and reflects not only the rate of interest but also the total of certain other costs which the customer must pay as a condition of the extension of credit. Congress intended that the uniform disclosure of a rate would enable borrowers to shop for and compare consumer credit costs and make informed credit decisions.

Where the creditor discloses a rate but actually charges a higher rate, the affected accounts must be adjusted. For the purpose of calculating the adjustment, the disclosed APR will be rounded to the next higher one-eighth of one percent and termed the "understated APR". This tolerance recognizes the flexibility suggested by the rounding provisions found in 15 U.S.C. 1606 and 12 CFR 226.5 and would not unfairly discriminate against creditors which try to disclose the exact APR as a service to their customers rather than utilize the method of rounding permitted by the Act and Regulation Z to disclose less precise rates.

Where the creditor discloses no APR to the customer, a serious breach of the creditor's responsibility under the Act has occurred. Technically, while it may be said that since no APR was disclosed, none can be charged; the agencies feel that that would be a windfall to customers and a severe hardship to creditors. On the other hand, those creditors who fail to make such important disclosures should be treated at least as severely as those who did make disclosures, even though inaccurately. Consequently, the agencies propose that in such a situation the actual APR should be computed and the creditor should be required to adjust affected accounts to reflect an APR which is lower than the actual APR by certain specified margins. Those specified margins will be based on a comprehensive data base compiled by the agencies after a review of a sufficient number of examination reports to determine typical APR disclosure inaccuracies found in various types of credit transactions. Based upon information which the agencies now have, it is proposed that the actual APR charged on first lien real estate mortgages should be reduced by one-quarter of one percent since that appears to be the most common margin of APR disclosure error. Further, until an even more comprehensive data base can be established through further examinations, all other credit transactions will be corrected by a reduction of one percent in the actual APR.

An alternate proposal is to consider the rate disclosed on the contract or note as the "disclosed APR" and to require corrective action if the actual APR is higher.

Another alternative, to adjust the APR and lower the finance charge to the lowest rate which was available in the market area at the time the loan was made, under the assumption that the customer might have obtained credit at another institution which provided that lower APR if the customer had been given the tools to shop for that credit, was not included in the proposal because adequate rate information on local markets is not readily available.

2. Specific Methods of Adjustment for APR Violations.—When the disclosed APR is less than the APR actually being charged, an adjustment of the loan will be required in order to bring the rate actually being charged down to the understated APR. Simply reimbursing the difference between the APR charged and the understated APR will not accomplish this goal since the effect of the overcharge increases as the length of time between the inception of the loan and the error adjustment date increases. The agencies have considered a number of methods of adjustment. Some are attractive for policy reasons but are administratively unacceptable because formulas and programs to enable creditors to make the adjustments are extremely difficult to develop and use. Three adjustment methods,[1] all of which have the effect of lowering the actual rate paid by the customer to the understated APR and are administratively feasible, are proposed. The dollar adjustments for each method vary because the time periods over which the total adjustments will be made are different. The proposed methods are:

(1) *Lump sum/payment reduction.*—The remaining payments on the loan would be reduced to the level at which they would have been had the payments initially been computed on the basis of the understated APR, and a lump sum money adjustment equal to the amount that the customer has overpaid (including time value) would be returned to the customer.

Example: On a 12-month loan having an amount financed of $1,000 and calling for 12 payments of $100, where a $120 total overcharge has been found and six payments have been made, the customer would receive $61.83 in cash and each remaining payment would be reduced to $90. The dollar adjustment to the customer under this method is $121.83.

(2) *Maturity Reduction.*—The loan would be restructured in such a way as to reduce the number (not the amount) of required payments. The amount of each payment in the revised schedule (except the last) will remain the same as in the past.

Example: A loan having an amount financed of $1,000 and requiring 12 payments of $100 per month would be adjusted to require only 10 payments of $100 per month and one payment of $72.50 if the total overcharge resulting from an understated APR is $120. The dollar adjustment to the customer under this method is $127.95.

(3) *Payment Reduction.*—The amount of each remaining payment on the loan would be lowered so that the total finance charge does not exceed that permitted by the revised payment schedule and the understated APR.

Example: On a 12-month loan having an amount financed of $1,000 and calling for 12 payments of $100, where a $120 total overcharge has been found after six payments have been made, each remaining payment would be reduced to $79.25. The dollar adjustment to the customer under this method is $124.50.

It is anticipated that, because of cost and administrative factors, only one adjustment method will be adopted. After a determination has been made as to the method of adjustment that will be required, technical assistance will be available from the agencies to creditors for making adjustments for APR violations.

The agencies recognize that all methods will require adjustments to the creditor's records and notificaion of changes to customers.

3. Finance Charge Violations.—The agencies recognize that customers may be misled by understated finance charges even though the disclosed APR is accurate. In such situations, adjustment of the finance charge will be required. Reimbursement will be made by repaying to the customers the difference between the actual and disclosed finance charge.

