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federal register

TUESDAY, NOVEMBER 15, 1977

THE NATIONAL ARCHIVES OF THE UNITED STATES
LITTERA SCRIPTA MANET
1934

highlights

PHILADELPHIA, PENNSYLVANIA WORKSHOPS

HOW TO USE THE FEDERAL REGISTER

FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHAT: Free public workshop (approximately 3 hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHEN: December 12 at 1 p.m. and December 13 at 9 a.m.
(Each session identical)

WHERE: Federal Building, Conference Room B, 1421 Cherry Street, Philadelphia, Pa.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

RESERVATIONS: Call Joann Freedman, Area Code 215–597–9613.

SUNSHINE ACT MEETINGS 59155

THANKSGIVING DAY
Presidential proclamation 59035

IMPORTS OF SUGARS, SIRUPS, AND MOLASSES
Presidential proclamation imposing import fees 59037
Presidential proclamation modifying tariff rates 59039

SACCHARIN
HEW/FDA issues tentative guidelines for manufacturers .. 59119
HEW/FDA announces intent to hold a public hearing if the Saccharin Study and Labeling Act (SSLA) becomes law 59119

FOOD ADDITIVES
HEW/FDA provides for safe use of certain resin as wet strength agent in manufacture of paper and paperboard for food-contact use; effective 11–15–77; comments by 12–15–77 59065

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

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

Note: As of Nov. 3, 1977, Food Safety and Quality Service (USDA) documents are being assigned to the Tuesday/Friday schedule.

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

federal register

Area Code 202 Phone 523-5240

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Subscription problems (GPO)	202–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–3187
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5237
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–3517
Code of Federal Regulations (CFR)	523–3419
	523–3517
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5286
Weekly Compilation of Presidential Documents.	523–5284
Public Papers of the Presidents	523–5285
Index	523–5285

PUBLIC LAWS:

Public Law dates and numbers	523–5266
	523–5282
Slip Laws	523–5266
	523–5282
U.S. Statutes at Large	523–5266
	523–5282
Index	523–5266
	523–5282
U.S. Government Manual	523–5287
Automation	523–5240
Special Projects	523–4534

HIGHLIGHTS—Continued

COLOR ADDITIVES
HEW/FDA terminates provisional listing for bismuth citrate; effective 11–15–77 ... 59064
HEW/FDA denies permanent listing of bismuth citrate for use in cosmetics ... 59116

ANTIBIOTIC DRUGS
HEW/FDA revises moisture test method and moisture limits for erythromycin tablets and erythromycin stearate tablets; effective 12–15–77 ... 59068
HEW/FDA provides certification for tetracyline hydrochloride topical solution; effective 11–15–77 ... 59065

NEW DRUGS
HEW/FDA announces evaluation of barbiturate-analgesic combination drug as effective ... 59115

NEW ANIMAL DRUGS
HEW/FDA approves safe use of anthelmintic suspension for treatment of horses; effective 11–15–77 ... 59068

NET-WEIGHT LABELING OF FOOD
HEW/FDA extends time for filing notices of participation in hearing to 11–23–77 ... 59091

WHEAT
USDA/ASCS amends previous proposal on 1978 national program acreage; comments by 11–30–77 ... 59089

MISBRANDING OR MISLABELING OF AGRICULTURAL COMMODITIES
USDA/AMS proposes to revise definitions of violations and procedures for imposing penalties; comments by 12–30–77 ... 59088

RURAL HOUSING
USDA/FmHA amends regulations on loans and grants (3 documents); effective 11–15–77 ... 59042, 59052

SEAPLANE OPERATIONS
DOD/Engineers Corps amends present rules and provides for establishment of specific areas in which seaplane operation is prohibited; effective 11–15–77; portions effective 11–15–78 ... 59076

MILITARY DISCHARGES
DOD/Navy amends Naval discharge Review Board procedures in light of recent court decisions; effective 6–29–77; portions effective 7–15–77 ... 59074

SOLICITATION ON DEFENSE INSTALLATIONS
DOD updates its policy on insurance sales on DOD property; effective 8–31–77 ... 59072

POST OFFICES
PS amends regulations on discontinuance; effective 12–15–77 ... 59079

FEDERAL ELECTION COMMISSION OPINIONS
FEC announces availability of cumulative index ... 59110

MALLEABLE CAST-IRON PIPE AND TUBE FITTINGS
Labor releases results of report on the effects of imports on domestic workers ... 59130

PRIVACY ACT

DOD/Army deletes a system of records 59099

MEETINGS—

DOD/Secy: President's Commission on Military Compensation, 11–29–77 59099
AF: Scientific Advisory Board, 11–29 and 11–30–77 59098
DOE: High Energy Physics Panel, 12–5 and 12–6–77 59105
EPA: Interagency Regulatory Liaison Group, Testing and Standards Guidelines Work Group (held jointly with CPSC, HEW/FDA, and Labor/OSHA), 12–14–77 59106
HEW/FDA: Advisory Committees, 12–77 59112
OE: Community Education Advisory Council, 11–30 and 12–1–77 59111
Secy: Advisory Committee on National Health Insurance Issues, 12–2 and 12–3–77 59121
HUD/Secy: Task Force on Tenant Participation in Management of Low-Income Public Housing, 11–29–77 59121
NRC: Advisory Committee on Reactor Safeguards, Subcommittee on Fluid/Hydraulic Dynamic Effects, 11–30–77 59136
NSF: Advisory Committee for Mathematical and Computer Sciences, Subcommittee for Computer Sciences, 12–6 and 12–7–77 59134
Advisory Committee for Physics, 12–1 thru 12–3–77 59135
Advisory Panel for the Division of Policy Research and Analysis, 12–2–77 59134
Materials Research Advisory Committee, ad hoc Subcommittee for Oversight of the Polymers Program, 12–12 and 12–13–77 59134
National Magnet Laboratory Visiting Subcommittee of the Advisory Committee for Materials Research, 12–15 and 12–16–77 59134
SBA: Regional Advisory Councils:
Boise, Region X, 12–5–77 59152
Cleveland, Region V, 12–15–77 59152
Portland, Region X, 12–7–77 59153
Seattle, Region X, 12–9–77 59153
State: U.S. Advisory Commission on International Educational and Cultural Affairs, 12–9–77 59153

CANCELLED MEETINGS—

HEW/NIH: Ethics Advisory Board, 11–18 and 11–19–77 59121
State: Secretary of State's Advisory Committee on Private International Law, 11–18–77 59153

CHANGED MEETINGS—

DOD/Secy: Defense Science Board Task Force on National/Tactical Interface, 11–17 and 11–18–77 59099

HEARINGS—

DOT/FAA: Proposed Noise and sonic boom requirements for civil supersonic airplanes, 12–15–77 59089
HEW/FDA: Use of FD&C red No. 4 in maraschino cherries and ingested drugs; prehearing conference 12–16–77 59117
OE: National Advisory Council on Bilingual Education, 12–12 and 12–13–77 59111

SEPARATE PARTS OF THIS ISSUE

Part II, HUD/FIA 59196
Part III, HEW/HRA 59212
Part IV, OMB 59244

contents

THE PRESIDENT

Proclamations

Sugars, sirups, and molasses, imports:
Import fees; imposition 59037
Tariff rates; modification 59039
Thanksgiving Day 59035

EXECUTIVE AGENCIES

AGING ADMINISTRATION

Rules

CFR regulations redesignated and transferred to Human Development Office and CFR Chapter vacated 59211

AGRICULTURAL MARKETING SERVICE

Rules

Milk marketing orders:
Chicago 59041
Pears (Beurre D'Anjou, Beurre Bosc, etc.) grown in Calif., Oreg., and Wash 59041

Proposed Rules

Perishable agricultural commodities, misrepresentation or misbranding 59088

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Proposed Rules

Wheat; marketing quotas and acreage allotments 59089

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Forest Service; Soil Conservation Service.

AIR FORCE DEPARTMENT

Notices

Meeting:
Scientific Advisory Board 59098

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Rules

Overtime services relating to imports and exports:
Animal, commuted traveltime allowances 59062

ANTITRUST DIVISION, JUSTICE DEPARTMENT

Notices

Competitive impact statements and proposed consent judgments; U.S. versus listed companies:
Federated Department Stores, Inc., et al 59125

ARMY DEPARTMENT

See also Engineers Corps.

Notices

Environmental statements; availability, etc.:
Rocky Mountain Arsenal, Colo. to Tooele Army Depot, Utah 59099
Tooele Army Depot, Utah 59099
Privacy Act; systems of records 59099

CIVIL AERONAUTICS BOARD

Rules

Reports, submission of audit and reconciliation; approval by Comptroller General 59063

Notices

Handicapped transportation; joint air carrier discussion petition 59096
Hearings, etc.:
Air BVI Ltd 59095
American Airlines, Inc., et al 59096
Leavens Air Charter Ltd 59097
U.S.-United Kingdom cargo rates 59098

CIVIL SERVICE COMMISSION

Notices

Noncareer executive assignments:
Defense Department 59098

CONSUMER PRODUCT SAFETY COMMISSION

Notices

Meetings:
Interagency Regulatory Liaison Group; Testing Standards and Guidelines Work Group; cross reference 59098

CUSTOMS SERVICE

Rules

Vessels in foreign and domestic trades:
Hong Kong; reciprocal privileges 59063

Proposed Rules

Organization and functions; field organization; ports of entry, etc.:
Corpus Christi, Tex., et al 59090

DEFENSE DEPARTMENT

See also Air Force Department; Army Department; Engineers Corps; Navy Department.

Rules

Insurance, solicitation and sale on DOD installations 59072

Notices

Meetings:
Military Compensation, President's Commission 59099
Science Board task force on National Tactical Interface 59099

ECONOMIC REGULATORY ADMINISTRATION

Notices

Appeals and applications for exception, etc.; cases filed with Administrative Review Office:
List of applicants, etc 59102

EDUCATION OFFICE

Notices

Meetings:
Bilingual Education National Advisory Council 59111
Community Education Advisory Council 59111

ENERGY DEPARTMENT

See also Economic Regulatory Administration; Federal Energy Regulatory Commission.

Notices

Meetings:
High Energy Physics Advisory Panel 59105

ENGINEERS CORPS

Rules

Water resource development projects; procedures for establishment of areas not available for seaplane operations 59076

ENVIRONMENTAL PROTECTION AGENCY

Notices

Marine sanitation device standard:
California-Nevada 59105
Meetings:
Interagency Regulatory Liaison Group; Testing Standards and Guidelines Work Group 59106

FARMERS HOME ADMINISTRATION

Rules

Rural housing loans and grants:
Low-income and senior citizen tenants; nondiscrimination, etc. (3 documents) 59042, 59052

FEDERAL AVIATION ADMINISTRATION

Proposed Rules

Noise standards:
SST noise and sonic boom requirements; hearing 59089

FEDERAL COMMUNICATIONS COMMISSION

Rules

Radio broadcast services:
Broadcasting reregulation; correction 59087

Proposed Rules

Television broadcast stations:
VHF stations, adding in top 100 markets; clarification 59092

Notices

FM broadcast applications ready and available for processing 59106
Television broadcast applications ready and available for processing (2 documents) 59109, 59110
Hearings, etc.:
Jahnke, Harold A 59107
Radio Blue Ridge, Inc., et al 59108

FEDERAL ELECTION COMMISSION

Notices

Advisory opinion cumulative index; availability 59110

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Hearings, etc.:
Amoco Production Co. et al 59103
Arkansas Oklahoma Gas Corp. 59099
Columbia Gas Transmission Corp 59100

Mid Louisiana Gas Co. et al.; correction 59101
Natural Gas Pipeline Co. of America 59101
Southern Energy Co 59101

FEDERAL HIGHWAY ADMINISTRATION

Rules

Accounting:
Federal-aid programs, State reports of unbilled accrued costs 59069

FEDERAL INSURANCE ADMINISTRATION

Rules

Flood Insurance Program, National:
Flood elevation determinations, etc 59196

Proposed Rules

Flood Insurance Program, National:
Flood elevation determinations, etc. (28 documents) 59197–59210

FEDERAL MARITIME COMMISSION

Notices

Freight forwarder licenses:
All Forwarding, Inc 59110

FEDERAL RESERVE SYSTEM

Notices

Federal Open Market Committee:
Monetary aggregates, longer-run ranges 59110
Applications, etc.:
Admire Bancshares, Inc 59110
Republic of Texas Corp 59111

FISH AND WILDLIFE SERVICE

Notices

Endangered and threatened species permits; applications (4 documents) 59121, 59122

FOOD AND DRUG ADMINISTRATION

Rules

Animal drugs, feeds, and related products:
Fenbendazole suspension 59068
Color additives:
Bismuth citrate; provisional listing closing date terminated 59064
Food additives:
Aqueous and fatty foods, components in contact with 59065
Human drugs:
Erythromycin tablets and erythromycin stearate tablets 59068
Tetracycline hydrochloride for topical solution 59065

Proposed Rules

Food labeling and animal drugs, feeds, and related products:
Net-weight labeling of foods that gain or lose moisture during good distribution; hearing; extension of time 59091

Notices

Color additives, petitions filed or withdrawn:
Combe Inc.; bismuth citrate for cosmetic use 59116
Maraschino Cherry & Glace Fruit Processors; FD&C red no. 4 for use in cherries and ingested drugs 59117
Committees; establishment, renewals, terminations, etc.:
Anti-Infective Agents Advisory Committee 59115
Blood and Blood Derivatives Review Panel 59118
Radiopharmaceutical Advisory Committee 59118
Food additives, petitions filed or withdrawn:
Nalco Chemical Co.; boiler water additive 59118
Food labeling:
Saccharin and its salts; guidelines and hearing (2 documents) 59119
Human drugs:
Barbiturate-analgesic combination drugs; efficacy study 59115
Phendimetrazine tartrate 105-mg time release capsules 59118
Meetings:
Interagency Regulatory Liaison Group; Testing Standards and Guidelines Work Group; cross reference 59120
Ophthalmic Panel et al 59112

FOREST SERVICE

Proposed Rules

Property management; protection of insignia 59092

Notices

Environmental statements; availability, etc.:
Los Padres National Forest, land management plan, Calif 59094

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Aging Administration; Education Office; Food and Drug Administration; Health Care Financing Administration; Human Development Services Office; National Institutes of Health.

Notices

Meetings:
National Health Insurance Issues Advisory Committee 59121

HEALTH CARE FINANCING ADMINISTRATION

Rules

Professional standards review:
Area designations; New York, boundaries of PSRO areas in 59086

HEARINGS AND APPEALS OFFICE, INTERIOR DEPARTMENT

Notices

Applications, etc.:
Dunkard Mining Co 59123
Peerless Eagle Coal Co 59124
United Castle Coal Co 59124

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Federal Insurance Administration.

Notices

Meetings:
Tenant Participation in Management of Low-Income Public Housing Task Force 59121

HUMAN DEVELOPMENT SERVICES OFFICE

Rules

Aging Administration programs, etc.; CFR Subchapter designations 59086
Older Americans programs; reorganization, redesignation, and transfer of regulations from Aging Administration 59086

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Hearings and Appeals Office, Interior Department; National Park Service.

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief 59154
Hearing assignments 59154

JUSTICE DEPARTMENT

See also Antitrust Division, Justice Department.

Notices

Pollution control; consent judgments; U.S. versus listed companies, etc.:
Bemis Co. (Claremont Mill) 59125

LABOR DEPARTMENT

See also Occupational Safety and Health Administration.

Rules

Reports, labor-management; editorial changes 59070

Notices

Import investigations:
Pipe and tube fittings, malleable cast iron 59130
Adjustment assistance:
Aileen, Inc 59128
Alliance Weaving et al 59131
AMBAC Industries, Inc., et al 59132
American Motors Corp 59133
Anthracite Shirt Co. et al 59133
Beizinger Industries et al 59132
Lori Coat Co 59129
Tram/Diamond Corp 59130

MANAGEMENT AND BUDGET OFFICE

Notices

Budget rescission and deferrals (2 documents) 59244, 59255
Clearance of reports; list of requests 59137
Privacy Act; systems of records 59138

NATIONAL INSTITUTES OF HEALTH

Notices

Carcinogenesis bioassay; reports availability:
Captan 59120

Meetings:
Ethics Advisory Board; cancellation ---------- 59121

NATIONAL PARK SERVICE

Notices

Historic Places National Register; additions, deletions, etc-------- 59122

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
Materials Research Advisory Committee (2 documents)--- 59134, 59135
Mathematical and Computer Sciences Advisory Committee ---------- 59134
Physics Advisory Committee--- 59135
Policy Research and Analysis Division Advisory Panel----- 59134

NAVY DEPARTMENT

Rules

Personnel:
Naval Discharge Review Board; cases subject to Secretarial review, etc---------- 59074

NUCLEAR REGULATORY COMMISSION

Notices

Meetings:
Reactor Safeguards Advisory Committee (2 documents)--- 59135, 59136

Applications, etc:
Cincinnati Gas and Electric Co. et al; cancellation of prehearing conference---------- 59136
Consumers Power Co---------- 59136

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Notices

Meetings:
Interagency Regulatory Liaison Group; Testing Standards and Guidelines Work Group; cross reference ---------- 59134

PENSION BENEFIT GUARANTY CORPORATION

Rules

Annual report; filing requirements ---------- 59071

POSTAL SERVICE

Rules

Organization and administration:
Post Office discontinuance; decisionmaking, etc---------- 59079

SECURITIES AND EXCHANGE COMMISSION

Notices

Self-regulatory organizations; proposed rule changes:
Bradford Securities Processing Services, Inc---------- 59139
Chicago Board Options Exchange, Inc. (2 documents)-- 59141
Chicago Board Options Exchange, Inc.; withdrawal---- 59142
National Association of Securities Dealers, Inc. (3 documents)-------- 59147, 59148, 59151
New York Stock Exchange, Inc. 59148
Options Clearing Corp---------- 59150

Hearings, etc.:
Allegheny Power System, Inc--- 59139
Current Interest, Inc---------- 59143
Daily Income Fund, Inc-------- 59144
Israel Investors Corp---------- 59145
Ohio Power Co---------- 59149

SMALL BUSINESS ADMINISTRATION

Notices

Authority delegations:
Region X procurement assistance personnel---------- 59153
Disaster areas:
Washington ---------- 59153
Meetings, advisory councils:
Boise District---------- 59152
Cleveland District---------- 59152
Portland District---------- 59153
Seattle District---------- 59153

SOIL CONSERVATION SERVICE

Notices

Environmental statements on watershed projects; availability, etc.:
Factory Creek, Ala---------- 59094
Kiwanis Park RC&D Measure, Ariz ---------- 59094
Upper San Marcos River, Tex-- 59095

STATE DEPARTMENT

Notices

Meetings:
International Educational and Cultural Affairs, U.S. Advisory Commission ---------- 59153
Secretary of State's Advisory Committee on Private International Law; cancellation-- 59153

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration; Federal Highway Administration.

TREASURY DEPARTMENT

See Customs Service.

Public Health
Health Care Financing Adm. 59086.