Where the correct APR has been disclosed, but there is no disclosure of the finance charge, the agencies have considered various standards for corrective action. Although the finance charge is an integral part of the disclosure requirements, the Act assumes that its reflection in the APR is the essential tool contemplated by the disclosures. In all transactions subject to the Act the APR must be disclosed; however, in certain transactions no finance charge disclosure is required. Further, the agencies feel that misstating the finance charge is more likely to mislead a customer than omitting that disclosure, particularly since the finance charge can normally be computed from the other disclosures. Consequently, where the APR is correct and there is no disclosure of the finance charge, the agencies propose that no corrective action be required.

[1] The lump sum method defined in the guideline is proposed only for loans that have been paid in full. It incorporates the maturity reduction method.

DESIGNATED ISSUES

4. Which method of adjustment (i.e., the "maturity reduction method", "the payment reduction method", or "the lump sum/payment reduction method") is preferable? Is any other method preferable?

Commentators should address: (1) Any accounting problems associated with the various methods, (2) whether more than one adjustment method should be adopted, (3) if more than one method is adopted, who should determine which method to use (customer/bank/enforcing agency), and (4) the costs associated with the various options.

5. *Violations involving the improper disclosure of credit life, accident, health or loss of income insurance.—(a) If the creditor has not disclosed to the customer in writing that credit life, accident, health, or loss of income insurance is optional, the insurance shall be treated as having been required by the creditor and improperly excluded from the finance charge. The overcharge will result from an understated finance charge and, possibly, an understated APR. The creditor shall take appropriate corrective action for the larger overcharge. The insurance will remain in effect.*

(b) If the creditor has disclosed to the customer in writing that credit life, accident, health or loss of income insurance is optional, but there is either no signed insurance option or no disclosure of the cost of the insurance, the creditor shall be required to send a written notice to the affected customers disclosing the cost of the insurance and notifying them that the insurance is optional and may be cancelled within 45 days to obtain a full refund of all premiums charged. If the creditor receives no response within 45 days, the insurance will remain in effect and no further corrective action will be required.

Alternate paragraph (b):

(b) If the creditor has disclosed to the customer in writing that credit life, accident, health or loss of income insurance is optional but there is either no signed insurance option or no disclosure of the cost of the insurance, the creditor shall be required to send a written notice to the affected customers disclosing the cost of the insurance and notifying them that the insurance is optional and may be cancelled within 45 days to obtain a partial refund of premiums charged. If the creditor receives no response within 45 days, the insurance will remain in effect and no further corrective action will be required.

DISCUSSION

The Act requires that premiums for credit life, accident, health, or loss of income insurance written in connection with any credit transaction be included in the finance charge unless the customer is clearly and conspicuously advised in writing that the insurance is optional. If the insurance is desired, the customer must sign and date an affirmative statement to that effect after having received written disclosure of the cost of the insurance. These requirements are imposed to insure that premiums which are excluded from the calculation of the

cost of credit are voluntarily incurred by the customer.

Since voluntariness is the basis for excluding the insurance premiums from the finance charge, the agencies believe that if there is no written disclosure that the insurance is voluntary it should be treated as having been required and, therefore, improperly excluded from the finance charge. Corrective action will be ordered as discussed in he section of APR violations or in the section on understated finance charges, depending on which method is more beneficial to the customer.

If the optional nature of the insurance was disclosed in writing but either (1) the cost was not disclosed or (2) the customer did not sign the insurance option blank, the agencies believe that the creditor should be required to write to and inform the customer that the insurance was optional, disclose its cost, and offer to cancel the insurance if requested. In cases where the customer expresses a desire to cancel, the creditor should be required to refund some or all of the premiums paid. On the one hand, the customer has received benefit from the insurance coverage during the period it was in effect; on the other hand, the customer did not want the insurance. Alternate courses of corrective action are set forth in the guidelines.

If the required insurance authorization is signed but not dated, no corrective action need to taken since the lack of date disclosure is deemed to be of little significance in establishing whether the insurance was optional.

DESIGNATED ISSUE

5. Where the proposed guidelines require notice to customers that credit life, accident, health or loss of income insurance was optional and may be cancelled, should the entire premium be reimbursed if the customer cancels? If not, on what basis should a partial reimbursement be made?

6. *Violations involving the improper disclosure of property insurance, including vendor's single interest insurance.*—(a) *If a creditor has not included the property insurance premium in the finance charge when required by 12 CFR 226.4(a)(6), corrective action will not be required.*

(b) *If an insurer providing vendor's single interest insurance has not waived its right of subrogation against the customer and the premium has been excluded from the finance charge, the creditor shall indemnify the customer for any loss incurred as a result of a subrogation action by the insurer.*

DISCUSSION

The agencies believe that if property insurance is improperly excluded from the finance charge, the resulting situation should not be treated as an overcharge. Even required property insurance is excludable from the finance charge if the creditor discloses the cost of the insurance if purchased through the creditor and that the customer has the option to select the insurer. Based upon the agencies' review of examinations conducted up to this point, the agencies have not found evidence of abuse in this area as there is with credit life insurance. However, the agencies believe that borrowers might be harmed if the insurer has not waived its right of subrogation against the customer when vendor's single interest insurance is required since the insurer may sue the customer for amounts it paid to the creditor. Consequently, in that situation, creditors would be required to establish procedures to indemnify customers for any harm caused by that failure where the insurance has been improperly excluded from the finance charge.

7. *Violations concerning prepayment penalties and rebates.*—(a) *Where the finance charge is computed on the outstanding balance and the creditor has not disclosed a prepayment penalty, none can be collected and those already collected are overcharges which shall be reimbursed.*

(b) *Where the finance charge is computed on the outstanding balance and the creditor has charged a prepayment penalty in excess of that disclosed, the difference is an overcharge which shall be reimbursed.*

(c) *Where the finance charge is precomputed and there is neither a disclosure that no rebates of unearned finance charges will be made nor a disclosure of the method of computing the rebates, the failure to rebate unearned finance charges is an overcharge. The amount of reimbursement shall be the rebate of unearned finance charges in the event of early payment of the obligation as specified under state law; if state law is silent, the actuarial method based on scheduled payments shall be used to determine the amount of the reimbursement.*

(d) *Where the finance charge is precomputed and a method of computing rebates of unearned finance charges has been disclosed but the actual rebate is less favorable to the customer, the difference between the actual and the disclosed rebate is an overcharge which shall be reimbursed.*

DISCUSSION

Regulation Z, 12 CFR 226.8(b)(7), requires that the method of rebating unearned finance charges be disclosed, and if no rebate will be given, that fact must be disclosed. The regulation also requires disclosure of the amount of any prepayment penalties (12 CFR 226.8(b)(6)). The guideline is self-explanatory.

8. *VIOLATIONS CONCERNING LATE FEES.*—(a) *Where a creditor has disclosed the amount of late fees to be imposed in the event of late payment, any late fees collected in excess of those disclosed are overcharges which shall be reimbursed.*

(b) *Where a creditor has not disclosed the amount of late fees to be imposed in the event of late payment, none can be imposed and those already collected are overcharges which shall be reimbursed.*

DISCUSSION

The guideline is self-explanatory.

9. *Itemization of miscellaneous fees and charges.—If a creditor has not itemized and disclosed the charges found in 12 CFR 226.4 (b) and has not included them in the finance charge as required by that section, the resulting disclosure violation, by itself, shall not constitute an overcharge and corrective action shall not be required.*

DISCUSSION

Regulation Z, 12 CFR 226.4(b), lists certain miscellaneous charges which may be excluded from the finance charge if they are itemized and disclosed to the customer. The agencies believe that if the charges are not itemized and disclosed, and are excluded from the finance charge, the resulting violation is only of a technical nature. The customer's ability to shop is not impaired since comparability of the APR and finance charge is not destroyed; the nature of the violation does not justify requiring corrective action.

PUBLICATION FOR COMMENT

The Administrative Procedure Act does not require notice and solicitation of comment in connection with the establishment of statements of enforcement policy or guidelines (5 U.S.C. 553 (b)), and it permits them to become effective immediately (5 U.S.C. 553(d)). However, in consideration of the agencies' desire to solicit public participation on these issues, they have elected to afford an opportunity for comment on these proposed guidelines. Comments should be addressed to: Interagency Enforcement Policy—Regulation Z, Washington, D.C. 20219.

Dated: October 11, 1977.

STEPHEN S. GARDNER,
Vice Chairman of the Board of Governors of the Federal Reserve System.

JOHN G. HEIMANN,
Comptroller of the Currency.

George A. LE MAISTRE,
Chairman, Federal Deposit Insurance Corporation.

ROBERT H. MCKINNEY,
Chairman, Federal Home Loan Bank Board.

LAWRENCE CONNELL JR.,
Administrator, National Credit Union Administration.

[FR Doc.77-30402 Filed 10-17-77;8:45 am]

federal register

TUESDAY, OCTOBER 18, 1977
PART V



OFFICE OF MANAGEMENT AND BUDGET

■

BUDGET RESCISSIONS AND DEFERRALS

Status Report

[3110–01]

OFFICE OF MANAGEMENT AND BUDGET

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS, OCTOBER 1977

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all current year budget authority with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of October 1, 1977, of four rescissions contained in the fourteenth, fifteenth, and seventeenth special messages of FY 1977 and one rescission contained in the first special message of FY 1978. These messages were transmitted to the Congress on July 19 (both the fourteenth and fifteenth messages), July 26, and September 23, 1977.

RESCISSIONS (ATTACHMENT A)

Five rescission proposals totaling $646.1 million in budget authority are presently before the Congress. Of this amount, $643.4 million was proposed in four rescissions transmitted to the Congress in FY 1977. Attachment A shows the history and status of the rescission proposals pending before the Congress.