CUMULATIVE LIST OF PARTS AFFECTED DURING NOVEMBER

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

1 CFR

Ch. I 57115

PROPOSED RULES:

461 57463

3 CFR

PROCLAMATIONS:

4434 (Amended by Proc. 4539) 59039
4463 (Amended by Proc. 4539) 59039
4466 (Amended by Proc. 4539) 59039
4535 58397
4536 58729
4537 59035
4538 59037
4539 59039

EXECUTIVE ORDERS:

10631 (Amended by EO 12017) 57941
11476 (Amended by EO 12018) 57943
11835 (See EO 12018) 57945
12016 57297
12017 57941
12018 57943
12019 57945
12020 58509

5 CFR

213 (3 documents) 57115–57117, 57683, 58151, 58152, 58731

7 CFR

6 57117
12 57683
271 58152–58158
401 58929
406 57299
409 57299
654 58159
722 58731
726 58731
780 58162
905 57947
906 57299
910 ..... 57684, 58733
915 58511
927 59041
929 58733
931 57117
944 57947
966 57445
971 58399
982 58733
984 57948
989 57683
1030 59041
1435 58734
1453 57948
1488 57949
1822 ..... 59042, 59052
1901 ..... 57118, 58736
1955 57684
2855 57300
2856 57301
2858 57301
2870 57301

PROPOSED RULES:

46 59088
272 57694
728 59089
725 57131
905 57694
929 58532
945 58951
989 ..... 57131, 58759
1030 57319
1133 57466
1435 58759

9 CFR—Continued

1464 ..... 57319, 57466, 58414
1701 57694
1901 58532

9 CFR

73 57118
78 57118
92 57121
97 59062
362 57121

10 CFR

210 ..... 57320, 57326
211 ..... 57320, 57326
212 ..... 57320, 57326

12 CFR

201 57302
213 58737
217 57950
226 58163
303 57685
701 57685

PROPOSED RULES:

204 58760
213 58760
528 ..... 58182, 58953
531 58953
545 57131

13 CFR

317 57685

PROPOSED RULES:

120 58538

14 CFR

39 ..... 57445, 57951, 58511–58515, 58929
71 ..... 57445, 57446, 57952, 58515, 58930, 58931
91 57446
95 57952
97 57448
243 58902
248 59063
250 57326
288 58902
296 57326
378a 58515
399 58913
1245 57449

PROPOSED RULES:

21 59089
36 59089
39 ..... 57968, 58538
47 57968
71 ..... 57468–57470, 57969–57971, 58539–58541, 58956, 58957
73 58957
75 57971
91 ..... 57470, 57968, 59089
302 57132

15 CFR

16 57686
376 57454

PROPOSED RULES:

904 58958

16 CFR

2 58518
13 ..... 57302–57304, 57455, 58518

16 CFR—Continued

1012 ..... 57121, 58399
1105 58400
1607 57961

PROPOSED RULES:

444 57973
1013 57133
1115 57133
1116 57133
1120 57642
1145 57642
1402 57134
1500 58959

17 CFR

211 57455
270 58400

PROPOSED RULES:

1 58542
166 58542
210 57652
231 58676
239 ..... 58414, 58677
240 ..... 58181, 58684
241 58684
249 ..... 58414, 58684

18 CFR

3 58737
260 58737

19 CFR

4 59063
153 57122

PROPOSED RULES:

101 59090

20 CFR

422 58403

PROPOSED RULES:

616 57252
618 57256

21 CFR

5 58738
16 58889
20 58889
25 58889
81 ..... 57686, 59064
176 59065
193 58738
444 58739
446 59065
452 59068
520 59068
522 58167
524 58741
561 58738
813 58889
1020 58167
1250 57122
1308 58741
1316 57456

PROPOSED RULES:

101 59091
131 58181
146 58761
182 58763

21 CFR—Continued

PROPOSED RULES—Continued

184 58763
186 58763
207 57137
444 58766
501 59091
601 58266
607 57137
610 58266
807 57137

22 CFR

9A 57687

PROPOSED RULES:

51 57138

23 CFR

11 59069

PROPOSED RULES:

628 58542

24 CFR

7 58932
201 57431
203 57433
220 57435
221 57435
222 57435
234 57435
235 57436
841 57305, 58932
885 57439
1914 59002
1915 59003
1917 57408–57414, 57852–57859, 58008–58016, 58494–58503, 59196
1920 58503–58506

PROPOSED RULES:

201 57327
570 58960
880 57632
881 57632
882 57416
883 57633, 57634
1917 (3 documents) 57133–57140, 58660–58673, 58866–58870, 59197–59210

25 CFR

256 58744

26 CFR

1 57122, 57309–57312, 58934
25 58935
48 58935
154 58935
404 58935
601 58935

27 CFR

PROPOSED RULES:

170 57471
194 57471
201 57471

28 CFR

0 57457

29 CFR

Ch. IV 59070
519 58744
602 57687
603 57688

29 CFR—Continued

615 57688
1902 58745
1952 57123, 58746
2606 59071

PROPOSED RULES:

30 57140, 58766
1910 57266
1952 57140

31 CFR

341 57123
515 58518

PROPOSED RULES:

Subtitle A 57973

32 CFR

203 57123
276 59072
356 57312
724 59074

32A CFR

134 57457

33 CFR

86 57648
87 57648
91 57650
110 58519
117 58936
135 57650
136 57650
207 57961, 58519

PROPOSED RULES:

117 58960
164 59012
173 58722
174 58722
207 58960
208 57141

36 CFR

327 59076
328 59076

PROPOSED RULES:

264 59092

38 CFR

PROPOSED RULES:

2 57328
21 57328

39 CFR

111 58169
241 59082
245 59082
246 59082
247 59082
248 59085
259 58170
265 59085

40 CFR

52 57124, 57459, 58171, 58405, 58519
60 57125
415 58747

PROPOSED RULES:

51 57471, 58542
52 57479, 58415–58416, 58542, 58543, 58767
61 58543

41 CFR

1–16 58174
6–6 58179
101–11 57314
101–17 57462
101–26 58747
101–35 58521

PROPOSED RULES:

105–61 57695

42 CFR

460 59086

PROPOSED RULES:

460 58544
121 57141

43 CFR

31 57462

PROPOSED RULES:

426 57142
2720 57682

45 CFR

19 57317
153 57286
189 57638
Ch. IX 59086
1069 57693
Ch. XIII 59086, 59212
1901 57127
1905 57127

PROPOSED RULES:

1068 57698
1069 57699

46 CFR

153 57126, 57962
381 57126

PROPOSED RULES:

54 58712
197 58712
510 58181

47 CFR

2 58409
17 57127
73 57689, 57962, 58179, 58750–58752, 59087
81 58409
83 57963, 58410
91 57963
97 57690, 58753

PROPOSED RULES:

68 58186
73 57695–57698, 57974–57977, 58187–58189, 58417, 58768, 58769, 59092
81 58770

49 CFR

1 58753
172 57964, 58522
173 57965, 58525, 58937
176 57967
395 58525
501 58530
527 58938
553 58949
1033 57317, 57691, 58410, 58950
1080 57692
1090 57127, 58531

49 CFR—Continued

PROPOSED RULES:

391 57488
395 58418
571 58545
575 57979
580 58546
581 57979

50 CFR

17 ..... 58754, 58756
32 ..... 57692, 57693, 58531
33 58411
651 58412

PROPOSED RULES:

17 ..... 57329, 57492
216 58419
255 58963

FEDERAL REGISTER PAGES AND DATES—NOVEMBER

Pages	*Date*
57115–57296	Nov. 1
57297–57443	2
57445–57681	3
57683–57939	4
57941–58149	7
58151–58395	8
58397–58507	9
58509–58728	10
58729–58928	11
58929–59033	14
59035–59259	15

list of cfr parts affected in this issue

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

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

3 CFR

PROCLAMATIONS:

4434 (Amended by Proc. 4539) ---- 59039
4463 (Amended by Proc. 4539) ---- 59039
4466 (Amended by Proc. 4539) ---- 59039
4537 ---- 59035
4538 ---- 59037
4539 ---- 59039

7 CFR

927 ---- 59041
1030 ---- 59041
1822 (3 documents) ---- 59042, 59052

PROPOSED RULES:

46 ---- 59088
728 ---- 59089

9 CFR

97 ---- 59062

14 CFR

248 ---- 59063

PROPOSED RULES:

21 ---- 59089
36 ---- 59089
91 ---- 59089

19 CFR

4 ---- 59063

PROPOSED RULES:

101 ---- 59090

21 CFR

81 ---- 59064
176 ---- 59065
446 ---- 59065
452 ---- 59068
520 ---- 59068

PROPOSED RULES:

101 ---- 59091
501 ---- 59091

23 CFR

11 ---- 59069

24 CFR

1917 ---- 59196

PROPOSED RULES:

1917 (28 documents) ---- 59197-59210

29 CFR

Ch. IV ---- 59070
2606 ---- 59071

32 CFR

276 ---- 59072
724 ---- 59074

36 CFR

327 ---- 59076
328 ---- 59076

PROPOSED RULES:

264 ---- 59092

39 CFR

241 ---- 59082
245 ---- 59082
246 ---- 59082
247 ---- 59082
248 ---- 59085
265 ---- 59085

42 CFR

460 ---- 59086

45 CFR

Ch. IX ---- 59086
Ch. XIII (2 documents) ---- 59086, 59212

47 CFR

73 ---- 59087

PROPOSED RULES:

73 ---- 59092

reminders

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

Rules Going Into Effect Today

DOD/Army—Facilities Engineering Pest Control Services; policies, responsibilities and procedures ---- 55612; 10–18–77

Off-road vehicles; use of Army installations ---- 56326; 10–25–77

EPA—Review of projects affecting Edwards Underground Reservoir, a designated sole source aquifer in San Antonio, Texas area ---- 51574; 9–29–77

List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 1139 ---- Pub. L. 95–166 "National School Lunch Act and Child Nutrition Amendments of 1977". (Nov. 10, 1977; 91 Stat. 1325). Price: $1.00.

presidential documents

[3195–01]

Title 3—The President

PROCLAMATION 4537

Thanksgiving Day, 1977

By the President of the United States of America

A Proclamation

Although the first years of America's struggle for independence were often disheartening, our forebears never lost faith in the Creator, in their cause, or in themselves. Upon learning of the American victory at Saratoga in 1777, Samuel Adams composed the first National Thanksgiving proclamation, and the Continental Congress called upon the governors of every state to designate a day when all Americans could join together and express their gratitude for God's providence "with united hearts." By their actions they extended a revered regional custom into a national tradition.

Precisely two centuries have now passed since that time. We have tamed a continent, established institutions dedicated to protecting our liberties, and secured a place of leadership among nations. But we have never lost sight of the principles upon which our Nation was founded. For that reason we can look to the future with hope and confidence.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, in accord with Section 6103 of Title 5 of the United States Code, do hereby proclaim Thursday, November 24, 1977, as Thanksgiving Day. I ask all Americans to gather on that day with their families and neighbors in their homes and in their houses of worship to give thanks for the blessings Almighty God has bestowed upon us.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of November, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc.77-33128 Filed 11-11-77;4:00 pm]

[3195–01]

Proclamation 4538 • November 11, 1977

Import Fees on Sugar, Sirups, and Molasses

By the President of the United States of America

A Proclamation

1. The Secretary of Agriculture has advised me that he has reason to believe that certain sugars, sirups, and molasses, derived from sugar cane or sugar beets, classified under items 155.20 and 155.30, of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), are being, or are practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or to materially interfere with, the price support operations now being conducted by the Department of Agriculture for sugar cane and sugar beets, or to reduce substantially the amount of any product being processed in the United States from domestic sugar beets and sugar cane.

2. I agree that there is reason for such belief by the Secretary of Agriculture. Therefore, I am requesting the United States International Trade Commission to make an immediate investigation with respect to this matter pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), and to report its findings and recommendations to me as soon as possible.

3. The Secretary of Agriculture has also determined and reported to me, with regard to such sugars, sirups, and molasses, that a condition exists which requires emergency treatment, and that the import fees hereinafter proclaimed should be imposed without awaiting the report and recommendations of the United States International Trade Commission.

4. I find and declare that the imposition of import fees hereinafter proclaimed, without awaiting the recommendations of the United States International Trade Commission with respect to such action, is necessary in order that the entry, or withdrawal from warehouse, for consumption of certain sugars, sirups, and molasses, described below by value, use and physical description, and classified under TSUS items 155.20 and 155.30, will not render or tend to render ineffective, or materially interfere with, the price support operations now being conducted by the Department of Agriculture for sugar cane or sugar beets, or reduce substantially the amount of any product processed in the United States from domestic sugar beets or sugar cane.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and Statutes of the United States of America, including section 22 of the Agricultural Adjustment Act, as amended, do hereby proclaim that Part 3 of the Appendix to the TSUS is amended as follows:

(a) A new headnote is added which reads as follows:

4. Sugar, sirups, and molasses

Licenses may be issued by the Secretary of Agriculture or his designee authorizing the entry of articles exempt from the fees provided for in items 956.10, 956.20, 957.10 and 957.20 of this part on the condition that such articles will be used only for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption. Such licenses shall be issued under regulations of the Secretary of Agriculture which he determines are necessary to insure the use of such articles only for such purposes.

(b) The following new items, in numerical sequence, are added following items 955.06:

Item	*Articles*	*Import Fees*
	"Sugars, sirups, and molasses, derived from sugar cane or sugar beets, except those entered pursuant to a license issued by the Secretary of Agriculture in accordance with headnote 4:	
	Principally of crystalline structure or in dry amorphous form, provided for in item 155.20, part 10A, schedule 1:	
956.10	Valued at not more than 6.67 cents per pound	50% ad. val.
956.20	Valued at more than 6.67 cents per pound but not more than 10.0 cents per pound	3.32 cents per lb. less the amount per lb. by which the value exceeds 6.67 cents per lb.
	Not principally of crystalline structure and not in dry amorphous form, containing soluble non-sugar solids (excluding any foreign substance that may have been added or developed in the product) equal to 6% or less by weight of the total soluble solids, provided for in item 155.30, part 10A, schedule 1:	
957.10	Valued at not more than 6.67 cents per pound of total sugars	50% ad. val.
957.20	Valued at more than 6.67 cents per pound of total sugars but not more than 10.0 cents per pound of total sugars	3.32 cents per lb. of total sugars less the amount per lb. of total sugars by which the value exceeds 6.67 cents per lb. of total sugars."

The fees established by items 956.10, 956.20, 957.10 and 957.20 shall apply to articles entered, or withdrawn from warehouse, for consumption on or after the date of this Proclamation, and shall continue to apply to such articles pending the report and recommendations of the United States International Trade Commission and action that I may take on them. However, such fees shall not apply to articles (a) exported to the United States before 12:01 A.M. (U.S. Eastern Standard Time) on the date of this Proclamation or (b) imported to fulfill forward contracts entered into before 12:01 A.M. (U.S. Eastern Standard Time) on the date of this Proclamation, *Provided,* That articles referred to in (a) and (b) are entered, or withdrawn from warehouse, for consumption on or before January 1, 1978.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of November, in the year of our Lord nineteen hundred and seventy-seven, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

[FR Doc.77-33180 Filed 11-14-77;10:49 am]

[3195–01]

Proclamation 4539 • November 11, 1977

Modification of Tariffs on Certain Sugars, Sirups, and Molasses

By the President of the United States of America

A Proclamation

1. By Proclamation 4334, of November 16, 1974, the President modified Subpart A, Part 10, Schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202, hereinafter referred to as the "TSUS") to establish, effective January 1, 1975, following expiration of the Sugar Act of 1948, a rate of duty and quota applicable to sugars, sirups and molasses described in items 155.20 and 155.30 of the TSUS. By Proclamation 4463 of September 21, 1976, as amended by Proclamation 4466, of October 4, 1976, the President modified the rate of duty applicable to such sugars, sirups and molasses.

2. The President took these actions pursuant to authority vested in him by the Constitution and statutes of the United States, including section 201(a)(2) of the Trade Expansion Act of 1962 (19 U.S.C. 1821(a)(2)), and in conformity with Headnote 2 of Subpart A of Part 10 of Schedule 1 of the TSUS, hereinafter referred to as the "Headnote". The Headnote was part of a trade agreement that embodied the results of the "Kennedy Round" of international trade negotiations. That agreement is known formally as the 1967 Geneva Protocol to the General Agreement on Tariffs and Trade, and the agreement includes, as an Annex, "Schedule XX", a schedule of United States trade concessions made during those negotiations. This agreement was concluded pursuant to section 201(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1821(a)), and was implemented by Proclamation No. 3822, of December 16, 1967, (82 Stat. 1455) which, *inter alia,* added the Headnote to the TSUS.

3. The Headnote provides, in relevant part, as follows:

"(i) . . . if the President finds that a particular rate not lower than such January 1, 1968, rate, limited by a particular quota, may be established for any articles provided for in item 155.20 or 155.30, which will give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade, he shall proclaim such particular rate and such quota limitation, . . .

"(ii) . . . any rate and quota limitation so established shall be modified if the President finds and proclaims that such modification is required or appropriate to give effect to the above considerations; . . ."

4. Section 201(a)(2) of the Trade Expansion Act authorizes the President to proclaim the modification or continuance of any existing duty or other import restrictions, or such additional import restrictions as he determines to be required or appropriate to carry out any trade agreement entered into under the authority of that Act, except that pursuant to section 201(b)(2) of the Act, the President may not by proclamation increase a rate of duty to a rate more than 50 percent above the rate existing on July 1, 1934. The currently applicable tariff rates in rate column numbered 2 for sugars, sirups, and molasses, described in items 155.20 and 155.30, are treated as the rates "existing on July 1, 1934", for the purposes of the President's proclaiming authority.

5. General headnote 4(b) of the TSUS provides that a rate of duty proclaimed pursuant to a concession granted in a trade agreement shall be reflected in the column numbered 1 of the TSUS and, if higher than the then existing rate in column numbered 2, shall also be reflected in the latter column.

6. I find that the modifications hereinafter proclaimed of the rates of duty applicable to items 155.20 and 155.30 of the TSUS are appropriate to carry out that portion of the Kennedy Round trade agreement set forth in the Headnote, and as provided for therein, give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and statutes, including section 201 of the Trade Expansion Act of 1962, and pursuant to General Headnote 4(b), and Headnote 2, Subpart A of Part 10 of Schedule 1, of the TSUS, do hereby proclaim until otherwise superseded by law:

A. The rates of duty in rate columns numbered 1 and 2 for items 155.20 and 155.30 of Subpart A, Part 10, Schedule 1 of the TSUS, are modified, and the following rates are established:

155.20	2.98125¢ per lb. less 0.0421875¢ per lb. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 1.9265625¢ per lb.
155.30	dutiable on total sugars at the rate per lb. applicable under Item 155.20 to sugar testing 100 degrees.

B. Those parts of Proclamation 4334 of November 16, 1974, Proclamation 4463 of September 21, 1976, and Proclamation 4466 of October 4, 1976, which are inconsistent with the provisions of paragraph (A) above are hereby terminated.

C. The provisions of this Proclamation shall apply to articles entered, or withdrawn from warehouse, for consumption on and after the date of this Proclamation. However, the provisions of this Proclamation shall not apply to articles (a) exported to the United States before 12:01 A.M. (U.S. Eastern Standard Time), on the date of this Proclamation, or (b) imported to fulfill forward contracts entered into before 12:01 A.M. (U.S. Eastern Standard Time), on the date of this Proclamation, *Provided,* that articles referred to in (a) and (b) above are entered, or withdrawn from warehouse, for consumption on or before January 1, 1978.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of November, in the year of our Lord nineteen hundred and seventy seven and of the Independence of the United States of America, the two hundred and second.

Jimmy Carter

[FR Doc.77-33181 Filed 11-14-77;11:01 am]

rules and regulations

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

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

[3410–02]

Title 7—Agriculture

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

PART 927—HANDLING OF BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON AND CALIFORNIA

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1977–78 fiscal period, to be collected from handlers to support activities of the Control Committee which locally administers the Federal marketing order covering Oregon, Washington, and California winter pears.

DATES: Effective July 1, 1977, through June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202–447–3545.

SUPPLEMENTARY INFORMATION: On October 26, 1977, notice was published in the FEDERAL REGISTER (42 FR 56512) inviting written comments not later than November 7, 1977, on proposed expenses and rate of assessment, under amended Marketing Order No. 927 (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California. None were received. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matters presented, including the proposals in the notice, it is found that:

§ 927.217 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Control Committee during the period July 1, 1977, through June 30, 1978, will amount to $106,810.