DEFERRALS

As of October 1, 1977, no budget authority was reported as deferred from obligation. In accordance with section 1013 of the Impoundment Control Act of 1974 (Pub. L. 93–344), all FY 1977 deferrals lost their effect on September 30, 1977, and FY 1978 deferrals cannot be reported until the beginning of the new fiscal year. A special message from the President to the Congress reporting FY 1978 deferrals was transmitted on October 3, 1977, the first working day of the new fiscal year. The items in that message will be included in the next cumulative report.

INFORMATION FROM SPECIAL MESSAGES

The special messages containing information on each of the rescissions covered by the cumulative report are contained in the FEDERAL REGISTERS of:

Friday, July 22, 1977 (Vol. 42, No. 141, Part V) (both the fourteenth and fifteenth 1977 special messages).

Friday, July 29, 1977 (Vol. 42, No. 146, Part VIII) (seventeenth 1977 special message).

Thursday, September 29, 1977 (Vol. 42, No. 189, Part IX) (first 1978 special message).

The October cumulative report contains several changes from the format used in the past. These revisions are described in Attachment B to this report.

JAMES T. MCINTYRE, Jr.,
Acting Director.

Status of rescissions, fiscal year 1978, as of Oct. 1, 1977

[Amounts in thousands of dollars]

Agency/bureau/account	Rescission No.	Amount proposed: Previously considered by the Congress	Amount proposed: Currently before the Congress	Date special message transmitted to Congress	Amount rescinded	Amount made available	Date made available
Department of Defense—Military:							
Aircraft procurement, Air Force.	R77–18		462,000	July 19, 1977			
Missile procurement, Air Force.	R77–19		1,400	——do——			
Missile procurement, Air Force.	R77–20		105,000	July 26, 1977			
Department of Justice: Law Enforcement Assistance Administration: Salaries and expenses.	R78–1 [1]		2,688	Sept. 23, 1977			
General Services Administration: Federal buildings fund.	R77–17		75,000	July 19, 1977			
Total			[2] 646,068				

[1] This rescission proposal is related to a 1978 supplemental request for transfer of the same funds within the Department of Justice.

[2] Of this amount, $643.4 million was proposed for rescission in fiscal year 1977.

NOTE.—A rescission bill (H.R. 9019) which includes the foreign military credit sales program rescission proposal (R77–16) is currently being considered by the Congress. However, the funds lapsed on Sept. 30, 1977.

ATTACHMENT B

CHANGES IN FORMAT OF THE CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

The October Cumulative Report on Rescissions and Deferrals, the first report for fiscal year 1978, contains several changes from the format used in previous years. These changes have been made to simplify the report, to make it more readable, and to improve the quality of information provided.

The changes in the rescission section include:

1. Elimination of the column "Date Rescission Act Signed" and the inclusion of this information in footnotes.

2. Modification of the column previously headed "Amount Proposed for Rescission" to read "Amount Proposed." This column is subdivided into two categories—"Proviously Considered by the Congress" and "Currently before the Congress."

The changes in the deferral section include:

1. Changing the column entitled "Amount Transmitted in Special Message, Superseded and Current" to "Amount Transmitted in Special Message, Original Request and Subsequent Change."

2. Changing the column entitled "Date of Action" to "Date Special Message Transmitted."

3. Displaying one cumulative entry per account for releases and adjustmenets rather than listing each individual release and adjustment.

4. Changing the two columns entitled "Releases Resulting from Subsequent Actions Taken by the House and the Senate" to one column called "Congressionally Required Releases." The entries under the column "Congressionally Required Releases" will be footnoted to identify which House of Congress required the release.

[FR Doc.77–30469 Filed 10–14–77;11:07 am]

federal register

TUESDAY, OCTOBER 18, 1977

PART VI



ENVIRONMENTAL PROTECTION AGENCY

■

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Emission Guidelines for Sulfuric Acid Mist

[6560-01]

Title 40—Protection of Environment

[FRL 770-7]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Emission Guideline for Sulfuric Acid Mist

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action establishes emission guidelines and times for compliance for control of sulfuric acid mist emissions from existing sulfuric acid plants. Standards of performance have been issued for emissions of sulfuric acid mist, a designated pollutant, from new, modified, and reconstructed sulfuric acid plants. The Clean Air Act requires States to control emissions of designated pollutants from existing sources, and this rulemaking initiates the States' action and provides them guidelines for what will be acceptable by EPA.

DATES: State plans providing for the control of sulfuric acid mist from existing plants are due for submission to the Administrator on July 18, 1978. The Administrator has four months from the date required for submission of the plans, or until November 18, 1978, to take action to approve or disapprove the plan or portions of it.

ADDRESSES: Copies of the final guideline document are available by writing to the EPA Public Information Center (PM-215), 401 M Street SW., Washington, D.C. 20460. "Final Guidance Document: Control of Sulfuric Acid Mist Emissions From Existing Sulfuric Acid Production Units," June 1977, should be specified when requesting the document. A summary of the comments and EPA's responses may be obtained at the same address. Copies of the comment letters responding to the proposed rulemaking published in the FEDERAL REGISTER on November 4, 1976 (41 FR 48706) are available for public inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit (EPA Library), Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711; telephone: 919-541-5271.