(b) The rate of assessment for said period payable by each handler in accordance with § 927.41 is fixed at $0.005 per standard western pear box of pears, or an equivalent quantity of pears in other containers or in bulk.

It is further found that good cause exists for not postponing the effective date until December 15, 1977, (5 U.S.C. 553) as the order requires that the rate of assessment for a fiscal period shall apply to all assessable pears handled from the beginning of the period.

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

Dated: November 9, 1977.

D. S. KURYLOSKI,

Acting Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc.77–32918 Filed 11–14–77;8:45 am]

[3410–02]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK) DEPARTMENT OF AGRICULTURE

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

Temporary Revision of Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action temporarily relaxes the shipping requirement for supply plants and the diversion limitation during November 1977 for the Chicago Regional marketing area as a means of preventing uneconomic shipments of milk. The revisions are made in response to requests of cooperative associations of producers supplying the market.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–6273.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Proposed temporary revision of shipping percentage, issued October 27, 1977; published November 2, 1977 (42 FR 57319).

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1030.7(b)(5) of the Chicago Regional milk order.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 57319) concerning a proposed decrease in the shipping requirement for supply plants and an increase in the diversion limit during November 1977. Interested persons were afforded an opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views and arguments filed thereon, and other available information, it is hereby found and determined that for the month of November 1977 the supply plant shipping percentage of 35 percent set forth in § 1030.7(b) should be decreased to 30 percent and in § 1030.13(d)(3) the limit of 65 percent on the proportion of a handler's supply of producer milk that may be diverted to nonpool plants during the month of November 1977 should be increased to 70 percent.

Pursuant to the provisions of § 1030.7(b)(5) the supply plant shipping percentages set forth § 1030.7(b) and diversion limitations as set forth in § 1030.13(d)(3) shall be increased or decreased by up to 10 percentage points during the months of August–March, if necessary to obtain needed shipments or to prevent uneconomic shipments.

Associated Milk Producers, Inc., and six other cooperative associations with member producers supplying a majority of the milk to the Chicago Regional market, requested that during November 1977 the supply plant shipping percentage and the diversion limits be relaxed 5 percentage points. These cooperatives estimated that only 32 percent of the milk receipts at their pool supply plants would be needed by their distributing plant customers during November 1977.

Views received regarding the supply and demand conditions in the market reveal that associations representing a majority of producers and certain proprietary handlers in the market support relaxation of the supply plant shipping percentage and the diversion limit in November to prevent uneconomic shipments. Some proprietary handlers state that they oppose any relaxation of the supply plant shipping requirement, since they will need more than 35 percent of the milk pooled at their supply plants.

To fulfill their fluid milk requirements, distributing plants obtain a major portion of their milk supplies from supply plants, since about 80 percent of the market's milk supply is assembled at supply plants. In September 1977 the Class I utilization percentage was 34 percent. Milk production in the market reaches its seasonally lowest point in October. Many supply plant operators found it necessary to count on shipments to other order distributing plants to meet the 35 percent shipping requirement this October.

Milk production is expected to increase in November. Also, the opportunity to make out-of-area qualifying shipments can be expected to decline. Thus the 35 percent shipping requirement for November needs to be reduced to prevent uneconomic shipments being made solely for the purpose of qualifying milk supplies for pooling status.

A reduction in the required shipments of supply plant milk during November will allow greater flexibility in obtaining milk among supply plants in the market and prevent uneconomic movements of milk merely for purposes of pool plant status. Moreover, a corresponding increase in the proportion of a handler's supply of producer milk that may be diverted to nonpool manufacturing plants will prevent uneconomic movements of milk through pool supply plants merely for the purpose of qualifying it for producer milk status under the order.

It is concluded that it is necessary to reduce the pool supply plant shipping percentage and increase the percentage of producer milk that may be diverted, as specified above, for the month of November 1977.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the month of November 1977;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective for the month of November 1977.

It is therefore ordered, That the aforesaid provisions of the order are hereby revised for November 1977.

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

Effective date: November 15, 1977.

Signed at Washington, D.C., on November 9, 1977.

H. L. FOREST,
Director, Dairy Division.

[FR Doc.37-32944 Filed 11-14-77; 8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.4]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart C—Farm Labor Housing Loan Policies, Procedures, and Authorizations

RENTAL ASSISTANCE TO FARM LABORERS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration revises its regulation to prohibit discrimination in the use and occupancy of rental housing or related facilities by Farm Labor Housing borrowers because of race, color, creed, or national origin and to implement a Rental Assistance Program for Labor Housing. This program is being implemented because of a need for additional assistance to farm laborers in rural communities who cannot pay the monthly rental rate with 25 percent of their income. The intended effect is to provide rental assistance for eligible domestic farm laborers occupying eligible labor housing projects.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. George Daellenbach, Multiple Family Housing Loan Division, 202–447–7207.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration (FmHA) revises § 1822.68 of Subpart C of Part 1822, Chapter XVIII, Title 7 in the Code of Federal Regulations (31 FR 14148, 39 FR 36110). As revised, paragraph (g) provides that the borrower will not discriminate, or permit discrimination or segregation in the use or occupancy of the housing or related facilities, and also provides for the execution of Form FmHA 400–4, "Nondiscrimination Agreement" before the loan is closed; paragraphs (h) and (i) are added to this section to provide that domestic farm labor housing be located near essential community services in areas where a need exists and to provide that rental assistance be extended to eligible tenants in accordance with the basic objective of this regulation.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the purpose of the change is to provide needed housing for certain tenants by implementing the Rental Assistance Program for Labor Housing and, therefore, any delay would be contrary to the public interest.

Accordingly, revised paragraph (g) and new paragraphs (h) and (i) of § 1822.68 read as follows:

§ 1822.68 Special conditions.

* * * * *

(g) *Nondiscrimination in use and occupancy.* The borrower will not discriminate, or permit discrimination or segregation by any agent, lessee, or other operator, in the use or occupancy of the housing or related facilities because of race, color, creed, or national origin and will execute Form FmHA 400–4, "Nondiscrimination Agreement," before the loan is closed. This requirement will be discussed with the applicant as early in the negotiations as possible.

(h) *Location of housing.* Except for a loan to an individual farmowner from whom a mortgage is taken on the entire farm, all housing must be located:

(1) Near essential community facilities such as shopping, schools, and other essential services.

(2) On a public all weather road.

(3) In an area where the property would be readily saleable.

(i) *Rental assistance.* Rental assistance may be provided to eligible tenants in LH projects in accordance with Exhibit R of Subpart D of this Part.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration 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.

Dated: October 31, 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77-32712 Filed 11-14-77; 8:45 am]

[3410–07]

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration revises various sections of its regulation and certain Exhibits, and adds new Exhibits K, L, M, and N which will provide necessary guidance to field offices and loan applicants. This action is necessary to clarify and modify certain Farmers Home Administration policies and to make other changes needed to implement the rental assistance program published as a proposed rule at 42 FR 46320, dated September 15, 1977, and published as a final rule as of the date of this publication.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn, Director, Multiple Family Housing Loan Division, 202–447–7207.

SUPPLEMENTARY INFORMATION: Various sections and certain Exhibits of Subpart D of Part 1822, Title 7, Code of Federal Regulations (40 FR 4278, as amended at 41 FR 13932–13933; 41 FR 34579; 41 FR 51031; 42 FR 40680) are amended; new Exhibits K, L, M, and N are added. The major changes are set forth below:

1. The Table of Sections is amended to add the following new Exhibits:

K—Loan Agreement (RRH Loan to a Partnership Operating on a Limited Profit Basis).

L—Loan Agreement (RRH Loan to a Partnership).
M—Loan Agreement (RRH Loan to a Limited Partnership Operating on a Limited Profit Basis).
N—Loan Agreement (RRH Loan to a Limited Partnership).

2. Section 1822.84(a)(3) is revised to allow leasing of Section 515 projects under Department of Housing and Urban Development (DHUD) Section 23 leasing program.

3. Section 1822.86(a) is amended to clarify the policy of developing additional rural rental housing projects on the same or contiguous sites; § 1822.86 (b)(8) corrects a previous omission.

4. Section 1822.87(b) is amended to provide that all Section 515 loans may be made with a payment period not to exceed 50 years.

5. Sections 1822.88 (d)(6) and (d)(7) are added to provide for use of the Loan Agreement contained in new Exhibits K, L, M, and N; § 1822.88(f) provides the necessary changes in connection with the implementation of the rental assistance program; § 1822.88(i) is revised to change the frequency of obtaining tenant certifications from biannually to annually; § 1822.88(k) is revised to clarify that the amount of initial investment agreed upon by the applicant at time of loan closing will not be changed; § 1822.88(l) is revised to provide that Section 8/515 loans may be processed under either a single or dual agency processing systems depending upon the source of the Section 8 units.

6. Section 1822.94(a)(2) is amended to provide for a change of the form which may be submitted to an interim lender as evidence that loan funds have been obligated for the project; § 1822.94 (a)(6) defines the point in time when FmHA will close its loan and retire the interim commercial indebtedness; § 1822.94(b) is amended to include the requirement that an applicant must provide evidence that interim lending is not available during the construction period of the project.

7. Exhibits A, B, C, and H are amended to require prior approval of budgets and management plans.

8. Exhibit F–7 paragraph 9 is amended to require that Exhibit F–5A published as a proposed rule at 42 FR 46320, dated September 15, 1977, and published as a final rule as of the date of this publication which is used to determine utility allowances be a part of all operating budgets. Paragraph 9a, of this Exhibit is amended to allow for the use of less than a 10 percent allowance for vacancies, nonpayment of rent and contingency expenses in the initial budget for the project paragraph 13, is added to this exhibit to provide for an affirmative fair housing plan to be submitted with the application for a Rural Rental Housing loan.

9. Various paragraphs of Exhibit J are amended which will make the Exhibit consistent with the rental assistance program as published for comment at 42 FR 46320, dated September 15, 1977, and published as a final rule as of the date of this publication.

10. Footnote 2 in Exhibit J–1 is revised to provide that all utilities and other public service costs will be included when determining rental rates for a project.

11. Exhibtis K, L, M, and N are added to eliminate the necessity of modifying or preparing loan agreements in the field for certain applicants.

12. Paragraph V. B. of Exhibit O is amended to delete the phrase "and competitive rental rates" to make this paragraph clearly consistent with the memorandum of understanding between FmHA and DHUD.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the purpose of the change is to clarify and modify certain Farmers Home Administration policies and to make changes needed to implement the rental assistance program. Since this program is currently necessary to make needed housing available to low income and senior citizens, any delay would be contrary to the public interest. Accordingly, amendatory language preceding each amendment, revision and addition of Subpart D of Part 1822, is as follows:

* * * * *

1. In § 1822.84 paragraph (a)(3) is revised to read as follows:

§ 1822.84 Eligibility requirements.

(a) *Eligibility of applicant.* * * *

(3) Have the ability and intention to maintain and operate the housing for the purposes for which the loan is made. This is not intended to preclude the leasing of the housing in accordance with the Department of Housing and Urban Development (HUD) Section 23 leasing program.

* * * * *

2. In § 1822.86 paragraphs (a) and (b)(8) are revised and read as follows:

§ 1822.86 Limitations.

(a) *Loan limits.* For all applicants, the amount of the RRH loan or loans on each project at any one time will be limited to a maximum amount of $1,500,000, unless prior approval of the National Office is obtained in advance to develop an application for a larger project. If the State Director recommends a larger project, the preapplication and detailed information on the need and market for the project will be submitted to the National Office with the State Director's specific recommendations before Form AD–622, "Notice of Preapplication Review Action," or any other notice is given to the applicant indicating that the loan can be made. Additional loans may be made on the same or contiguous site without regard to the $1,500,000 limitation provided the previous project is completed and the housing has been successfully operated for at least 12 months. A clear market demand must be evidenced for any additional units to be provided. Each loan will also be subject to the following additional requirements:

* * * * *

(b) *Limitations on use of loan funds.* Loans will not be made for:

* * * * *

(8) Refinancing debts of the applicant except:

(i) As authorized in §§ 1822.86(c) and 1822.94(a), or

* * * * *

3. In § 1822.87 paragraph (b) is amended and reads as follows:

§ 1822.87 Rates and terms.

* * * * *

(b) *Amortization period.* Each loan will be scheduled for payment within such period as may be necessary to assure that the loan will be adequately secured taking into account the probable depreciation of the security. The payment period will not exceed 50 years from the date of the note.

* * * * *

4. In § 1822.88, paragraphs (d)(6) and (d)(7) are added; paragraph (f) is revised to change the heading; paragraphs (f)(1) and (f)(2) are revised; paragraph (i)(2) is amended to incorporate paragraph (i)(2)(i) into (i)(2), and paragraph (i)(2)(ii) is deleted; the introductory text of paragraph (k) is amended. The various paragraphs under § 1822.88 read as follows:

§ 1822.88 Special conditions.

* * * * *

(d) *Loan resolutions or loan agreement.* * * *

(6) Exhibit K will be used by partnerships operating on a limited profit basis, and Exhibit L will be used when operating on a profit basis.

(7) Exhibit M will be used by limited partnerships operating on a limited profit basis and Exhibit N will be used when operating on a profit basis.

* * * * *

(f) *Interest credits and rental assistance.* * * *

(1) Borrowers may receive interest credits provided the loan: (i) Was made on or after August 1, 1968, to a nonprofit corporation, consumer cooperative, State or local public agency, or to an individual or organization operating on a limited profit basis; (ii) is to be repaid, unless an exception is made by the National Office, over a period of 40 years or more and; (iii) meets the other requirements outlined in Exhibit J of this Subpart.

(2) Rental Assistance may be provided to eligible tenants in eligible projects in accordance with Exhibit R of this Subpart.

* * * * *

(i) *Tenant certification.* * * *

* * * * *

(2) Recertification will be completed by having a new Form FmHA 444–8 executed at least annually by each tenant. The certification forms will be obtained by the borrower and a copy provided to

the County Supervisor to verify the amount of interest credit or rental assistance given to the borrower.

(ii) Deleted.

* * * * *

(k) *Limited profit determinations.* Applicants agreeing to operate on a limited profit basis will be permitted a return not to exceed 8 percent per annum on the initial investment. However, once the loan is made, the percentage return to the applicant agreed upon, as indicated in the loan agreement or loan resolution, will not be changed. The initial investment may include the following:

* * * * *

(1) *RRH loans made in connection with the Department of Housing and Urban Development (HUD) Section 8 housing assistance payments program.* RRH loans involving the HUD Section 8 housing assistance payments program under the Memorandum of Understand (Exhibit O–1) will be handled in accordance with Exhibit O of this Subpart. Any applicant who has obtained approval of use of Section 8 units from HUD or a State housing finance agency, which cannot be processed in accordance with Exhibit O, may be processed in accordance with HUD's regulations under a dual track processing system provided all other requirements of this Subpart are met. When a dual track processing system is followed, the provisions of paragraph II of Exhibit O of this Subpart allowing for an interest rate reduction (interest credit) may be followed. Section 8 housing assistance payments program for existing housing will be handled in accordance with Exhibit P of this Subpart.

* * * * *

5. In § 1822.94 paragraphs (a)(2), (a)(6), and (b) are revised and read as follows:

§ 1822.94 Actions subsequent to loan approval.

(a) *Interim financing from commercial sources.* * * *

(2) The FmHA State Director or County Supervisor may deliver a copy of Form FmHA 440–57 as evidence of the FmHA commitment, if necessary, or a letter stating that funds in specified amounts have been obligated and will be available to retire the interim financing if the applicant complies with the approval conditions. See guidelines available in any FmHA office for a sample letter that may be used.

* * * * *

(6) When the project is substantially completed except for minor punch list items, the FmHA loan will be closed and permanent instruments will be issued to evidence the FmHA indebtedness. The FmHA loan proceeds will be used to retire the interim commercial indebtedness.

* * * * *

(b) *Multiple advances of RRH loan funds.* In the event interim commercial financing is not available, and applicant supplies such evidence, multiple advances will be used subject to the following:

* * * * *

6. In Exhibits A and B, paragraphs 10. (e) are amended by deleting the phrase(s) "if such approval is required" from lines 4 and 5.

In Exhibit C, paragraph 9. (e) is amended by deleting the phrase "if such approval is required" from line 4.

7. In Exhibit F–7, paragraphs 9, and 9, a, are amended, and paragraph 13 is added as follows:

EXHIBIT F–7

INFORMATION TO BE SUBMITTED WITH APPLICATION FOR FEDERAL ASSISTANCE (SHORT FORM)

* * * * *

9. Detailed operating budgets for the first year's operation and a typical year's operation. The first year's budget should show that the applicant has sufficient operating capital on hand or sufficient planned income to pay all operating costs and meet scheduled payments on debts during the planning and construction period prior to occupancy. The typical year's budget should show there will be ample income to pay essential operating costs, meet required debt payments, and permit accumulation of required reserves. Exhibits F–5 and F–5A will be used for this purpose.

a. The initial budgets should include an allowance of 10 percent for vacancies, nonpayment of rent, and contingency expense. Projects being developed utilizing HUD's Section 8 housing assistance payments program for new construction may use a lower rate; however, in no case should the allowance be less than 5 percent. The allowance in subsequent year budgets may be adjusted to be consistent with the actual past experience in vacancy, nonpayment of rent and contingency needed for the project.

* * * * *

13. An affirmative fair housing plan will be submitted on Form HUD 935.2 or provide evidence of being a signatory to a voluntary affirmative marketing agreement approved by the Department of Housing and Urban Development. (See § 1901.203 of this Chapter.)

8. In Exhibit H, paragraphs 9. (f) is amended by deleting the phrase "if such approval is required" from line 4.

9. In Exhibit J, paragraphs II. B., IV., IV. B. 2. e. and f., V. A. and V. B., VI. B. 1., VI. C. 1. and 2., VI. D., VI. E., VI. F., VII. A., VII. B., VII. C., IX., IX. A. and IX. B. are amended to read as follows:

EXHIBIT J

INTEREST CREDITS ON INSURED RRH AND RCH LOANS

* * * * *

II. *Definitions:* As used in this Exhibit.

* * * * *

B. *"Interest Credit and Rental Assistance Agreement"* means an agreement between FmHA and the borrower providing the interest credits and/or rental assistance on RRH, RCH or LH loans. This agreement will be on Form FmHA 444–7, "Interest Credit and Rental Assistance Agreement."

* * * * *

IV. *Options of borrowers:* An eligible borrower may choose Plan I or Plan II as described below, for determining interest credits on its loan.

* * * * *

B. *Plan II.*

* * * * *

2. A borrower under Plan II, generally must:

* * * * *

e. Determine the required monthly payment on the loan at 1 percent interest and overage each month for the total units developed with any one loan. The amount of payment will be computed separately for each loan using Form FmHA 444–29, "Project Worksheet for Interest Credit and Rental Assistance." (Exhibit J–2 will be used until Form FmHA 444–29 is available).

f. Execute Form FmHA 444–9, "Multiple Housing Certification and Payment Transmittal," each month for each project.

* * * * *

V. *Determining the amount of payment.*

A *For Plan I.* The amount of payment will be determined by using the amortization factor for payment at a 3 percent interest rate (use the same number of years that was used for computing the regular installment on the note) plus all surcharges.

B *For Plan II.* The amount of payment will be determined by using the amortization factor for a payment at a 1 percent interest rate (use the same number of years that was used for computing the regular installment on the note) plus all overages.

VI. *Special conditions:*

* * * * *

B. *Rental surcharges to ineligible occupants.* * * *

1. Under Plan I be charged a 25 percent rental surcharge. To illustrate, if the unit normally rents for $60 per month, this ineligible occupant would pay $75 per month. The 25 percent surcharge, or $15 in this illustration, would be paid on the account and would be included with, but in addition to, the regular payment on the loan.

* * * * *

C. *Vacancies.*

1. When construction is completed and all the units are ready for occupancy, vacant units will be assumed to be rented at the basic monthly rental in computing the amount of payment.

2. When all construction is not completed but some of the units are ready for occupancy, and the contractor consents in writing to permit occupancy, the incompleted units will be assumed to be rented at the market monthly rentals in computing the amount of payment.

D. *Interest credit for projects under the Department of Housing and Urban Development housing assistance payments program or FmHA rental assistance.* When rental units in a project are leased under the Section 8 program Form FmHA 444–7, "Interest Credit and Rental Assistance Agreement," will be completed in accordance with Exhibit O for new construction and Exhibit P for existing units. Projects authorized to utilize rental assistance will complete Form FmHA 444–7 in accordance with Exhibit R of this Subpart.

E. *Special cases.* Cases and situations not covered by this Exhibit or Exhibits O or R will be handled on an individual case basis with instructions from the National Office.

F. *Understanding eligibility.* The borrower should understand the eligibility requirements for occupancy of the housing and that the housing is or will be rented only to eligible occupants unless authorized, in writing, by FmHA.

VII. *Execution of agreements:*

A. *Initial Interest Credit and Rental Assistance Agreement.* Interest credits may become effective at the beginning of the month in which construction is completed on a structure and the units are ready for

occupancy. When the project consists of more than one structure, interest credits may become effective for each structure as it is completed and ready for occupancy. When the borrower knows the date the interest credit should become effective, he should notify the County Supervisor and execute Form FmHA 444–7. A separate Interest Credit and Rental Assistance Agreement will be executed for each loan the borrower receives.

B. *Change in Interest Credit Plan.* A borrower under Plan I or Plan II may change, if it can meet the requirements of the other plan, by executing a new Interest Credit and Rental Assistance Agreement during the month of November or December preceding the year in which the new plan will be in effect except that borrower entering into the rental assistance program may do so at any time. Except for rental assistance Form FmHA 444–7 will be executed during November or December, but will not be effective until the following January 1.

C. *Borrowers Who Are Not Receiving An Interest Credit.* If an eligible borrower did not execute an Interest Credit and Rental Assistance Agreement in accordance with paragraph VII A above, it may do so during the month of November or December preceding the year for which the interest credit is to be received. Form FmHA 444–7 will be executed during November or December, but will not be effective until the following January 1. In an unusual case, the National Office may grant interest credits to be effective immediately when the State Director provides adequate documentation that unless interest credits are granted immediately the project cannot continue on a sound financial basis.

* * * * *

IX. *Loan payments:* The transmittal of collections will be handled in accordance with Part 1862 of this Chapter. With each payment made, the borrower will complete Form FmHA 444–29. The FmHA representative handling the transmittal to the Finance Office will complete Form FmHA 444–9. The forms will be executed in accordance with the requirements of the Forms Manual Insert.

A. *Plan I.*

1. The borrower will make monthly payments in an amount necessary to repay the loan as if the loan carried a 3 percent interest rate. When a rental surcharge is collected as described in paragraph VI B of this Exhibit, the surcharge will be included and will be credited as interest to the account as a regular payment. The special handling of payments involving rental surcharges is explained in paragraph IX A 2 of this Exhibit.

2. When a payment is made for any month that involves a rental surcharge, Forms FmHA 444–29 and FmHA 444–9 will be completed with the amount of the surcharge being inserted in the spaces provided. These forms will be completed and the amount shown and transmitted regardless of whether the surcharge is actually collected by the borrower.

B. *Plan II.* The borrower will make monthly payments as though the note was written at a 1 percent interest rate plus any overage due and payable whether or not collected from the tenants.

1. [Deleted.]
2. [Deleted.]
3. [Deleted.]

* * * * *

10. In Exhibit J–1, Footnote 2 is amended and reads as follows:

EXHIBIT J–1.—EXAMPLE OF INTEREST CREDIT DETERMINATION FOR RRH OR RCH PROJECTS (PLAN II)

* * * * *

[2] The cost of all utilities and other public services will be included in the budget as an operating cost. The borrower has the option of paying all utility costs (except for the telephone and charges for cable TV) or they may be paid directly by the tenants. When the tenant pays utilities, the rental rate paid by the family will be reduced by the allowance as determined in accordance with Exhibit F–5A.

11. Exhibits K, L, M, and N are added to this Subpart and read as follows:

EXHIBIT K.—LOAN AGREEMENT

(RRH LOAN TO A PARTNERSHIP OPERATING ON A LIMITED PROFIT BASIS)

1. *Parties and Terms Defined.* This agreement dated _____ of the _____, a Partnership, duly organized and operating under

_____,
(Authorizing State statute)

herein called "Partnership", whose post office address is _____, with the United States of America acting through the Farmers Home Administration, United States Department of Agriculture, herein called "the Government", is made in consideration of a loan, herein called "the loan", to Partnership in the amount of $_____ made or insured, or to be made or insured, by the Government pursuant to sections 515(b) and 521(a) of the Housing Act of 1949. The loan may be insured by the Government for the benefit of the lender. The loan shall be used solely for the specific eligible purposes for which it is approved by the Government in order to provide rental housing and related facilities for eligible occupants, as defined by the Government in rural areas. Such housing and facilities and the land constituting the site as herein called "the housing". The indebtedness and other obligations of the Partnership under the note evidencing the loan, the related security instrument and related agreement are herein called the "loan obligations".

2. *Execution of Loan Instruments.* To evidence the loan, the Partnership shall issue a promissory note signed by all partners for the amount of the loan, payable in installments over a period of ____ years, bearing interest at a rate, and containing other terms and conditions, prescribed by the Government. To secure the note or any indemnity or other agreement by the Government, all partners are to execute a real estate security instrument giving a lien upon the housing and upon such other real property of the Partnership as the Government shall require, including an assignment of the rents and profits as collateral security to be enforced in the event of any default by the Partnership, and containing other terms and conditions prescribed by the Government. All partners are to execute any other security instruments and other instruments and documents required by the Government in connection with the making or insuring of the loan.

3. *Equal Opportunity and Nondiscrimination Provisioins.* The Partnership will execute (a) any undertakings and agreements required by the Government pursuant to Executive Order 11063 regarding nondiscrimination in the use and occupancy of housing, (b) Farmers Home Administration Form FmHA 400–1 entitled "Equal Opportunity Agreement", including an "Equal Opportunity Clause" to be incorporated in or attached as a rider to each construction contract the amount of which exceeds $10,000 and any part of which is paid for with funds from the loan, and (c) Farmers Home Administration Form FmHA 400–4, entitled "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part thereof and any other undertakings and agreements required by the Government pursuant to lawful authority.

4. *Supervised Bank Account.* The proceeds of the Government loan and the amount of $_____ to be contributed by the Partnership from its own funds and used for eligible loan purposes shall be deposited in a supervised bank account as required by the Government.[1] Amounts in the supervised bank account exceeding $40,000 shall be secured by the depository bank in advance in accordance with U.S. Treasury Department Circular No. 176. As provided by the terms of the agreement creating the supervised bank account, all funds therein shall, until duly expended, collaterally secure the loan obligations. Withdrawals (or advances) from the supervised bank account by (or for) the Partnership shall be made only on checks or statements and partial payment estimates) signed by a partner and countersigned by the County Supervisor of the Farmers Home Administration, and only for the specific loan purposes approved in writing by the Government. The Partnership's share of any liquidated damages or other monies paid by defaulting contractors or their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with the Government loan funds are paid in full, any balance remaining in the supervised bank account shall be applied on the note as an "extra payment" as defined in the regulations of the Farmers Home Administration, and the supervised bank account shall be closed.

5. *Accounts for Housing Operations and Loan Servicing.* The Partnership shall establish on its books the following accounts, which shall be maintained so long as the loan obligations remain unsatisfied: A General Fund Account, an Operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by section 9. One or more of the partners shall execute a fidelity bond with a surety company approved by the Government, in an amount not less than the estimated maximum amount of such funds to be held in said accounts at any one time. The United States of America shall be named as co-obligee, and the amount of the bond shall not be reduced without the prior written consent of the Government. The Partnership in its discretion may at any time establish and utilize additional accounts to handle any funds not covered by the provisions of this agreement.

6. *General Fund Account.* By the time the Government loan is closed or interim funds are obtained to preclude the necessity for multiple advances of loan funds, whichever occurs first, the Partnership shall from its own funds deposit in the General Fund Account the amount of $_____. All income and revenue from the housing shall, upon receipt, be immediately deposited in the General Fund Account. The Partnership may also in its discretion at any time deposit therein other funds, not otherwise provided for by this agreement, to be used for any of the purposes authorized in sections 7, 8, or 9. Funds in the General Fund Account shall be used only as authorized in said sections and until so used shall be held by the Partnership in trust for the Government as security for the loan obligations.

7. *Operation and Maintenance Account.* Not later than the 15th of each month, out

[1] Only loan funds and borrower's funds to be used for an eligible loan purpose, may be deposited in the supervised bank account.

of the General Fund Account shall be transferred to the Operation and Maintenance Account sufficient amounts to enable the Partnership to pay from the Operation and Maintenace Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes, insurance and normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan or income or revenue from the housing.

8. *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 7, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations and, until so used, shall be held by the Partnership in trust for the Government as security therefor.

9. *Reserve Account.*

(a) Immediately after each transfer to the Debt Service Account as provided in section 8, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this agreement and until so used shall be held by the Partnership in trust as security for the loan obligations. Transfers at a rate not less than $_____[2] annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of $_____[3] and shall be resumed at any time when necessary, because of disbursements from the Reserve Account to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve". After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of the Partnership, consist of an amount, referred to herein as the "prepayment reserve", by which the Partnership is "ahead of schedule" as defined in the regulations of the Farmers Home Administration. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve Account may be used by the Partnership—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs of replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 7.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by the Partnership which in the judgment of the Government likely will promote the loan purposes without jeopardizing collectibilty of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(5) To pay dividends to the partners of up to 8% per annum of the borrowers initial investment of $_____[4] provided the Partnership determines that after such disbursement (a) the amount in the Reserve Account will be not less than that required by subsection 9(a) to be accumulated by that time, and (b) during the next 12 months the amount in the Reserve Account will likely not fall below that required to be accumulated by the end of such period.

(c) Any amount in the Reserve Account which exceeds the aggregate sum specified in subsection 9(a) and is not agreed between the Partnership and the Government to be used for purposes authorized in subsection 9(b) shall be applied promptly on the loan obligations.

10. *Regulatory Covenants.* So long as the loan obligations remain unsatisfied, the Partnership shall—

(a) Impose and collect such fees, assessments, rents, and charges that the income of the housing will be sufficient at all times for operation and maintenance of the housing, payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) If return on investment for any year exceeds 8 percent per annum of borrower's initial investment of $_____[4], the Government may require that the borrower reduce rents the following year and/or refund the excess return on investment to the tenants or use said excess in a manner that will best benefit the tenants.

(c) Maintain complete books and records relating to the housing's financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

(d) If required or permitted by the Government, revise the account herein provided for, or establish new accounts, to cover the handling and disposition of income from and payment of expenses attributable to the housing or to any other property securing the loan obligations, and submit regular and special reports concerning the housing or financial affairs.

(e) Agree that if any provisions of its organizational documents or any verbal understandings in any conflict with the terms of this loan agreement, the terms of the loan agreement shall prevail and govern.

(f) Unless the Government gives prior consent—

(1) Not use the housing for any purpose other than as rental housing and related facilities for eligible occupants.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan obligations.

(3) Not change the membership by either the admission or withdrawal of partners nor cause or permit voluntary dissolution of the Partnership nor cause or permit any transfer or encumbrance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise.

(4) Not borrow any money, nor incur any liability aside from current expenses as defined in section 7 which would have a detrimental effect on the housing.

(g) Submit for the housing the following to the Government for prior review not less than _____ days before the effective dates, and for prior approval by the Government.

(1) Annual budgets and operating plans.

(2) Statements of management policy and practice, including eligibility criteria and implementing rules for occupancy of the housing.

(3) Proposed rents and charges and other terms of rental agreements with occupants and compensation to employees of the housing project.

(4) Rates of compensation to officers and employees of the Partnership payable from or chargeable to any account provided for in this agreement.

(h) If required by the Government, modify and adjust any matters covered by clause (g) of this section.

(i) Comply with all its agreements and obligations in or under the note, security instrument, and any related agreement executed by the Partnership in connection with the loan.

(j) Not alter, amend, or repeal without the Government's consent this agreement or the Partnership Agreement, which shall constitute parts of the total contract between the Partnership and the Government relating to the loan obligation.

(k) Do other things as may be required by the Government in connection with the operation of the housing, or with any of the Partnership's operations or affairs which may affect the housing, the loan obligation, or the security.

11. *Refinancing the Loan.* If at any time it appears to the Government that the Partnership is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government the Partnership will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

12. *General Provisions.* (a) It is understood and agreed by the Partnership that any loan made or insured will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan, enforce such limitations, and protect the Government's financial interest in the loan and the security.

(b) The provisions of this agreement are representations to the Government to induce the Government to make or insure a loan to the Partnership as aforesaid. If the Partnership should fail to comply wtih or preform any provision of the agreement or any requirement made by the Government pursuant to this agreement, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of such failure, the Government at its option may declare the entire amount of the loan obligations immediately due and payable and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(c) Any provisions of this agreement may be waived by the Government in its sole discretion, or changed by agreement between

[2] In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence and indicated by footnote 3.

[3] The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan.

[4] The amount to be inserted shall be determined in accordance with § 1822.88(k).

the Government and the Partnership, after this agreement becomes contractually binding, to any extent such provisions could legally have been foregone or agreed to in amended form, by the Government initially.

(d) Any notice, consent, approval, waiver, or agreement must be in writing.

(e) This agreement may be cited in the security instrument and any other instruments as the "Loan Agreement of _____, 19__."
(date of this agreement)

_____
Partnership Name

By:

_____ _____
_____ _____
_____ _____

EXHIBIT L.—LOAN AGREEMENT

(RRH LOAN TO A PARTNERSHIP)

1. *Parties and Terms Defined.* This agreement dated _____ of the _____, _____, a Partnership, duly organized and operating under _____, _____
(Authorizing State statute)

herein called "Partnership," whose post office address is _____, with the United States of America acting through the Farmers Home Administration, United States Department of Agriculture, herein called "the Government," is made in consideration of a loan, herein called "the loan," to Partnership in the amount of $ _____ made or insured, or to be made or insured, by the Government pursuant to sections 515(b) and 521(a) of the Housing Act of 1949. The loan may be insured by the Government for the benefit of the lender. The loan shall be used solely for the specific eligible purposes for which it is approved by the Government in order to provide rental housing and related facilities for eligible occupants, as defined by the Government in rural areas. Such housing and facilities and the land constituting the site as herein called "the housing." The indebtedness and other obligations of the Partnership under the note evidencing the loan, the related security instrument and related agreement are herein called the "loan obligations."

2. *Execution of Loan Instruments.* To evidence the loan, the Partnership shall issue a promissory note signed by all partners for the amount of the loan, payable in installments over a period of ____ years, bearing interest at a rate, and containing other terms and conditions, prescribed by the Government. To secure the note or any indemnity or other agreement by the Government, all partners are to execute a real estate security instrument giving a lien upon the housing and upon such other real property of the Partnership as the Government shall require, including an assignment of the rents and profits as collateral security to be enforced in the event of any default by the Partnership, and containing other terms and conditions prescribed by the Government. All partners are to execute any other security instruments and other instruments and documents required by the Government in connection with the making or insuring of the loan.

3. *Equal Opportunity and Nondiscrimination Provisions.* The Partnership will execute (a) any undertakings and agreements required by the Government pursuant to Executive Order 11063 regarding nondiscrimination in the use and occupancy of housing, (b) Farmers Home Administration Form FmHA 400–1 entitled "Equal Opportunity Agreement," including an "Equal Opportunity Clause" to be incorporated in or attached as a rider to each construction contract the amount of which exceeds $10,000 and any part of which is paid for with funds from the loan, and (c) Farmers Home Administration Form FmHA 400–4, entitled "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part thereof and any other undertakings and agreements required by the Government pursuant to lawful authority.

4. *Supervised Bank Account.* The proceeds of the Government loan and the amount of $_____ to be contributed by the Partnership from its own funds and used for eligible loan purposes shall be deposited in a supervised bank account as required by the Government.[1] Amounts in the supervised bank account exceeding $40,000 shall be secured by the depository bank in advance in accordance with U.S. Treasury Department Circular No. 176. As provided by the terms of the agreement creating the supervised bank account, all funds therein shall, until duly expended, collaterally secure the loan obligations. Withdrawals (or advances) from the supervised bank account by (or for) the Partnership shall be made only on checks (or statements and partial payment estimates) signed by a general partner and countersigned by the County Supervisor of the Farmers Home Administration, and only for the specific loan purposes approved in writing by the Government. The Partnership's share of any liquidated damages or other monies paid by defaulting contractors or their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with the Government loan funds are paid in full, any balance remaining in the supervised bank account shall be applied on the note as an "extra payment" as defined in the regulations of the Farmers Home Administration, the supervised bank account shall be closed.

5. *Accounts for Housing Operations and Loan Servicing.* The Partnership shall establish on its books the following accounts, which shall be maintained so long as the loan obligations remain unsatisfied: A General Fund Account, an Operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by section 9. One or more general partners shall execute a fidelity bond with a surety company approved by the Government, in an amount not less than the estimated maximum amount of such funds to be held in said accounts at any one time. The United States of America shall be named as co-obligee, and the amount of the bond shall not be reduced without the prior written consent of the Government. The Partnership in its discretion may at any time establish and utilize additional accounts to handle any funds not covered by the provisions of this agreement.

6. *General Fund Account.* By the time the Government loan is closed or interim funds are obtained to preclude the necessity for multiple advances of loan funds, whichever occurs first, the Partnership shall from its own funds deposit in the General Fund Account the amount of $_____. All income and revenue from the housing shall, upon receipt, be immediately deposited in the General Fund Account. The Partnership may also in its discretion at any time deposit therein other funds, not otherwise provided for by this agreement, to be used for any of the purposes authorized in section 7, 8, or 9. Funds in the General Fund Account shall be used only as authorized in said sections and until so used shall be held by the Partnership in trust for the Government as security for the loan obligations.

7. *Operation and Maintenance Account.* Not later than the 15th of each month, out of the General Fund Account shall be transferred to the Operation and Maintenance Account sufficient amounts to enable the Partnership to pay from the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes, insurance, and normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan or income or revenue from the housing.

8. *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 7, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations and, until so used, shall be held by the Partnership in trust for the Government as security therefor.

9. *Reserve Account.* (a) Immediately after each transfer to the Debt Service Account as provided in Section 8, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this agreement and until so used shall be held by the Partnership in trust as security for the loan obligations. Transfers at a rate not less than $_____[2] annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of $_____[3] and shall be resumed at any time when necessary, because of disbursements from the Reserve Account to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of the Partnership, consist of an amount, referred to herein as the "prepayment reserve," by which the Partnership is "ahead of schedule" as defined in the regulations of the Farmers Home Administration. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve Account may be used by the Partnership—

---

[1] Only loan funds and borrower's funds to be used for an eligible loan purpose, may be deposited in the supervised bank account.

[2] In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence and indicated by footnote 3.

[3] The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan.

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 7.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by the Partnership which in the judgment of the Government likely will promote the loan purposes without jeopardizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(c) Any amount in the Reserve Account which exceeds the aggregate sum specified in subsection 9(a) and is not agreed between the Partnership and the Government to be used for purposes authorized in subsection 9(b) shall be applied promptly on the loan obligations.