SUPPLEMENTARY INFORMATION: On November 4, 1976 (41 FR 48706) EPA proposed an emission guideline for sulfuric acid mist emissions from existing sulfuric acid plants and announced the availability or a draft guideline document for public comment. A discussion of the background and comments received follows:

BACKGROUND

Section 111(d) of the Clean Air Act requires that "designated" pollutants controlled under standards of performance for new stationary sources by section 111(b) of the Act must also be controlled at exsiting sources in the same source category. New source standards of performance for sulfuric acid mist were promulgated December 23, 1971 (36 FR 24876). Sulfuric acid mist is considered a designated pollutant; therefore, it must be controlled under the provisions of section 111(d).

As a step toward implementing the requirements of section 111(d), Subpart B of Part 60, entitled "State Plans for the Control of Certain Pollutants From Existing Facilities," was published on November 17, 1975 (40 FR 53340).

Subpart B provides that once a standard of performance for the control of a designated pollutant from a new source category is promulgated, the Administrator will then publish a draft emission guideline and guideline document applicable to the control of the same pollutant from designated (existing) facilities. For health-related pollutants, the emission guideline will be proposed and subsequently be promulgated while emission guidelines for welfare-related pollutants will appear only in the applicable guideline document. Sulfuric acid mist is considered a health-related pollutant; therefore, the proposed emission guideline and the announcement that the draft guideline document was available for public inspection and comment appeared in the FEDERAL REGISTER November 4, 1976.

Subpart B also provides nine months for the States to develop and submit plans for control of the designated pollutant from the date that the notice of availability of a final guideline is published; thus, the States will have nine months from this date to develop their plans for the control of sulfuric acid mist at designated facilities within the State.

Another provision of Subpart B is that which provides the Administrator the option of either approving or disapproving the State submitted plan or portions of it within four months after the date required for submission. If the plan or a portion of it is disapproved, the Administrator is required to promulgate a new plan or a replacement of the inadequate portions of the plan. These and related provisions of Subpart B are essentially patterned after section 110 of the Act and 40 CFR Part 51 which sets forth the requirements for adoption and submittal of State implementation plans under section 110 of the Act.

COMMENTS AND RESPONSES

During the 60-day comment period following the publication of the proposed emission guidelines on November 4, 1976, eleven comment letters were received; four from State pollution control agencies, five from industry and two from other government agencies. None of the comments warranted a change in the emission guideline nor did any comments justify any significant changes in the guideline document.

One commenter believed that sulfuric acid mist is included within the definition of sulfur oxides as contained in the Air Quality Criteria for Sulfur Oxides; therefore, it is subject to control as a criteria pollutant under State implementation plans, section 110 of the Clean Act, and not as a designated pollutant under section 111(d) of the Act. EPA does not agree with this comment. Sulfuric acid mist is only one of a number of related compounds noted in the criteria document defining sulfur oxides. Sulfuric acid mist is not listed and regulated in and of itself. In addition, although some designated pollutants controlled under section 111(d) may occur in particulate as well as gaseous form and thus may be controlled to some degree under State implementation plan regulations requiring control of particulate matter, specific rather than incidental control of such pollutants is required under section 111(d).

Several commenters were concerned that the emission guideline was not based on the health and welfare effects of sulfuric acid mist or on such other factors as plant site location and the hazard of cumulative impacts where emissions from other sources interacted. Another commenter noted that since the toxicological effects of exposure to sulfuric acid mist are a function of concentration and time, a daily maximum time-weighted average concentration limitation should be considered.

These comments appear to be based on a misunderstanding of the intent and purpose of section 111(d) of the Act. In the preamble to the section 111(d) procedural regulation (40 FR 53340), it is stated that section 111(d) requires emission controls based on the general principle of the application of the best adequately demonstrated control technology, considering costs, rather than controls based directly on health or welfare effects or on other factors such as those mentioned in the comments. Section 111(b)(1)(A) of the Act requires the Administrator to list categories of sources once it is determined that they may contribute to the endangerment of public health or welfare. While this is a prerequisite for the development of standards under section 111(d), the emission guideline is technology-based rather than tied specifically to protection of health or welfare. The States, in developing regulations for the control of sulfuric acid mist, have the prerogative under 40 CFR 60.24 (f) and (g) to develop standards which may be based on health or welfare considerations or on any other relevant factors.

Some of the comments addressed the stringency of the emission guideline. One commenter considered the emission guideline inflexible to the point where its application will be too stringent in some areas and inadequate in others. Another commenter thought the guideline document indicated that facilities using elemental sulfur as feedstock can meet more rigid emission standards and that the

emission guidelines should include more stringent standards for these facilities.