10. *Regulatory Covenants.* So long as the loan obligations remain unsatisfied, the Partnership shall—

(a) Impose and collect such fees, assessments, rents, and charges that the income of the housing will be sufficient at all times for operation and maintenance of the housing, payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to the housing's financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

(c) If required or permitted by the Government, revise the account herein provided for, or establish new accounts, to cover the handling and disposition of income from and payment of expenses attributable to the housing or to any other property securing the loan obligations, and submit regular and special reports concerning the housing or financial affairs.

(d) Agree that if any provisions of its organizational documents or any verbal understandings in any conflict with the terms of this loan agreement, the terms of the loan agreement shall prevail and govern.

(e) Unless the Government gives prior consent—

(1) Not use the housing for any purpose other than as rental housing and related facilities for eligible occupants.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan obligations.

(3) Not change the Membership by either the admission or withdrawal of partners, nor cause or permit voluntary dissolution of the Partnership, nor cause or permit any transfer or encumbrance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise.

(4) Not borrow any money, nor incur any liability aside from current expenses as defined in section 7 which would have a detrimental effect on the housing.

(f) Submit for the housing the following to the Government for prior review not less than ____ days before the effective dates, and for prior approval by the Government:

(1) Annual budgets and operating plans.

(2) Statements of management policy and practice, including eligibility criteria and implementing rules for occupancy of the housing.

(3) Proposed rents and charges and other terms of rental agreements with occupants and compensation to employees of the housing project.

(4) Rates of compensation to officers and employees of the Partnership payable from or chargeable to any account provided for in this agreement.

(g) If required by the Government, modify and adjust any matters covered by clause (f) of this section.

(h) Comply with all its agreements and obligations in or under the note, security instrument, and any related agreement executed by the Partnership in connection with the loan.

(i) Not alter, amend, or repeal without the Government's consent this agreement or the Partnership Agreement, which shall constitute parts of the total contract between the Partnership and the Government relating to the loan obligation.

(j) Do other things as may be required by the Government in connection with the operations or affairs which may affect the housing, the loan obligation, or the security.

11. *Refinancing the Loan.* If at any time it appears to the Government that the Partnership is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government the Partnership will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

12. *General Provisions.* (a) It is understood and agreed by the Partnership that any loan made or insured will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan, enforce such limitations, and protect the Government's financial interest in the loan and the security.

(b) The provisions of this agreement are representations to the Government to induce the Government to make or insure a loan to the Partnership as aforesaid. If the Partnership should fail to comply with or perform any provision of the agreement or any requirement made by the Government pursuant to this agreement, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of such failure, the Government at its option may declare the entire amount of the loan obligations immediately due and payable and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(c) Any provisions of this agreement may be waived by the Government in its sole discretion, or changed by agreement between the Government and the Partnership, after this agreement becomes contractually binding, to any extent such provisions could legally have been foregone or agreed to in amended form, by the Government initially.

(d) Any notice, consent, approval, waiver, or agreement must be in writing.

(e) This agreement may be cited in the security instrument and any other instruments as the "Loan Agreement of _____, 19____."
(date of this agreement)

_____
Partnership Name

By:

_____ _____

_____ _____

_____ _____

EXHIBIT M—LOAN AGREEMENT

(RRH LOAN TO A LIMITED PARTNERSHIP OPERATING ON A LIMITED PROFIT BASIS)

1. *Parties and Terms Defined.* This agreement dated _____ of the _____, a Partnership, duly organized and operating under _____,
(Authorizing State statute)
herein called "Partnership," whose post office address is _____, with the United States of America acting through the Farmers Home Administration, United States Department of Agriculture, herein called "the Government," is made in consideration of a loan, herein called "the loan," to Partnership in the amount of $_____ made or insured, or to be made or insured, by the Government pursuant to sections 515(b) and 521(a) of the Housing Act of 1949. The loan may be insured by the Government for the benefit of the lender. The loan shall be used solely for the specific eligible purposes for which it is approved by the Government in order to provide rental housing and related facilities for eligible occupants, as defined by the Government in rural areas. Such housing and facilities and the land constituting the site as herein called "the housing." The indebtedness and other obligations of the Partnership under the note evidencing the loan, the related security instrument and related agreement are herein called the "loan obligations."

2. *Execution of Loan Instruments.* To evidence the loan, the Partnership shall issue a promissory note signed by general partner(s) for the amount of the loan, payable in installments over a period of ____ years, bearing interest at a rate, and containing other terms and conditions, prescribed by the Government. To secure the note or any indemnity or other agreement by the Government, the general partner(s) are to execute a real estate security instrument giving a lien upon the housing and upon such other real property of the Partnership as the Government shall require, including an assignment of the rents and profits as collateral security to be enforced in the event of any default by the Partnership, and containing other terms and conditions prescribed by the Government. The general partner(s) are to execute any other security instruments and other instruments and documents required by the Government in connection with the making or insuring of the loan.

3. *Equal Opportunity and Nondiscrimination Provisions.* The Partnership will execute (a) any undertakings and agreements required by the Government pursuant to Executive Order 11063 regarding nondiscrimination in the use and occupancy of housing, (b) Farmers Home Administration Form FmHA 400–1 entitled "Equal Opportunity Agreement," including an "Equal Opportunity Clause" to be incorporated in or attached as a rider to each construction contract the amount of which exceeds $10,000 and any part of which is paid for with funds from the loan, and (c) Farmers Home Administration Form FmHA 400–4, entitled "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part thereof and any other undertakings and agreements required by the Government pursuant to lawful authority.

4. *Supervised Bank Account.* The proceeds of the Government loan and the amount of $_____ to be contributed by the Partnership from its own funds and used for eligible loan purposes shall be deposited in a supervised bank account as required by the

Government.[1] Amounts of the Government loan in the supervised bank account exceeding $40,000 shall be secured by the depository bank in advance in accordance with U.S. Treasury Department Circular No. 176. As provided by the terms of the agreement creating the supervised bank account, all funds therein shall, until duly expended, collaterally secure the loan obligations. Withdrawals (or advances) from the supervised bank account by (or for) the Partnership shall be made only on checks (or statements and partial payment estimates) signed by a general partner and countersigned by the County Supervisor of the Farmers Home Administration, and only for the specific loan purposes approved in writing by the Government. The Partnership's share of any liquidated damages or other monies paid by defaulting contractors or their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with the Government loan funds are paid in full, any balance remaining in the supervised bank account shall be applied on the note as an "extra payment" as defined in the regulations of the Farmers Home Administration, and the supervised bank account shall be closed.

5. *Accounts for Housing Operations and Loan Servicing.* The Partnership shall establish on its books the following accounts, which shall be maintained so long as the loan obligations remain unsatisfied: A General Fund Account, an Operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by section 9. The general partner(s) shall execute a fidelity bond with a surety company approved by the Government, in an amount not less than the estimated maximum amount of such funds to be held in said accounts at any one time. The United States of America shall be named as co-obligee, and the amount of the bond shall not be reduced without the prior written consent of the government. The Partnership in its discretion may at any time establish and utilize additional accounts to handle any funds not covered by the provisions of this agreement.

6. *General Fund Account.* By the time the Government loan is closed or interim funds are obtained to preclude the necessity for multiple advances of loan funds, whichever occurs first, the Partnership shall from its own funds deposit in the General Fund Account the amount of $_____. All income and revenue from the housing shall, upon receipt, be immediately deposited in the General Fund Account. The Partnership may also in its discretion at any time deposit therein other funds, not otherwise provided for by this agreement, to be used for any of the purposes authorized in section 7, 8, or 9. Funds in the General Fund Account shall be used only as authorized in said sections and until so used shall be held by the Partnership in trust for the Government as security for the loan obligations.

7. *Operation and Maintenance Account.* Not later than the 15th of each month, out of the General Fund Account shall be transferred to the Operation and Maintenance Account sufficient amounts to enable the Partnership to pay from the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes, insurance and normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan or income or revenue from the housing.

8. *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 7, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan; Funds in the Debt Service Account shall be used only for payments on the loan obligations and until so used, shall be held by the Partnership in trust for the Government as security therefor.

9. *Reserve Account.* (a) Immediately after each transfer to the Debt Service Account as provided in section 8, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this agreement and until so used shall be held by the Partnership in trust as security for the loan obligations. Transfers at a rate of not less than $_____[2] annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of $_____[3] and shall be resumed at any time when necessary, because of disbursements from the Reserve Account to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of the Partnership, consist of an amount, referred to herein as the "prepayment reserve," by which the Partnership is "ahead of schedule" as defined in the regulations of the Farmers Home Administration. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve Account may be used by the Partnership—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 7.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by the Partnership which in the judgment of the Government likely will promote the loan purposes without jeopardizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(5) To pay dividends to the partners of up to 8 percent per annum of the borrowers initial investment of $_____[4] provided the Partnership determines that after such disbursement (a) the amount in the Reserve Account will be not less than that required by subsection 9 (a) to be accumulated by that time and (b) during the next 12 months the amount in the Reserve Account will likely not fall below that required to be accumulated by the end of such period.

(c) Any amount in the Reserve Account which exceeds the aggregate sum specified in subsecton 9(a) and is not agreed between the Partnership and the Government to be used for purposes authorized in subsection 9 (b) shall be applied promptly on the loan obligations.

10. *Regulatory Covenants.* So long as the loan obligations remain unsatisfied, the Partnership shall—

(a) Impose and collect such fees, assessments, rents, and charges that the income of the housing will be sufficient at all times for operation and maintenance of the housing, payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) If return on investment for any year exceeds 8 percent per annum of borrower's initial investment of $_____,[4] the Government may require that the borrower reduce rents the following year and/or refund the excess return on investment to the tenants or use said excess in a manner that will best benefit the tenants.

(c) Maintain complete books and records relating to the housing's financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

(d) If required or permitted by the Government, revise the accounts herein provided for, or establish new accounts, to cover the handling and disposition of income from and payment of expenses attributable to the housing or to any other property securing the loan obligations, and submit regular and special reports concerning the housing or financial affairs.

(e) Agree that if any provisions of its organizational documents or any verbal understandings in any conflict with the terms of this loan agreement, the terms of the loan agreement shall prevail and govern.

(f) Unless the Government gives prior consent—

(1) Not use the housing for any purpose other than as rental housing and related facilities for eligible occupants.

[1] Only loan funds and borrower's funds to be used for an eligible loan purpose, may be deposited in the supervised bank account.

[2] In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence and indicated by footnote 3.

[3] The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan.

[4] The amount to be inserted shall be determined in accordance with § 1822.88(k).

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan obligations.

(3) Not change the membership by either the admission or withdrawal of the general partner(s) nor permit the general partner(s) to maintain less than a 5 percent financial interest in the organization nor cause or permit voluntary dissolution of the Partnership nor cause or permit any transfer or encumbrance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise.

(4) Not borrow any money, nor incur any liability aside from current expenses as defined in section 7 which would have a detrimental effect on the housing.

(g) Submit for the housing the following to the Government for prior review not less than _____ days before the effective dates, and for prior approval by the Government.

(1) Annual budgets and operating plans.

(2) Statements of management policy and practice, including eligibility criteria and implementing rules for occupancy of the housing.

(3) Proposed rents and charges and other terms of rental agreements with occupants and compensation to employees of the housing project.

(4) Rates of compensation to officers and employees of the Partnership payable from or chargeable to any account provided for in this agreement.

(h) If required by the Government, modify and adjust any matters covered by clause (g) of this section.

(i) Comply with all its agreements and obligations in or under the note, security instrument, and any related agreement executed by the Partnership in connection with the loan.

(j) Not alter, amend, or repeal without the Government's consent this agreement or the Partnership Agreement, which shall constitute parts of the total contract between the Partnership and the Government relating to the loan obligation.

(k) Do other things as may be required by the Government in connection with the operation of the housing, or with any of the Partnership's operations or affairs which may affect the housing, the loan obligation, or the security.

11. *Refinancing the Loan.* If at any time it appears to the Government that the Partnership is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government the Partnership will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

12. *General Provisions.* (a) It is understood and agreed by the Partnership that any loan made or insured will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan, enforce such limitations, and protect the Government's financial interest in the loan and the security.

(b) The provisions of this agreement are representations to the Government to induce the Government to make or insure a loan to the Partnership as aforesaid. If the Partnership should fail to comply with or perform any provision of the agreement or any requirement made by the Government pursuant to this agreement, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of such failure, the Government at its option may declare the entire amount of the loan obligations immediately due and payable and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(c) Any provisions of this agreement may be waived by the Government in its sole discretion, or changed by agreement between the Government and the Partnership, after this agreement becomes contractually binding, to any extent such provisions could legally have been foregone or agreed to in amended form, by the Government initially.

(d) Any notice, consent, approval, waiver, or agreement must be in writing.

(e) This agreement may be cited in the security instrument and any other instruments as the "Loan Agreement of _____, 19__."
(date of this agreement)

_____
(Partnership name)

BY:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

EXHIBIT N—LOAN AGREEMENT

(RRH LOAN TO A LIMITED PARTNERSHIP)

1. *Parties and Terms Defined.* This agreement dated _____ of the _____, a Limited Partnership, duly organized and operating under

_____,
(Authorizing State statute)

herein called "Partnership," whose post office address is _____, with the United States of America acting through the Farmers Home Administration, United States Department of Agriculture, herein called "the Government," is made in consideration of a loan, herein called "the loan," to Partnership in the amount of $_____ made or insured, or to be made or insured, by the Government pursuant to sections 515(b) and 521(a) of the Housing Act of 1949. The loan may be insured by the Government for the benefit of the lender. The loan shall be used solely for the specific eligible purposes for which it is approved by the Government in order to provide rental housing and related facilities for eligible occupants, as defined by the Government in rural areas. Such housing and facilities and the land constituting the site as herein called "the housing." The indebtedness and other obligations of the Partnership under the note evidencing the loan, the related security instrument and related agreement are herein called the "loan obligations."

2. *Execution of Loan Instruments.* To evidence the loan the Partnership shall issue a promissory note signed by the general partner(s) for the amount of the loan, payable in installments over a period of _____ years, bearing interest at a rate, and containing other terms and conditions, prescribed by the Government. To secure the note or any indemnity or other agreement by the Government, the general partner(s) are to execute a real estate security instrument giving a lien upon the housing and upon such other real property of the Partnership as the Government shall require, including an assignment of the rents and profits as collateral security to be enforced in the event of any default by the Partnership, and containing other terms and conditions prescribed by the Government. The general partner(s) are to execute any other security instruments and other instruments and documents required by the Government in connection with the making or insuring of the loan.

3. *Equal Opportunity and Nondiscrimination Provisions.* The Partnership will execute (a) any undertakings and agreements required by the Government pursuant to Executive Order 11063 regarding nondiscrimination in the use and occupancy of housing, (b) Farmers Home Administration Form FmHA 400–1 entitled "Equal Opportunity Agreement", including an "Equal Opportunity Clause" to be incorporated in or attached as a rider to each construction contract the amount of which exceeds $10,000 and any part of which is paid for with funds from the loan, and (c) Farmers Home Administration Form FmHA 400–4, entitled "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part thereof and any other undertakings and agreements required by the Government pursuant to lawful authority.

4. *Supervised Bank Account.* The proceeds of the Government loan and the amount of $_____to be contributed by the Partnership from its own funds and used for eligible loan purposes shall be deposited in a supervised bank account as required by the Government.[1] Amounts in the supervised bank account exceeding $40,000 shall be secured by the depository bank in advance in accordance with U.S. Treasury Department Circular No. 176. As provided by the terms of the agreement creating the supervised bank account, all funds therein shall, until duly expended, collaterally secure the loan obligations. Withdrawals (or advances) from the supervised bank account by (or for) the Partnership shall be made only on checks (or statements and partial payment estimates) signed by a general partner and countersigned by the County Supervisor of the Farmers Home Administration, and only for the specific loan purposes approved in writing by the Government. The Partnership's share of any liquidated damages or other monies paid by defaulting contractors or their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with the Government loan funds are paid in full, any balance remaining in the supervised bank account shall be applied on the note as an "extra payment" as defined in the regulations of the Farmers Home Administration, and the supervised bank account shall be closed.

5. *Accounts for Housing Operations and Loan Servicing.* The Partnership shall establish on its books the following accounts, which shall be maintained so long as the loan obligations remain unsatisfied: A General Fund Account, an Operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corportation, except for any portion invested in readily marketable obligations of the United States as authorized by section 9. The general partners shall execute a fidelity bond with a surety company approved by the Government, in an amount not less than the estimated maximum amount of such funds to be held in said accounts at any one time. The United States of America shall be named as coobligee, and the amount of the bond shall not be reduced without the prior written consent of the Government.

[1] Only loan funds and borrower's funds to be used for an eligible loan purpose, may be deposited in the supervised bank account.

The Partnership in its discretion may at any time establish and utilize additional accounts to handle any funds not covered by the provisions of this agreement.

6. *General Fund Account.* By the time the government loan is closed or interim funds are obtained to preclude the necessity for multiple advances of loan funds, whichever occurs first, the Partnership shall from its own funds deposit in the General Fund Account the amount of $_____. All income and revenue from the housing shall, upon receipt, be immediately deposited in the General Fund Account. The Partnership may also in its discretion at any time deposit therein other funds, not otherwise provided for by this agreement, to be used for any of the purposes authorized in sections 7, 8, or 9. Funds in the General Fund Account shall be used only as authorized in said sections and until so used shall be held by the Partnership in trust for the Government as security for the loan obligations.

7. *Operation and Maintenance Account.* Not later than the 15th of each month, out of the General Fund Account shall be transferred to the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes, insurance and normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan or income or revenue from the housing.

8. *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 7, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations and, until so used, shall be held by the Partnership in trust for the Government as security therefor.

9. *Reserve Account.* (a) Immediately after each transfer to the Debt Service Account as provided in section 8, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this agreement and until so used shall be held by the Partnership in trust as security for the loan obligations. Transfers at a rate not less than $_____[3] annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of $_____[3] and shall be resumed at any time when necessary, because of disbursements from the Reserve Account to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of the Partnership, consist of an amount, referred to herein as the "prepayment reserve," by which the Partnership is "ahead of schedule" as defined in the regulations of the Farmers Home Administration. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve Account may be used by the Partnership—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 7.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by the Partnership which in the judgment of the Government likely will promote the loan purposes without jeopardizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(c) Any amount in the Reserve Account which exceeds the aggregate sum specified in subsection 9(a) and is not agreed between the Partnership and the Government to be used for purposes authorized in subsection 9(b) shall be applied promptly on the loan obligations.

10. *Regulatory Covenants.* So long as the loan obligations remain unsatisfied, the Partnership shall—

(a) Impose and collect such fees, assessments, rents and charges that the income of the housing will be sufficient at all times for operation and maintenance of the housing, payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to the housing's financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

(c) If required or permitted by the Government, revise the accounts herein provided for, or establish new accounts, to cover the handling and disposition of income from and payment of expenses attributable to the housing or to any other property securing the loan obligations, and submit regular and special reports concerning the housing or financial affairs.

(d) Agree that if any provisions of its organizational documents or any verbal understandings in any conflict with the terms of this loan agreement, the terms of the loan agreement shall prevail and govern.

(e) Unless the Government gives prior consent—

(1) Not use the housing for any purpose other than as rental housing and related facilities for eligible occupants.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan obligations.

(3) Not change the membership by either the admission or withdrawal of the general partner(s) nor permit the general partner(s) to maintain less than a 5 percent financial interest in the organization nor cause or permit voluntary dissolution of the Partnership nor cause or permit any transfer or encumbrance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise.

(4) Not borrow any money, nor incur any liability aside from current expenses as defined in section 7 which would have a detrimental effect on the housing.

(f) Submit for the housing the following to the Government for prior review not less than _____ days before the effective dates, and for prior approval by the Government.

(1) Annual budgets and operating plans.

(2) Statements of management policy and practice, including eligibility criteria and implementing rules for occupancy of the housing.

(3) Proposed rents and charges and other terms of rental agreements with occupants and compensation to employees of the housing project.

(4) Rates of compensation to officers and employees of the Partnership payable from or chargeable to any account provided for in this agreement.

(g) If required by the Government, modify and adjust any matters covered by clause (f) of this section.

(h) Comply with all its agreements and obligations in or under the note, security instrument, and any related agreement executed by the Partnership in connection with the loan.

(i) Not alter, amend, or repeal without the Government's consent this agreement or the Partnership Agreement, which shall constitute parts of the total contract between the Partnership and the Government relating to the loan obligation.

(j) Do other things as may be required by the Government in connection with the operation of the housing, or with any of the Partnership's operations or affairs which may affect the housing, the loan obligation, or the security.

11. *Refinancing the Loan.* If at any time it appears to the Government that the Partnership is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government the Partnership will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

12. *General Provisions.* (a) It is understood and agreed by the Partnership that any loan made or insured will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan, enforce such limitations, and protect the Government's financial interest in the loan and the security.

(b) The provisions of this agreement are representations to the Government to induce the Government to make or insure a loan to the Partnership as aforesaid. If the Partnership should fail to comply with or perform any provision of the agreement or any requirement made by the Government pursuant to this agreement, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of such failure, the Government at its option may declare the entire amount of the loan obligations immediately due and payable and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

[3] In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence and indicated by footnote 3.

[3] The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan.

(c) Any provision of this agreement may be waived by the Government in its sole discretion, or changed by agreement between the Government and the Partnership, after this agreement becomes contractually binding, to any extent such provisions could legally have been foregone or agreed to in amended form, by the Government initially.

(d) Any notice, consent, approval, waiver, or agreement must be in writing.

(e) This agreement may be cited in the security instrument and any other instrument as the "Loan Agreement of _____, 19__."
(date of this agreement)

_____
Partnership Name
By:

_____ _____
_____ _____
_____ _____

12. In Exhibit O, paragraph V. B., is amended by deleteing the phrase "and competitive rental rates" from lines 6 and 7.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this docket does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: October 31, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-32715 Filed 11-14-77;8:45 am]

[3410-07]

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures and Authorizations Rental Assistance

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration adds Exhibits F-5A, R, R-1, R-2, R-3, and R-4, and revises Exhibit J-2 and Form FmHA 444-7 which will provide for a new rental assistance program. These additions and revisions are necessary to provide rental assistance to qualified families occupying eligible rural rental housing, cooperative housing and labor housing projects.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul R. Conn, 202-447-7207.

SUPPLEMENTARY INFORMATION: On September 15, 1977, the Farmers Home Administration published a notice of proposed rulemaking, (42 FR 46320) to add new Exhibits F-5A, R, R-1, R-2, R-3, and R-4 to Subpart D of Part 1822, Title 7, Code of Federal Regulations and to revise Exhibit J-2 and revise Form FmHA 444-7.

Interested persons were invited to submit comments concerning this proposal on or before October 17, 1977. Only 12 comments were received during the comment period; however, several other firms had indicated intentions of submitting comments and FmHA considered all comments received prior to October 25, 1977. In response to the notice of proposed rulemaking, 27 written comments were received. This final rule contains consideration of the comments as well as other information available to FmHA.

1. The language in Block A of Exhibit F-5A is revised to clarify that conservation of use of utilities by the tenant can be cash savings to the family.

2. Several comments were received concerning the establishment of income and net worth limitations for eligible tenants. Paragraph II D of Exhibit R is revised to increase the adjusted annual income for areas of high cost to conform with the limits established for the State as indicated in Exhibit C to Part 1822 Subpart A. No limitation for assets of tenants is being set since all earnings from assets are considered a part of income in determining rentals to be charged tenants.

3. In paragraph V of Exhibit R, several references were made to rounding to the nearest whole number in considering the maximum number of units in a project which could obtain rental assistance. These references are changed so that fractional units will be rounded to the next higher whole number.

4. Several comments pointed out that the proposed rule did not allow for granting exceptions for more than 40 percent of the units in an existing project to receive rental assistance. Paragraph V B 2 of Exhibit R is revised to allow more than 40 percent of the units in either an existing project or a project being developed with National Office approval.

5. Several comments pointed out that more directions should be given the State Director in allocating rental assistance to projects. Paragraph V A of Exhibit R is revised to provide that rental assistance will be granted with priority given to acceptable requests based on the earliest date of application.

6. Paragraph VI A of Exhibit R is revised to give priority among eligible families within a project receiving rental assistance to families paying the highest percentage of its annual adjusted income for rent. This revision is based on three comments received suggesting an added factor or a revised method of calculating adjusted annual income for large families. FmHA noted that inequities among families could occur if priority is based only on lowest adjusted income.

7. Two comments were received which suggested that the number of rental units allocated to a project be reserved for families eligible for rental assistance. FmHA has operated under the policy that when a vacancy occurs in a project that the highest priority will be given to the family on the waiting list based on the earliest date of application for occupancy regardless of whether or not the family qualifies for rental assistance. This policy is clarified in paragraph VI A 3 of Exhibit R.

8. Several comments suggested clarification of new construction and existing projects. Paragraph IX B is revised to define a new construction project as one in which no unit has been occupied. An existing project is one in which one or more units have been occupied.

9. Paragraph XI of Exhibit R concerning the method of payment of rental assistance to the borrower is revised to have the check for rental assistance mailed directly to the borrower by the Finance Office.

10. One comment received suggested that any family receiving payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646) should not be eligible for rental assistance. Monies received under the law cannot be considered as income in determining eligibility for rental assistance and, therefore, FmHA cannot declare these families as ineligible.

11. Many comments were received suggesting that priorities for rental assistance be given to projects with the highest number of vacancies, to projects owned by public agencies, to senior citizen family housing, and to labor housing projects. FmHA considered the various suggestions and determined that the priorities in paragraph V and as revised in paragraph VI of Exhibit R is the most equitable method of selecting tenants and allocating units to projects.

Exhibits F-5A, R, R-1, R-2, R-3, and R-4 are added to Subpart D of Part 1822 and Exhibit J-2 and Form FmHA 444-7 are amended and read as follows:

HOUSING ALLOWANCES FOR
UTILITIES AND OTHER PUBLIC SERVICES

NAME OF BORROWER

LOCATION AND IDENTIFICATION OF PROJECT

PART I

UTILITY OR SERVICE	Monthly Dollar Allowances 0-BR	1-BR	2-BR	3-BR	4-BR	5-BR
HEATING						
a. Natural Gas						
b. Bottle Gas						
c. Oil						
d. Electric						
AIR CONDITIONING						
COOKING						
a. Natural Gas						
b. Electric						
c. Bottle Gas						
OTHER ELECTRIC LIGHTING, REFRIGERATION, ETC.						
WATER HEATING						
a. Natural Gas						
b. Electric						
c. Bottle Gas						
d. Oil						
WATER						
SEWER						
TRASH COLLECTION						
OTHER (Specify) _____						

PREPARED BY: _____
Borrower or Agent Title Signature Date

APPROVED BY FARMERS HOME ADMINISTRATION

_____
Name Title Signature Date

HOUSING ALLOWANCES FOR UTILITIES AND OTHER PUBLIC SERVICES

PART II

BLOCK A

TO: _____
Name of Tenant

_____
Address of Tenant

No. of Bedrooms ____

You will be billed directly for utilities and service charges. Block B sets forth the allowances credited in your rent for the payments of utilities. You may be billed for more or less than shown in Block B depending on your use of utilities.

_____
Signature of Borrower or Agent

_____ Date

BLOCK B

ALLOWANCE FOR UTILITIES AND SERVICES BILLED DIRECTLY TO AND PAID BY TENANT	Per Month
Heating	$
Air Conditioning	
Cooking	
Other Electric	
Water Heating	
Water	
Sewer	
Trash Collection	
Other (Specify) _____	
TOTAL	$

INSTRUCTIONS FOR PREPARATION AND USE OF HOUSING ALLOWANCES FOR UTILITIES AND OTHER PUBLIC SERVICES

I.—*General.* These instructions are for completing Exhibit F-5A for the establishment and use of approved utility allowances for tenants. The objective shall be to establish allowances at levels that will apply to the majority of the families assigned to the proper size unit.

II.—*Determining Allowances.*—A. *Existing Construction.* The borrower shall provide information which shows the utility bills and fees for public services which have been charged to units in the project in previous years. If possible, this historical data should cover a period of at least 24 months and should show billings to all types and sizes of units in the project. If data is not available on the specific project, data from similar projects may be substituted. Consideration should be given to making proper adjustments in the data caused by some tenants' excessive use of utilities. Current rate schedules and known rate increases shall be used to estimate utility allowances. The following local sources should be contacted as appropriate:

1. Electric utility suppliers.
2. Natural gas utility suppliers.
3. Water and sewer suppliers.
4. Fuel oil and bottle gas suppliers.
5. Public service commissions.
6. Real estate and property management firms.
7. State and local agencies including public housing authorities.

In those cases where a project utilizes a single meter for more than one living unit or where a single fuel supply or heating or cooling plant is used for more than one unit, the following factors shall be used to determine the pro-rata share of utility costs or public service fees per living unit.

Size of Unit:	*Factor*
0–BR	0.5
1–BR	0.7
2–BR	0.9
3–BR	1.1
4–BR	1.4
5–BR	1.6

Example: An eightplex structure containing four one-bedroom apartments and four two-bedroom apartments has an average annual consumption of 42,000 kilowatt-hours of electricity. Allowance per unit is calculated thus:

4 (1-bedroom) at .7	2.8
4 (2-bedroom) at .9	3.6
Total	6.4

total use/total of factors × cost per kilowatt-hour (kwh) = average billing

(assume $.04 per kwh)

42,000/6.4 × .04 = 262.50

unit factor × average billing = unit allowance

(one bedroom) / .7 × 262.50 = $183.75/yr.

(two bedroom) / .9 × 262.50 = $236.25/yr.

B. *New Construction.* The applicant with assistance from his architect, mechanical engineer or other heating and cooling system specialists shall provide heating and cooling load calculations for each type and size of unit. Heating and/or cooling costs shall be calculated from these load factors using current rate schedules and known rate incre ses. Procedures described in the American Society of Heating, Refrigeration and Air Conditioning Engineers "Handbook of Fundamentals," the National Association of Homebuilders "Insulation Manual Homes, Apartments" or other recognized authority may be used.

General appliance and lighting loads and fees for public services should be estimated using data from the local utility companies and from other sources listed in paragraph II A above.

C. *Type of Allowances.* 1. Separate heating and cooling allowances shall be established for the various types of multiple family housing financed by FmHA in the project. For example, separate allowances may be needed for duplexes, row or townhouses, garden and low and medium rise apartments. In addition to establishing different heating and cooling allowances for various types of structures, attention should be given to different allowances for water depending on whether tenants will bave responsibilities for lawn care.

2. Allowances for air-conditioning shall be established only for those projects in which the owner furnishes a central air-conditioning system or other tvne units as a part of the permanent equipment.

3. The cost of gas and electricity varies according to amounts consumed as shown on the appropriate rate schedules of the supplier. It is not possible to compute exactly the cost of electricitv for any given function without knowing the total electrical usage for a unit. However, because neither the borrower nor the families know beforehand just what will be the combination of utilities for any unit rented, it will be necessarv to approximate the allowances for each function (e.g., heating, cooking, etc.) as follows: for electricity the rates used for lighting, refrigeration and appliances should be from the top of the rate schedule or the higher unit costs. Allowances for electric cooling, water heating and space heating and cooling should be computed from the middle or lower steps in the rate schedules. Similarly, allowances for gas used for water heating and cooking should be computed using rates from the top of the rate schedule and for heating from the lower steps.

III.—*Preparation.* A. Exhibit F–5A will be completed in the original and three copies in all instances when a "Statement of Budget, Income, and Expense" is required to be completed. This form will establish the allowances for all size units in the project. The allowances shall be adequate for all utilities and any authorized services which are or will be available to the tenants, except telephone and cable TV. The allowances for utilities as determined in Part I of this form will be the basis of the operating expenses used in budget preparation. The forms will be signed by the borrower. The original and two copies of the form will be submitted to FmHA. Backup data and necessary documentation should be included with the submission.

B. If FmHA finds the allowances acceptable, the approval portion of Part I will be completed on all copies and the original and one copy returned to the County Supervisor. The County Supervisor will keep a copy for the county office file and return the original to the borrower. The borrower will complete Part II of the form and provide copies to each tenant to be attached to and become a part of the lease entered into by the borrower and tenant. The form will provide the family with the amount of allowance for each of the utilities and services which are to be paid by the family. If all utilities and services are paid by the borrower, Part II Block B of the form will show "none".

IV.—*Submission of Supporting Data to FmHA.* The applicant will submit to FmHA adequate data to justify the utility allowance for the project. The data will include the following:

A. Completed Exhibit F–5A.

B. List of local sources contacted for information and copies of any data provided by such sources.

C. Any data on allowances already established for the area.

D. Complete narrative statement and computations on method used in arriving at the allowances.

WARNING

Section 1001 of Title 18, United States Code provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully . . . makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both".

PROJECT WORKSHEET FOR INTEREST CREDIT AND RENTAL ASSISTANCE

PART I

Borrower Name (18)	
Case Number (19)	Location of Project (20)

Kind of Loan (Check appropriate block) (21)

☐ RRH ☐ RCH ☐ LH

Plan of Operation (Check appropriate block) (22)

☐ Profit ☐ Plan I ☐ Plan I S 8

☐ Plan II ☐ Plan II RA ☐ Plan RA

This report is for the month of _____, 19____

In accordance with Farmers Home Administration's formula and procedures, all rental units are occupied by families who have executed Form FmHA 444-8, "Tenant Certification" and are farmworkers if this is a labor housing project or if this is a rental housing project, have incomes within the limitations as set forth in FmHA regulations or the project has written permission from FmHA to rent to ineligible occupants on a temporary basis. The amount of payment, overage, surcharge, credit to the payment and/or request for payment for the loan(s) for this project is as follows:

1 Payment Amount	2 Loan Number	3 Overage or Surcharge	4 Total Payment	5 Rental Asst. Payment Due Borrower	6 No. Units Rec'ing Rent Asst
(23)	(24)	(25)	(26)	(27)	(28)
			(29)		

I certify that the statements made above and in Part II are true to the best of my knowledge and belief and are made in good faith.

(30) (Date)

(31) (Signature-Borrower or Borrower's Representative

County Office Schedule No. ☐☐☐ (32)

PART II page (1) of ____ Name of Borrower (2) Reflects Data as of 1st Day of (3) 19____

1 Apt. No.	2 Type	3 Leased To	4 No of Indiv in Unit	5 Basic Monthly Rent	6 Market Monthly Rent	7 25% of Adjusted Monthly Income	8 Tenants' Monthly Rental Payment	9 Amount of Rental Assistance	10 Overage and/or Surcharges	11 Monthly Utility Allowance	12 Amt. Due Tenant To Cover Utilities
(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)

INSTRUCTIONS FOR PREPARATION

PROJECT WORKSHEET FOR INTEREST CREDIT AND RENTAL ASSISTANCE

This exhibit will be used by all RRH, RCH and LH borrowers when making scheduled payments to the County Office. The exhibit is composed of two parts, Part I and Part II. Borrowers who are obtaining neither interest credit or rental assistance will complete only Part I. Part I and Part II will be completed by borrowers who are operating under any plan which involves overages, surcharges or rental assistance. This completed exhibit provides the borrower and FmHA with a uniform worksheet for preparation of the Form FmHA 444–9, "Multiple Housing Certification and Payment Transmittal". The exhibit will be prepared by the borrower in original and one copy. The original will be signed by the borrower and forwarded to the County Office. The copy will be retained by the borrower.

The project worksheet will be completed in accordance with the following:

(1) If more than one page of Part II is needed, number the pages such as 1 of 2, 2 of 2.

(2) Enter borrower's name. (Use the same name as shown on the note.)

(3) Enter the month and year for which the worksheet is prepared. Reports should show the status of all tenants on the first day of each month.

(4) Enter apartment number or other identification of the rental units.

(5) Enter size of the unit i.e. 0 BR (for efficiency), 1 BR, 2 BR, etc.

(6) Enter name of tenant who is head of the household. If unit is leased to two or more unrelated persons, show the surname of each person. Also, enter the date of the most recent tenant certification in this space. (Separate Forms FmHA 444–8, "Tenant Certification," should be obtained from each.)

(7) Enter number of persons occupying the unit. (Note limitations contained in Rental Assistance Agreement).

(8) For RRH projects operating in accordance with Plan II, enter the basic monthly rental rate as determined by the budget, including cost of all utilities for the unit whether paid by the owner or by the tenant. Leave blank for RRH direct loans, RRH insured loans approved prior to August 1, 1968, and LH loans.

(9) Enter market monthly rental rate as determined by the budget, including cost of all utilities for the unit whether paid by the owner or by the tenant.

(10) Enter 25 percent of the tenant's adjusted monthly income.

(11) A. *For projects operating without rental assistance.*—1. For RRH projects operating in accordance with interest credit Plan II, enter the amount the tenant is required to pay, including the cost of all utilities for the unit whether paid by the owner or by the tenant. This amount will be 25 percent of the family's adjusted monthly income but never less than the basic rent shown in item (8), nor more than the market rent shown in item (9).

2. For those RRH projects operating in accordance with Plan I, all LH, direct RRH loans and insured RRH loans approved prior to August 1, 1968, enter the amount the tenant is required to pay, including the cost of all utilities for the unit whether paid by the owner or by the tenant. This amount will be the same as in item (9).

B. *For projects operating with rental assistance.*—1. For those tenants utilizing rental assistance in RRH projects operating in accordance with interest credit Plan II, enter the amount the tenant is required to pay, including the cost of all utilities for the unit whether paid by the owner or by the tenant. This amount will be the same as in item (10). For those tenants not obtaining rental assistance, enter the amount that the tenant will be required to pay, including the cost of all utilities for the unit whether paid by the owner or by the tenant. This amount will never be less than the basic rent shown in item (8), nor more than the market rent shown in item (9).

2. For all LH, direct RRH loans, and insured RRH loans approved prior to August 1, 1968, enter the amount the tenant will be required to pay, including the cost of all utilities for the unit whether paid by the owner or by the tenant. For those tenants obtaining rental assistance this amount will be the same as in item (10). For those tenants not obtaining rental assistance this amount will be the same as in item (9).

C. *For Plan I projects with ineligible tenants.*—For ineligible tenants occupying a unit in a project being operated in accordance with Plan I, except for a project with all units under Section 8 Contract, the amount of tenant's monthly rental payment will be 125 percent of the market monthly rental for the units as shown in item (9) regardless of the tenants monthly adjusted income shown in item (10).

(12) *For projects utilizing FmHA rental assistance payments program.*—A. For those RRH projects operating in accordance with Plan II enter the amount of rental assistance which is the difference between the amount shown in item (8) and item (10) when the amount in item (10) is less than the amount in item (8).

B. For all LH, direct RRH, and insured RRH loans approved prior to August 1, 1968, enter the amount of rental assistance which is the difference between the amount shown in item (9) and item (10) when the amount in item (10) is less than the amount in item (9).

(13) For projects operating in accordance with Plan I the amount to be entered for ineligible tenant families is 25 percent of the market rental rate shown in item (9). For projects operating in accordance with Plan II, enter the difference between basic rent, item (8), and 25 percent of the adjusted monthly family income, item (10), when the amount in item (10) is greater than item (8).

(14) Enter the amount of monthly utility allowance for the unit as determined during the budget preparation and approved by FmHA. Indicate when tenant pays the utility by the letter "T" after the amount.

(15) This column will be completed only for units utilizing FmHA rental assistance payments program. An amount will be shown only when a payment is due the tenant to pay utilities when utilities are billed to and paid by the tenant and the monthly utility allowance shown in item (14) is greater than the amount in item (10). The amount to enter will be the difference between the amount in item (10) and item (14) when the amount in item (10) is less than the amount in item (14).