EPA has provided a great deal of flexibility in developing emission standards for the control of designated pollutants under Subpart B of Part 60. Specifically, 40 CFR 60.24(b) provides that nothing under Subpart B precludes any State from adopting or enforcing more stringent emission standards than those specified in the guideline document. On the other hand, 40 CFR Part 60.24(f) provides that States, "on a case-by-case basis for particular designated facilities, or classes of facilities * * * may provide for the application of less stringent emission standards than those otherwise required * * *" provided certain conditions are demonstrated by the State. The conditions include unreasonable cost of control resulting from plant age, location or basic process design, physical impossibility of installing necessary control equipment, and other factors specific to the facility that make the application of a less stringent standard significantly more reasonable. To include more stringent standards for facilities using elemental sulfur as feedstock would cause an unacceptable economic burden for those sources which have already installed efficient emission control equipment to meet a State regulation. To require these sources to retrofit additional emission control equipment to meet a more stringent standard would be inequitable.

MISCELLANEOUS

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Order 11821 and 11949 and OMB Circular A–107.

Dated: September 22, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 60 of Chapter I of Title 40 of the Code of Federal Regulations is amended by adding Subpart C as follows:

Subpart C—Emission Guidelines and Compliance Times

Sec.
60.30 Scope.
60.31 Definitions.
60.32 Designated facilities.
60.33 Emission guidelines.
60.34 Compliance times.

AUTHORITY: Sections 111(d), 301(a) of the Clean Air Act as amended (42 U.S.C. 1857c–6 and 1857g(a)), and additional authority as noted below.

Subpart C—Emission Guidelines and Compliance Times

§ 60.30 Scope.

This subpart contains emission guidelines and compliance times for the control of certain designated pollutants from certain designated facilities in accordance with section 111(d) of the Act and Subpart B.

§ 60.31 Definitions.

Terms used but not defined in this subpart have the meaning given them in the Act and in Subparts A and B of this part.

§ 60.32 Designated facilities.

(a) Sulfuric acid production units. The designated facility to which §§ 60.33 (a) and 60.34(a) apply is each existing "sulfuric acid production unit" as defined in § 60.81(a) of Subpart H.

§ 60.33 Emission guidelines.

(a) Sulfuric acid production units. The emission guideline for designated facilities is 0.25 gram sulfuric acid mist (as measured by Reference Method 8, of Appendix A) per kilogram of sulfuric acid produced (0.5 lb/ton), the production being expressed as 100 percent H_2SO_4.

§ 60.34 Compliance times.

(a) Sulfuric acid production units. Planning, awarding of contracts, and installation of equipment capable of attaining the level of the emission guideline established under § 60.33(a) can be accomplished within 17 months after the effective date of a State emission standard for sulfuric acid mist.

[FR Doc.77–30456 Filed 10–17–77;8:45 am]

federal register

TUESDAY, OCTOBER 18, 1977
PART VII



DEPARTMENT OF THE TREASURY

Customs Service

■

COASTWISE TRANSPORTATION OF MERCHANDISE

Effect of Manufacturing or Processing at an Intermediate Port or Place; Extension of Comment Period

[4810–22]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 4]

COASTWISE TRANSPORTATION OF MERCHANDISE

Extension of Time for Comments Concerning a Proposed Amendment to Customs Regulations Relating to Effect of Manufacturing or Processing at an Intermediate Port or Place

OCTOBER 17, 1977.

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: Merchandise ordinarily may not be transported between coastwise points, either directly or via a foreign port, or for any part of the transportation, in a vessel not qualified for the coastwise trade. However, the Customs Service has ruled that if merchandise is laden at a coastwise point, transported to an intermediate port or place not subject to the coastwise laws for manufacturing or processing into a new or different product, and thereafter transported to a coastwise point, either leg (or both legs) of the transportation may be accomplished by a vessel not qualified for the coastwise trade. On September 14, 1977, the Customs Service published in the FEDERAL REGISTER (42 FR 46068) notice of a proposal to incorporate these principles into the Customs Regulations and to provide for interested parties to obtain advice as to whether a contemplated undertaking would result in a new and different product. Comments were to have been submitted to be received on or before October 14, 1977. A request has been received to extend the period of time for the submission of comments. This notice extends the period of time to October 31, 1977.

DATE: Comments must be received on or before October 31, 1977.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Charles W. Hart, Attorney, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, 202–566–5706.