(16) For projects utilizing FmHA rental assistance payments program enter the sum of the amounts in item (12).

(17) Enter the sum of the amounts in item (13).

TO COMPLETE PART I

(18) Enter name as it appears on the promissory note(s).

(19) Enter case number.

(20) Enter location, include address if needed to identify the project.

(21) Check appropriate block indicating type of loan.

(22) Check appropriate blank indicating the plan under which the project is operating.

(23) Enter the amortized payment on the note as follows:

A. *For Annual Payment Notes.* 1. For LH, RCH, and direct RRH loans and insured RRH loans approved prior to August 1, 1968, enter 1/12 of the annual payment as shown on the note.

2. For RRH and RCH loans operating in accordance with Interest Credit Plan II, enter 1/12 of an annual payment on the note as though the note was written with a one percent interest rate.

B. *For Monthly Payment Notes.* 1. For all projects not eligible to operate in accordance with Interest Credit Plan II but which are receiving rental assistance, enter monthly amortized payment as shown on the note. For all projects operating in accordance with Interest Credit Plan II, enter the amount of the monthly payment as though the note was written with a one percent interest rate.

(24) Enter the loan code for each loan on the project. The top line will always be used for the initial loan for the project.

(25) Enter overage or surcharge due. All overages and surcharges will be shown on the initial loan line for the project.

(26) Enter the total payment due for each loan. This will be the sum of the amount(s) in items (23) and (25) for the line.

(27) Enter the amount of rental assistance provided as determined in Part II of the worksheet. This is the amount due from the government.

(28) Enter number of units occupied by tenants receiving rental assistance.

(29) Enter total amount of payment being transmitted.

(30) Enter date signed.

(31) The form must be signed by the borrower or the borrower's representative.

(32) The County Office will enter the schedule number of the Form FmHA 444-9 used to transmit the borrower's payment to the Finance Office.

RENTAL ASSISTANCE PROGRAM

I.—*General.* The objective of the rental assistance program is to reduce the rents paid by low-income families. This exhibit sets forth the policies and procedures and delegates authority under which rental assistance (RA) will be extended to eligible tenants occupying eligible Rural Rental Housing (RRH) and Rural Cooperative Housing (RCH) projects financed by FmHA. This exhibit also applies to Farm Labor Housing (LH) projects when the borrower is a broadly-based nonprofit organization, nonprofit organization of farmworkers or a State or local public Agency. Rental assistance will supplement the benefits available to tenants under the interest credit program outlined in Exhibit J to Part 1822 Subpart D.

II.—*Definitions.* A. *Adjusted Annual Income.* This is the total planned income of the family for the next 12 months as defined in § 1822.3(n) of Part 1822 Subpart A less 5 percent, thereof, and less an additional $300 for each minor person, excluding the husband and wife, who is a member of the family and lives in the rental unit.

B. *Adjusted Monthly Income.* This is the amount obtained by dividing the Adjusted Annual Income by 12.

C. *Eligible Tenants.* Any low-income family or senior citizen that is unable to pay the approved monthly rental rate for an eligible FmHA RA unit within 25 percent of their adjusted monthly income and whose annual adjusted annual income does not exceed the limit established for the State as indicated in Exhibit C to Part 1822 Subpart A (FmHA Instruction 444.1 Exhibit C).

D. *Eligible Project.* 1. All projects, except (a) LH loans and grants, and (b) direct RRH, and insured RRH loans approved prior to August 1, 1968 must convert to Interest Credit Plan II before they are eligible to receive rental assistance. All new RRH projects must also operate under Plan II in order to receive rental assistance. For a borrower to have an eligible project, the loan must be an:

(a) RRH insured or direct loan made to a broadly-based nonprofit organization, or State or local agency or

(b) RRH insured loan to an individual or organization who has or will execute a Loan Resolution or Loan Agreement agreeing to operate the housing on a limited profit basis as defined in § 1822.3(p) Part 1822 Subpart D FmHA Instruction 444.5 paragraph IIIP or

(c) RCH insured or direct loan or

(d) LH loan, or an LH loan and grant combination, made to a broad-based nonprofit organization or nonprofit organization of farmworkers or a State or local public Agency.

2. Projects with all or a part of the units under contract with the Department of Housing and Urban Development (HUD) developed under the Section 8 program for new construction or rehabilitation by either the dual or single track processing procedures will not be considered an eligible project. This exemption does not prohibit the borrower from utilizing HUD's Section 8 Housing Assistance Payments Program for existing housing and FmHA rental assistance for other eligible families in the same project.

E.—*Rental Assistance.* Rental assistance, as used in this exhibit, is the difference between 25 percent of the family's adjusted monthly income and the approved monthly rental rate (including costs of all utilities and services) for the unit being occupied by the family. When the family's adjusted monthly income is less than the allowance established for utilities and services billed directly to and paid by the tenant, the owner will pay the family that difference in accordance with paragraph VIIA. Rental Assistance is further defined as:

1. For projects operating on Interest Credit Plan II, it is the difference between 25 percent of the family's adjusted monthly income and the basic rent for the unit.

2. For all direct RRH loans, insured RRH loans approved prior to August 1, 1968, and all eligible LH loans, it is the difference between 25 percent of the family's adjusted monthly income and the approved market rental rate for the unit.

F.—*Approved Rental Rate.* The rental rates (basic and/or market rent) determined by the budget for the project and approved by FmHA. Rental rates will be considered approved if the budget for the year has been approved in accordance with § 1802.78 Part 1802 Subpart G (FmHA Instruction 430.2 paragraph X and utility allowances have been determined and approved in accordance with paragraph VIIIB of this exhibit. The rental rate includes the amortized principal and interest payments, operating and maintenance costs, required deposits to the reserve account and a return on the owner's initial investment when allowed by FmHA regulations. The allowance for all utilities and other public services, except telephone and cable TV, will be included in the operating and maintenance expenses to determine the approved rental rate regardless of whether the tenant or the owner pays utilities.

G.—*Utility Allowance.* The allowance approved by FmHA to cover the cost of utilities which are payable directly by the families. In the case of a project where the families must pay directly for one or more utilities or public services, the amount allowed for these charges is deducted from the approved rental rate for all tenants. (See Exhibit F-5A.)

III.—*Eligibility of Borrower.* All borrowers who meet the eligible project definition in IID of this exhibit are eligible and are encouraged to utilize the rental assistance program and receive rental assistance payments on behalf of low-income tenants as provided for in accordance with this exhibit. Generally, the borrower will initiate the processing of a rental assistance application. A borrower who does not request rental assistance may be encouraged to do so by the County Supervisor if rental assistance units are available and 20 percent or more of the families eligible for rental assistance in an eligible project petition the borrower to obtain rental assistance on their behalf. The petitions shall be in writing to the borrower and contain the signature of the head of the household of each family who is paying more than 25 percent of their adjusted monthly income for rental and desiring rental assistance. A copy of the petition will be submitted to the County Supervisor.

IV.—*Eligibility of Tenants.* All tenants as defined in paragraph IIC of this exhibit, are eligible to receive the benefits of rental assistance when occupying a rental unit in an eligible project providing the project owner has agreed to provide such assistance in accordance with this exhibit and there are RA units available.

V.—*Priority of Rental Assistance Applications.* The National Office may establish a State quota on the number of units that may receive rental assistance in any fiscal year. The State Director will limit the approval of rental assistance to no more than the number of units allocated to the State. Unless otherwise stated by the National Office, the State allocation will indicate the number of units for existing projects and the number of units to be used with the applications for loans. The priority in allocating units will be as follows:

A.—*Allocation to Projects Within a State.* The State Director will distribute any units allocated to the State in accordance with any specific instructions from the National Office and approve requests for rental assistance to projects in accordance with the provisions of this Exhibit.

1. *Existing Housing:* The State Director will distribute any units allocated to the State for existing RRH, RCH, and LH projects by considering Form FmHA 444-25, "Request for Rental Assistance" (Exhibit R-1 of Part 1822 Subpart D) (FmHA Instruction 444.5) that have been submitted by eligible borrowers. The State Director shall authorize rental assistance to projects with priority given to projects based on the earliest date that Form FmHA 44425 and other required information is submitted to FmHA in acceptable form (see paragraph X). The number of units to be granted in any project will be based on the number of tenants in the project needing rental assistance up to the maximum allowed. The National Office shall notify the State Director each year of any specific date by which all requests for rental assistance must be submitted to FmHA for consideration.

2. *New Housing:* Any units allocated to the State for new construction (which includes substantial rehabilitation) shall be distributed on a priority basis in the following order:

(a) RRH or RCH projects to be provided in areas where HUD Section 8 units under the FmHA set-aside are not available.

(b) Applications for RRH and RCH loans where the market survey information indicates that without RA, a large percentage of the perspective tenants will be paying in excess of 25 percent of their adjusted monthly income for rent. When the number of RA units available is adequate to cover all such applications, the units will be distributed giving priority to the projects with the earliest date of application in which the applicant has provided all the information necessary to process the application in accordance with Exhibit F-7 of Part 1822 Subpart D (FmHA Instruction 444.5).

(c) For LH projects, RA units will be allocated by the National Office on a case-by-case basis at the time the projects are considered for funding at the National Office level.

3. *Limitation on number of units of rental assistance in each project:* The maximum number of units in a project to obtain rental assistance is limited to the following:

(a) No limitation for eligible labor housing loan and grant projects. However, an eligible labor housing project with a loan only will be limited to not more than 20 percent (fractional units will be rounded to the next higher whole number) of the total number of units in the project.

(b) No limitation for RRH, RCH, or SCH projects designed and limited to housing for the elderly except that the State Director may limit the percentage of units granted to elderly projects to no more than 40 percent if it appears that the number of units distributed to the state will not be adequate to approve all requests for rental assistance.

(c) An RCH or RRH project designed and/or primarily occupied by low- and moderate-income families will be limited to not more than 20 percent of the total number of units in the project.

(d) An RCH or RRH project planned and designed for a mix of senior citizen and low- and moderate-income families will be limited

to not more than 20 percent of the total number of units designed for low- and moderate-income families and no limitations on the units designed for and occupied by senior citizens.

B.—*Granting Exceptions.* 1. *State Directors Authority.* An exception to the 20 percent limitation indicated in VA3, a, c, and d of this exhibit may be granted by the State Director for up to 40 percent of the units in any particular project (fractional units will be rounded to the next higher whole number). However, the total number of units of rental assistance granted by the State Director including exceptions, cannot exceed the number of units allocated to that State. Exceptions will be granted only when units are or can be made available and the following conditions exist:

(a) When more than 20 percent of the units are occupied by families who are paying more than 25 percent of their adjusted income for rent, and such units are no larger than needed to meet the family's need, or

(b) The tenants in a project that is being assisted at the 20 percent level experience a hardship as a result of an income decrease or a rental increase and must obtain rental assistance to remain in the project, or

(c) The project is being developed in an area of extremely low-income families and the majority of the proposed tenants will be paying in excess of 25 percent of their income for rent.

2. *National Office Authority.* If the project is located in or is being developed in an area of extremely low-income families and the majority of the tenants are, or will be, paying in excess of 25 percent of their income for rent, the National Office may authorize the State Director to grant approval for a greater number of units on a case-by-case basis for up to 100 percent of the units to receive rental assistance. Such requests will be submitted to and approved by the National Office prior to loan granting or requesting obligation of rental assistance for more than 40 percent of the units in the project.

C.—*Processing Exception Requests.* 1. A request for an exception to the 20 percent limitation for existing projects will be submitted by the borrower to the County Supervisor. The County Supervisor will submit the request with suporting documentation and recommendations to the State Office by memorandum for approval. Included in the memorandum will be the number and percentage of units in excess of the 20 percent limit and justification for the approval. When National Office authorization is required to exceed the 40 percent limitation, the State Director will request this authorization by memorandum and will include (a) the borrower's case file, (b) complete data and documentation on the housing market situation, (c) the number of rental assistance units allocated to the State, (d) number of uncommitted units still available in the State allocation, and (e) recommendations. If a borrower requests authority to exceed the 40 percent limitation for a new project after the loan is approved, such requests will not be approved until the project is completed, and at least partially occupied and it is apparent that full rentup will not occur unless the 40 percent limitation is exceeded.

2. The State Director will maintain Form FmHA 444-28, "Record of Rental Assistance Agreement." The record will include the borrower's case number, fund code, loan number, number of units in the project, number of units for rental assistance authorized, and the effective date of each agreement and amendment. This information will be obtained from Form FmHA-444-25, "Request for Rental Assistance Agreement", Form FmHA 444-26, "Request for Obligation of Rental Assistance", and Form FmHA 444-27, "Rental Assistance Agreement." Any changes which are made in the number of rental units assisted will be recorded in the Record of Rental Assistance Agreements. Exhibit R-3 may be used for keeping this record until Form FmHA 444-28 is available.

VI.—*Priority Among Eligible Families Within a Project Receiving Rental Assistance.* The borrower will determine priority for RA among tenants living in a project and among families applying for occupancy in accordance with this paragraph.

A.—*In Existing Projects:* 1. If the project is fully occupied at the time the rental assistance is granted, priority will be given to families paying the highest percentage of its annual adjusted income for rent. However, no family eligible to occupy a unit in the project will be required to move from the project to allow a family applying for a unit who has a higher priority to move in.

2. If the project has vacancies or vacancies occur and rental assistance is available, priority will be given to families already living in the project who are eligible for rental assistance before any new tenants are considered. Priority for new tenants will be based on the date of the family's application for occupancy. If more than one family applies for a unit on the same date, the applications will be time dated. If the family with the earliest date of application is unable or does not want to accept the rental assistance unit, the unit will be offered to the next earliest application. The application of a family who is unable for personal reasons or does not want to accept a rental assistance unit when notified, will be redated as of the current date if the family still wishes to be considered for occupancy.

3. If the project has vacancies or vacancies occur and rental assistance is available, the units will be leased to eligible families having the highest priority based on date of application for occupancy regardless of whether they qualify for rental assistance.

4. If the project has vacancies or vacancies occur and rental assistance is not available, a family eligible for rental assistance may accept occupancy but cannot receive rental assistance. Such families will be considered for rental assistance in accordance with paragraph VIA1. If such families elect not to accept occupancy because rental assistance is not available, their application for a unit will retain its original date for priority.

5. Tenants receiving the benefits of rental assistance shall continue receiving such benefits as long as they remain eligibile tenants and there is a rental assistance agreement in effect.

B. *In New Projects.* Applications for occupancy should be accepted during the construction phase of the project. Priority will be given based on the date of the family's application for occupancy. If all or a percentage of the units are authorized to receive rental assistance, such number of units will not be rented to families whose adjusted annual income exceeds the limits established for the State as indicated in Exhibit C to Part 1822 Subpart A (FmHA Instruction 444.1 Exhibit C) without the written approval of the County Supervisor. The County Supervisor will not grant such approval until he has reviewed the borrower's method of advertising the units and has determined that families eligible for rental assistance are not available or do not desire occupancy.

VII.—*Responsibilities of Borrower in Administering the Rental Assistance Program.* Each borrower and management agent for each project that is to receive rental assistance should fully understand the responsibilities and requirements of carrying out the program. The borrower and management agent are the key to the successful operation of the program. The following guidelines will be followed:

A. Direct rental assistance payments will not be made to eligible tenants receiving rental assistance except in those instances when utilities are paid by the family and 25 percent of the family's monthly adjusted income is less than the allowance for utilities. In these cases, the borrower will pay the family that difference upon the family providing the borrower evidence that the utility bills are due or have been paid. (See paragraph VIII A, Payment of Utilities). The borrower will maintain an accurate accounting of each tenant's utility allowance and payments made to tenants.

B. The borrower must initially submit Form FmHA 444-8, "Tenant Certification," or other certification form approved by FmHA for each tenant. The initial tenant certification will be submitted to the FmHA County Office with the next monthly payment following the date that the tenant occupies the unit. Subsequent tenant certifications must be obtained annually and submitted to the county office with the first monthly payment following the date of the certification. The borrower or management agent will establish an adequate recordkeeping system of tenant certifications to assure this responsibility is carried out.

C. The incomes reported by the tenants must be verified by the borrower. Such verifications may be obtained by:

1. The use of Form FmHA 410-5, "Request for Verification of Employment" or verification forms prepared by the borrower or other sources. Until the Form FmHA 410-5 is revised, it may be modified by deleting "Farmers Home Administration" in Part I item 2. The borrower or management agent will insert the name and address to whom the form is to be returned. Also, in the first sentence of the applicant's statement in Part I Request, the words "applied for a Farmers Home Administration loan and" and in the last sentence the word "Loan" should be deleted.

2. In the case of the elderly or other persons whose income is not from wages or salary, but actually examining the income checks, check stubs or other reliable data the tenant possesses.

3. Until the Form FmHA 444-8 is revised, the borrower will make a notation on each tenant certification that "the tenant's income has been verified and found to be accurate". The notation will be dated and the name of the person making it will be shown.

D. Borrowers utilizing rental assistance must comply with § 1802.78 Part 1802 Subpart G (FmHA Instruction 430.2, paragraph X). Rental assistance will not be approved for projects until the operating budgets have been approved by the FmHA State Office or the County Supervisor. County Supervisors, with assistance from the State Office staff, must closely supervise and assist borrowers in complying with all accounting and management requirements.

E. A borrower participating in the rental assistance program must have an FmHA approved lease with the assisted family.

1. Monthly or annual leases will be executed with each family occupying a rental unit. The State Director may issue State Instructions covering any special conditions or local customs affecting leasing arrangements. The lease form for projects operating under rental assistance in addition to other statements outlining the conditions of the lease, should contain the following statements:

"I understand and agree that the total monthly rental payment will be $_____ (the approved rental rate) per month. Of the total rent I will pay $_____ (25 percent

of my adjusted monthly income) and the balance will be paid by FmHA as interest credit and/or rental assistance payments on my behalf. If I pay any or all utilities directly, (does not include telephone or cable TV), a utility allowance of $_____ will be deducted from the payment due for rent. If the utility allowance is in excess of 25 percent of my adjusted monthly income the lessor will pay me this excess.

I further agree to notify the lessor of any permanent increase in adjusted monthly income or change in the number of family members living in the household. I understand that should I receive rental assistance benefits to which I am not entitled that I may be required to make restitution and I agree to pay any amount of benefits received to which I was not entitled.

I also understand and agree that my monthly rental payment under this lease may be raised or lowered, based on changes in family income and changes in the number and age of family members living in my household. The rental payment will be the lesser of 25 percent of my adjusted monthly income or the approved rent established for the unit."

2. Lease clauses which fall within the classifications listed below shall not be included in any lease.

(a) *Confession of Judgment.* Prior consent by tenant to any lawsuit the landlord may bring against him in connection with the lease and to a judgment in favor of the landlord.

(b) *Distraint for Rent or Other Charges.* Authorization to the landlord to take property of the tenant and hold it as a pledge until the tenant performs any obligation which the landlord has determined the tenant has failed to perform.

(c) *Exculpatory Clause.* Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representative or agents.

(d) *Waiver of Legal Notice by Tenant Prior to Actions for Eviction or Money Judgments.* Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed.

(e) *Waiver or Legal Proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or defaut has occurred, without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(f) *Waiver of Jury Trial.* Authorization of the landlord's lawyer to appear in court for the tenant and to waive the tenant's right to a trial by jury.

(g) *Waiver of Right to Appeal Judicial Error in Legal Proceedings.* Authorization to the landlord's lawyer to waive the tenants right to appeal on the ground of judicial error in any suit or the tenant's right to file a suit in equity to prevent the execution of a judgment.

(h) *Tenant Chargeable with Costs of Legal Actions Regardless of Outcome.* Agreement by the tenant to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court finds in favor of the tenant. (Omission of such clause does not mean that the tenant, as a part to a lawsuit, may not be obligated to pay attorney's fees or other costs if he loses the suit).