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

[FR Doc.77–30659 Filed 10–17–77;11:38 am]

federal register

TUESDAY, OCTOBER 18, 1977

PART VIII



DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

■

SCLERODERRIS CANKER (European Strain)

Emergency Plant Pest Regulations Governing Interstate Movement

[3410–34]

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 331—EMERGENCY PLANT TEST REGULATIONS GOVERNING INTERSTATE MOVEMENT OF CERTAIN PRODUCTS AND ARTICLES

Scleroderris Canker (European Strain)

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document gives notice of existence of an emergency situation because of the discovery of infections of a new strain of Scleroderris canker in pine and spruce in parts of New York and Vermont, and establishes emergency regulations to regulate the interstate movement from New York and Vermont of, among other things, nursery stock, Christmas trees, wreaths, branches, and twigs, of the species of the genera *Pinus* and *Picea*. These emergency regulations are needed in order to prevent the spread of the new strain of Scleroderris canker.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

H. I. Rainwater, 301–436–8247.

SUPPLEMENTARY INFORMATION: Scleroderris canker (European strain) is a serious fungus disease that can kill mature as well as immature species of pine and spruce. Once infection becomes established in the tops of the trees, most of the stand will be killed within 3 years. Artificial spread of this plant disease can occur with the movement of nursery stock, Christmas trees, wreaths, branches, twigs, and other parts of infected trees of the genera of *Pinus* and *Picea*. The recent outbreak of the new devastating strain, or so-called European strain, of Scleroderris canker in New York and Vermont particularly poses a potential threat to older pine and spruce plantations located throughout the Northeast and Great Lakes States. Although only identified as a new strain in 1976, the disease is now present in pine plantations in ten counties in New York and five counties in Vermont.

Prompt regulatory action is essential to an effective control effort. In order to prevent the possibility of artificially spreading the disease with host and other material, it is necessary to impose restrictions on the interstate movement of such materials from the regulated areas into noninfested areas.

Logs and pulpwood free of twigs and branches are not specifically listed as being subject to these emergency measures because the movement of such articles would not ordinarily create a risk of spread of such plant disease.

Pursuant to the provisions of the Federal Plant Pest Act (7 U.S.C. 150aa–150jj), Chapter III, Title 7 of the Code of Federal Regulations, is hereby amended by adding to Part 331, a new § 331.5 and a subpart heading preceding said section, as follows:

Subpart—Scleroderris Canker (European Strain)

§ 331.5 Notice of existence of emergency and regulations related thereto.

(a) Infections of the Scleroderris canker, European strain, *Gremmeniella abietina* (Lagerb.) Morelet, a dangerous plant disease not widely prevalent or distributed within and throughout the United States, have been found in parts of Clinton, Essex, Franklin, Hamilton, Herkimer, Jefferson, Lewis, Oneida, Oswego, and St. Lawrence Counties in the State of New York; and in all or parts of Caledonia, Franklin, Lamoille, Orleans, and Washington Counties, in the State of Vermont; and it has been determined that it is necessary to adopt, as an emergency measure, a rule imposing restrictions, as provided for in this section, upon the interstate movement of certain products and articles, from the regulated portion of said counties as hereinafter described, in order to prevent the interstate dissemination of said plant disease. Accordingly, the products and articles specified in paragraph (b) of this section shall not be moved interstate from all or parts of said counties in New York and Vermont listed below:

NEW YORK

Clinton County. The towns of Ausable, Black Brook, Dannemora, Peru, Plattsburgh, Saranac, and Schuyler Falls.

Essex County. The towns of Keene, North Elba, St. Armand, and Wilmington.

Franklin County. The towns of Altamont, Bangor, Bellmont, Bombay, Brandon, Brighton, Burke, Chateaugay, Dickinson, Duane, Franklin, Harrietstown, Malone, Moira, Santa Clara, and Waverly.

Hamilton County. The towns of Inlet, Long Lake, and Morehouse.

Herkimer County. The towns of Fairfield, Herkimer, Manheim, Newport, Norway, Ohio, Russia, Salisbury, and Webb.

Jefferson County. The towns of Adams, Antwerp, Champion, Lorraine, Rodman, Wilna, and Worth.

Lewis County. The towns of Croghan, Denmark, Diana, Greig, Harrisburg, High Market, Lewis, Leyden, Lowville, Lyonsdale, Martinsburg, Montague, New Bremen, Osceola, Pinckney, Turin, Watson, and West Turin.

Oneida County. The towns of Annsville, Ava, Boonville, Camden, Deerfield, Florence, Floyd, Forestport, Lee, Remsen, Rome City, Steuben, Trenton, Vienna, and Western.

Oswego County. The towns of Boylston, Orwell, Redfield, and Williamstown.

St. Lawrence County. The towns of Brasher, Clare, Clifton, Colton, Edwards, Fine, Fowler, Hermon, Hopkinton, Lawrence, Norfolk, Parishville, Piercefield, Pierrepont, Pitcairn, Potsdam, Russell, and Stockholm.

VERMONT

Caledonia County. The township of Hardwick.

Franklin County. The townships of Bakerfield and Montgomery.

Lamoille County. The entire county.

Orleans County. The townships of Craftsbury and Greensboro.

Washington County. The townships of Berlin, East Montpelier, Middlesex, Moretown, Waterbury, Worcester, and Montpelier City unless:

(1) Such products and articles have been treated to destroy Scleroderris canker infections in accordance with procedures prescribed by the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture,[1] under the direction of an inspector authorized by the Deputy Administrator, and the products and articles are accompanied by a certificate issued by such an inspector signifying that they are eligible for interstate movement; or

(2) Such products and articles originate in an area in the said regulated portions of counties, which has been inspected by such an inspector, and he has found that the interstate movement of the products and articles from such areas will not involve a risk of disseminating said infections, and the products and articles are accompanied by a certificate issued by such an inspector signifying that they are eligible for interstate movement; or

(3) Such products and articles are moved under permit issued by such an inspector to an approved destination for consumption, processing, or other handling in accordance with procedures prescribed by said inspector, when upon evaluation of the circumstances involved in each specific case he determines that such movement will not result in the spread of the Scleroderris canker and requirements of other applicable Federal Domestic plant quarantines have been met.

(b) The following products and articles are subject to the energency measures imposed under this section:

(1) Nursery stock, Christmas trees, wreaths, branches, twigs of any species of the genera of *Pinus* and *Picea;* or any parts of such products or articles, of any species of the genera of *Pinus* and *Picea* except logs or pulpwood.

(2) Any other products, articles, or means of conveyance, of any character whatsoever, not covered by subparagraph (1) of this paragraph, when it is determined by an inspector that they present a hazard of spread of the Scleroderris canker, and the person in possession thereof has been so notified.

(Sec. 105, 71 Stat. 32, sec. 106, 71 Stat. 33, sec. 107, 71 Stat. 34 (7 U.S.C. 150aa–150jj); 37 FR 28464, 28477, as amended; 38 FR 19141)

Under this regulation, specific products and articles may be moved interstate from the described parts of New York and Vermont, only if they have been treated or originate in certain areas of said States, or are moved under permit issued by an authorized inspector to an approved destination for consumption, processing, or other approved handling. Such measures are necessary be-

[1] Instructions are available upon request from the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Md. 20782, or from an inspector.

cause an emergency exists as a result of recently discovered infections of the Scleroderris canker (European strain), a dangerous plant disease which is not widely prevalent or distributed within and throughout the United States.

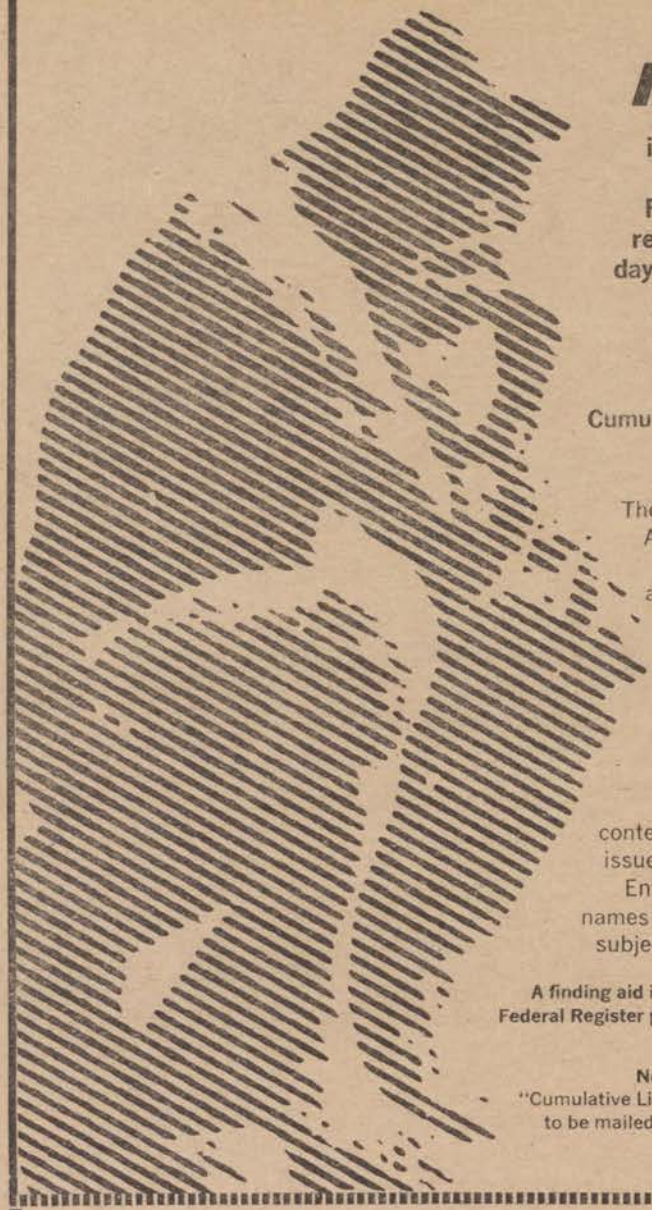
Inasmuch as such infections must be controlled immediately to prevent the spread of the Scleroderris canker (European strain), it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that further notice and public participation regarding this regulation are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making said regulation effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs 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.

Done at Washington, D.C., this 17th day of October 1977.

T. G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.77–30567 Filed 10–17–77;11:36 am]



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