3. A copy of a completed Exhibit F–5A, "Housing Allowances for Utilities and Other Services," and a copy of the established rules and regulations for the project will be provided to the tenant as attachments to the lease.

VIII.—*Handling Utility Allowances and Determining the Amount of Rent.*

A. *Payment of Utilities.* All units in projects to be constructed will be individually metered for utilities unless adequate justification is provided to show that it would be infeasible or excessively costly. In an existing project which is not individually metered, the project will be converted to individual meters if feasible and an energy savings can be achieved. In every case, the approved rents for the projects must include a utility allowance for all utilities (except telephone and charges for cable TV) whether paid by the tenant or the owner. In a project where the tenant is billed directly for the utilities, the tenant receiving the benefit of rental assistance will pay the owner as rent the difference between the established allowance for utilities which the tenant pays and 25 percent of the family's adjusted monthly income. If, however, the family's adjusted monthly income is less than the monthly allowance for utilities, the owner will pay the tenant that difference as prescribed in paragraph VII A. In a project where the owner pays all the utilities, the tenant will pay the owner the full 25 percent of his adjusted monthly income toward the approved rent for the unit being occupied. For those tenants not receiving RA that pay utilities directly, their rent shall be reduced by the amount allowable for such utilities.

B. *Determining the Allowance.* The utility allowance will be determined and recorded by the use of Exhibit F–5A to Part 1822 Subpart D (FmHA Instruction 444.5) and submitted to FmHA for approval. The data will be analyzed by the FmHA State Office to determine the allowances that will be permitted. The utility allowance is to be approved on a project-by-project basis. If the allowances are reasonable for the project, the Exhibit F–5A will be approved. The allowable amounts wil be indicated in each lease agreement between the owner and tenant.

C. *Changes in Allowances.* The utility allowance may be adjusted to reflect substantial changes in utility and public service rents. Normally, allowances will be adjusted on an annual basis if necessary when the owner submits a new budget for approval. Changes in utility allowance which will result in increasing the amount of the rent paid by tenants will be processed in accordance with Part 1802 Subpart G (FmHA Instruction 430.2).

IX.—*Terms of the Rental Assistance Agreement.*

A. *Effective Date.* The effective date of the Agreement will be the 1st day of the month it is executed unless assistance is granted under appeal in accordance with paragraph XII of this Exhibit; then, the effective date will be retroactive to the first of the month in which assistance was denied.

B. *Term.*

1. *For New Construction.* The term of the agreement shall be for a period of twenty (20) years from the effective date of the agreement. (A new construction project is one in which no unit has been occupied.)

2. *For Existing.* The term of the agreement shall be for a period of five (5) years from the effective date of the agreement. (An existing project is one in which one or more units have been occupied.)

3. Prior to the termination date of any agreement a new Form FmHA 444–25, "Request for Rental Assistance," may be submitted. (Exhibit R–1 will be used until the Form FmHA 444–25 is available.) If a new agreement is consummated, it will be made for a period not to exceed five (5) years.

X.—*Processing of Rental Assistance Applications.* All requests for rental assistance will be processed in accordance with this paragraph and may be approved by the State Director.

A. *Existing Projects.*

1. A borrower with an eligible project in which there are tenants paying in excess of 25 percent of their adjusted income for rent is encouraged to file Form FmHA 444–25, "Request for Rental Assistance," with the County Supervisor. A separate Form FmHA 444–25 will be submitted for each project. (Exhibit R–1, "Request for Rental Assistance," will be used until the Form FmHA 444–25 is available.) The borrower should include the following with each request.

(a) Form FmHA 444–29, "Project Worksheet for Interest Credit and Rental Assistance" with columns 1 through 12 completed for each tenant in the project. (Exhibit J–2 will be used until the Form FmHA 444–29 is available.)

(b) Approved or proposed budget for the year with Exhibit F–5A attached.

2. The County Supervisor will review the budget, Exhibit F–5A and Form FmHA 444–25 submitted by the borrower to assure that the items are complete and accurate. The County Supervisor will complete Form FmHA 444–25 and submit all data provided by the borrower to the State Director.

B. *Projects to be Funded.*

1. Applicants requesting funding under the RRH or LH programs planning to utilize the rental assistance program should submit a completed Form FmHA 444–25, "Request for Rental Assistance," to the County Supervisor when submitting a preapplication or application for funding.

2. The number of units of rental assistance requested should be based on the market data for the area, the proposed rental rates as reflected in a budget for the project, and the income levels of the prospective tenants.

C. *State Director Action on Requests for Rental Assistance.*

1. If the State Director determines that rental assistance can be granted, Form FmHA 444–26, "Requests for Obligation of Rental Assistance," will be prepared. Exhibit R–4 may be used until Form FmHA 444–26, "Request for Obligation of Rental Assistance," is available. Form FmHA 444–26 will be prepared and distributed in accordance with the Forms Manual Insert. *The Form FmHA 444–27, "Rental Assistance Agreement," will not be executed until the Request for Obligation of Rental Assistance has been returned from the Finance Office indicating that the requested number of units have been obligated for the project.*

2. Once rental assistance has been obligated by the Finance Office, the State Director will prepare an original and three copies of Form FmHA 444–7, "Interest Credit and Rental Assistance Agreement," and an original and two copies of Form FmHA 444–27. The State Director will keep one copy of the Forms in the State Office borrower file. The original and two copies of Form FmHA 444–7 and the original and one copy of Form FmHA 444–27 will be sent to the County Office with a covering memorandum authorizing the County Supervisor to execute the agreements. Both originals and copies will be executed by the borrower and County Supervisor. The County Supervisor will retain the original of Form FmHA 444–27 in the borrower file and the executed co y will be given to the borrower. The County Supervisor will send the original of Form FmHA 444–7 to the Finance Office, retain a copy in the borrowers file and an executed copy will be given to the borrower.

3. If rental assistance cannot be provided, the State Director will by letter, through the County Supervisor, inform the borrower in writing of the reasons.

XI.—*Method of Payment of Rental Assistance to Borrower.* The borrower will prepare a separate report for the project using Form FmHA 444–29. (Exhibit J–2 may be used until Form FmHA 444–29 is available). The worksheet will be prepared and distributed in accordance with the instructions for preparation or the Forms Manual Insert. This information will be used by the County Supervisor in preparation of Form FmHA 444–9, "Multiple Housing Certification and Payment Transmittal." The form must be completed in accordance with the FMI. The required payment will be transmitted with the form to the Finance Office. The rental assistance payment will be mailed by the Finance Office directly to the borrower within 15 working days of receipt of a properly completed Form FmHA 444–9. Since the check will be sent directly to the borrower, the County Supervisor must be sure that the borrower's address on Forms FmHA 440–57, "Acknowledgement of Obligated Funds/Check Request," and 450–14, "Annual Statement of Loan Account," are correct. If the address shown on these forms is not correct, the County Supervisor will complete Form FmHA 450–10, "Advise of Borrower's Change of Address or Name," prior to any request for payment of rental assistance. However, when a borrower has more than one project within a county, all checks must be sent to the same address.

XII.—*Rights for Appeal if Rental Assistance is not Granted by Farmers Home Administration.*

A. Families who have requested rental assistance in writing but have been denied such assistance (whether in whole or in part) either by the borrower or County Supervisor are to be notified in writing of the specific reasons why they have been denied rental assistance. If a family has requested rental assistance directly to the borrower in writing, the borrower is responsible for notifying the family in writing of the reasons why rental assistance was not made available.

B. Borrowers who have requested rental assistance and are denied such assistance, in whole or in part by the Farmers Home Administration, will be notified in writing of the specific reasons why such assistance was denied. The letter informing the borrower of the denial will advise the borrower that it may appeal the decision by writing to the Administrator.

C. The letter informing the family or borrower of the denial of assistance and the reasons therefor must include:

1. In case the determination was made by the borrower, that the decision is subject to appeal to the FmHA County Supervisor giving name and address.

2. In case the decision was made by the County Supervisor, that an appeal may be made to the State Director giving name and address.

3. In case the decision was made by the State Director, that an appeal may be made to the Administrator giving name and address.

4. A statement that "any appeal must be filed within 45 days of the date of this notice of denial of assistance."

D. If the State Director denies an appeal for assistance, the borrower or family may appeal that decision to the Administrator, Farmers Home Administration, Washington, DC 20250. The Administrator upon review of the appeal shall either affirm or reverse the decision.

E. If at any time, it is determined that a borrower or a family was eligible to receive assistance after the effective date of this exhibit and assistance could have been made available in accordance with this exhibit, the provision of the assistance will be retroactive to the first of the month in which assistance was initially denied.

F. All actions by FmHA officials must be within 30 days of receipt of an appeal.

XIII.—*Forms and Exhibits.* Incorporated as a part of this regulation are exhibits R–1, R–2, R–4, F–5A, J–2, and Form FmHA 444–7, "Interest Credit and Rental Assistance Agreement."

REQUEST FOR RENTAL ASSISTANCE

1. Name of borrower_____.
2. Address_____.
3. Location of project_____.
4. Total number of units in project_____.

Request is made for _____ units of rental assistance for the above project. I have determined that _____ families qualify for rental assistance as identified by the attached copies of Exhibit J–2, "Project Worksheet on Interest credit and Rental Assistance." I/We therefore request rental assistance for _____ units which represents _____ percent of the units in the project. The rental assistance, if granted, will be provided as follows:

Number for—	Number, size, and monthly rental rate [1]					
	0 bedroom	1 bedroom	2 bedrooms	3 bedrooms	4 bedrooms	5 bedrooms
Senior citizen families:						
Number						
Basic rent						
Market rent						
Low and moderate income families:						
Number						
Basic rent						
Market rent						

[1] Monthly rental rates include utility allowances.

I/We certify that the above information and attachments are true and correct to the best of my/our knowledge and belief.

_____
(Date)
State _____
County _____
Case No_____
Type loan_____

For FmHA Use Only.

Borrower: _____
By: _____
(Signature)
_____
(Title)

Subject: County Office Review of Request for Rental Assistance.

To: State Director.

1. From the information submitted by the borrower and available from the files, it appears rental assistance ____can ____cannot be provided. (State reason if assistance cannot be provided).
2. The project is presently operating on a: (Check all that apply).
____ Direct loan basis.
____ Profit basis. The loan was approved _____ (Insert date)
____ Nonprofit basis.
____ Limited Profit basis.
____ Interest Credit Plan I.
____ Interest Credit Plan II.
____ Section 8 Rental Assistance Payments Program for new construction for _____ units.
____ Section 8 Rental Assistance Payments Program for existing housing with _____ families.
3. I have discussed with the borrower that if rental assistance is granted that the project will be operated on a nonprofit or limited profit basis when applicable in accordance with existing instructions.
4. It is my determination that the budget has been approved and the rental rates are acceptable.
5. Other Comments:

_____

(Date)
By: _____
(Signature)
_____
(County Supervisor)
_____
(Farmers Home Administration)

Case No. _____
Loan Code _____

RENTAL ASSISTANCE AGREEMENT

For: (Check appropriate block):

☐ New construction project. Term, 20 years.

☐ Existing project. Term, 5 years.

This Agreement effective on the 1st day of _____, 19__ between _____ (herein called "the borrower") and its successors and the United States of America acting through the Farmers Home Administration pursuant to section 521(a)(2)(A) of Title V of the Housing Act of 1949 as amended. (Herein called "the Government") Witnesseth:

In consideration of the Mutual Covenant hereinafter set forth, the parties hereto agree as follows:

Section 1. The Government agrees to provide rental assistance in accordance with its governing rules and regulations for _____ units of housing for the project located at _____ and known as _____ consisting of ____ units. The Government will pay the difference between 25 percent of the families' adjusted monthly income and the Government approved rents for the project.

Section 2. The borrower agrees to abide by the present and future regulations of the government in the administration of this program.

Section 3. Borrower agrees to use due diligence in the verification and certification of tenants incomes.

Section 4. In the event that any tenant suffers a hardship because rental assistance may not be available in the project because of the limitations set forth on the number of units in Section 1, borrower may make requests to the government for additional units. In the event additional units can be provided and are approved by the government, a rider shall be executed by the parties and attached to this agreement. The rider will be in the following form:

"Rider to Rental Assistance Agreement between _____,
(Borrower)
_____, _____ and the United
(case under) (loan code)
States of America acting through the Farmers Home Administration.

Section 1 of the above described agreement is amended to provide that _____ units may be assisted rather than _____.

The effective date of this change is _____, 19__.

_____
(Borrower)

By: _____
(Signature)

_____
(Name and title)

_____
(Date)

FARMERS HOME ADMINISTRATION

By: _____

_____
(Name and title)

_____
(Date)

The rider shall be dated and signed by the borrower and the County Supervisor.

Section 5 Borrower will not permit any tenant to initially occupy a unit and receive rental assistance (or interest credit) if the number of authorized persons in the units is less or in excess of the following:

	Occupants Min.	Max.
0 Bedroom	1	1
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	4	6
4 Bedrooms	6	8
5 Bedrooms	8	10

Section 6—In the selection of tenants in the project that will receive rental assistance, the borrower agrees to comply with the Government priorities of selecting tenants. (See paragraph VI of Exhibit R to FmHA Instruction 444.5) (Part 1822 Subpart D.)

Section 7—Provisions Applicable if Housing Owner Is a Cooperative. (a) As used in this agreement the term "tenant or occupant" may mean a member of a cooperative, and the term "rent" shall mean the charges under the occupancy agreement between the member and the cooperative.

(b) A member of a cooperative that obtains approval for rental assistance shall be required, as a condition of receiving such, to agree that upon a sale of such membership any equity increment accumulated through rent supplement payments will be turned over to the cooperative and will be remitted to the Government.

Section 8—Renegotiation, Modification, Termination. If, at any time during the life of this agreement the Parties find that it would be to their best interests and to the best interests of the rental assistance program, the provisions of the agreement may be modified, amended, or the entire agreement be terminated, upon written agreement of the Parties.

Section 9—Term of the Agreement. (a) *Definitions:* (1) New construction project as used in this agreement is any project for which a request for obligation of rental assistance is made prior to completion of the project and any unit in the project occupied. The project will continue to be considered new construction for the complete term of the initial rental assistance agreement.

(2) Existing project as used in this agreement is any project in which units have been occupied.

(b) In the case of a new construction project this agreement is for a period of twenty (20) years from the effective date mentioned in this agreement. The term of any attached rider which changes the number of units will be for the period beginning on the effective date of the rider and ending twenty (20) years from the effective date of the initial agreement.

(c) In the case of an existing project this agreement is for a period of five (5) years from the effective date mentioned in this agreement. The term of any attached rider which changes the number of units will be for the period beginning on the effective date of the rider and ending five (5) years from the effective date of the initial agreement.

(d) This agreement is not renewable. If a need exists for rental assistance beyond the term of this agreement the borrower may, prior to the termination date of this agreement, submit a Form FmHA 444-25, "Request for Rental Assistance." If a new agreement is consummated it will be made for a period not to exceed five (5) years.

Section 10—Special Conditions. The following special conditions shall be applicable to this Agreement:

[SEAL]

Attest:

_____
(Borrower)

By: _____
(Signature)

_____
(Title)

Date: _____

FARMERS HOME ADMINISTRATION

By: _____

Date: _____

RECORD OF RENTAL ASSISTANCE AGREEMENTS

Number of units allocated for Fiscal Year 19 (1)	For Existing (2)		For New (3)							
Borrower name and case number	Fund and loan code	No. units in proj.	Number units of rental assistance RRH E	RRH N	LH E	LH N	I or C	Date of obligation request	F/O obligation date	Effective date of Agreement
(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
Number of projects: (20)	Total	(15)	(16)	(17)	(18)	(19)	TOTAL: Existing (21)		New (22)	

INSTRUCTION FOR PREPARATION

Only an original copy need be maintained by the State Office. No signatures are required. The record will be maintained on a current basis to reflect data and status of requests. Each item should be completed as follows:

(1) Enter the fiscal year.

(2) Enter the number of existing units allocated to the state for use in the fiscal year indicated.

(3) Enter the number of new construction units allocated to the state for use in the fiscal year indicated.

(4) Enter borrowers name and case number.

(5) Enter fund and loan code, such as 84-01. Use loan number of initial loans only.

(6) Enter the total number of units in the project.

(7) Enter number of existing rental housing units to obtain rental assistance.

(8) Enter number of new rental housing units to obtain rental assistance.

(9) Enter number of existing labor housing units to obtain rental assistance.

(10) Enter number of new labor housing units to obtain rental assistance.

(11) Enter "I" to indicate the initial transmittal for rental assistance. Enter "C" to indicate a request for a change in the number previously authorized.

(12) Enter the date that the Request for Obligation for Rental Assistance is prepared. The date should be the same as shown in item (17) of the FMI for Form FmHA 444-26.

(13) Enter the date of obligation of the units after the Finance Office has acted on and returned Form FmHA 444-26. The date shown must be the same date as in item (21) of the FMI for Form FmHA 444-26. At the same time, correct items (7), (8), (9), and (10) if previous entries differ.

(14) Enter effective date as shown on Form FmHA 444-27, "Rental Assistance Agreement."

(15), (16), (17), (18), and (19) Enter the sum for each column.

(20) Enter the number of projects granted rental assistance during the current fiscal year.

(21) Enter the number of existing units of rental assistance granted during the fiscal year. This is the sum of items (16) and (18).

(22) Enter the number of new construction units of rental assistance granted during the fiscal year. This is the sum of items (17) and (19).

REQUEST FOR OBLIGATION OF RENTAL ASSISTANCE

STATE CODE (1) 00

BORROWER NAME (2) | CASE NO. (3) | FUND CODE (4) | LOAN NO. (4)

LOAN TYPE (5)

LII ☐ RRII ☐ RRII-SC ☐ RCH ☐ RCH-SC ☐

REQUEST FOR OBLIGATION: (To be completed only for initial obligation)

NEW PROJECT ☐ (6) EXISTING PROJECT ☐ (6)

NUMBER OF UNITS IN PROJECT (7)

NUMBER OF UNITS TO RECEIVE RENTAL ASSISTANCE (8)

ESTIMATED EFFECTIVE DATE OF RENTAL ASSISTANCE (9)

REQUEST FOR CHANGE OF OBLIGATION: (To be completed only for a change in obligation)

NUMBER OF UNIT PREVIOUSLY OBLIG (10)	CHANGE (11)	No. NOW TO RECEIVE RENTAL ASSISTANCE (12)	Existing Project / New Project (13)

DATE OF ORIGINAL OBLIGATION (14)

EFFECTIVE DATE (15) ESTIMATED EFFECTIVE DATE (16)

CERTIFICATION:

I have reviewed the borrower's request for rental assistance for the project and request obligation or change in obligation for the above units.

(17) APPROVAL DATE

(18) SIGNATURE OF REQUESTING OFFICIAL

(19) TITLE

FINANCE OFFICE USE:

☐ (20) The above units have been obligated

☐ The above units were not obligated due to units not being available

DATE OF OBLIGATION (21)

To: ---------- (22)

As of this date, ----------, this is notice to you that your application for financial assistance from the Farmers Home Administration has been approved as indicated on the reverse side of this form, subject to the availability of funds and other conditions required by the Farmers Home Administration.

(Signature)

(name and Title)

INSTRUCTIONS FOR PREPARATION

Procedure reference.—FmHA Instruction 444.5.
Prepared by.—State Office.
Number of copies.—Original and three.
Signatures required.—State Director or delegated representative.

Distribution of copies.—Original and one copy to the Finance Office; copy to borrower at time of submission to the Finance Office; copy to be retained in the State Office pending receipt of the form from Finance. Upon receipt of form from Finance Office, pending copy will be conformed and forwarded to County Office for retention in borrower case file.

(1) Enter the state office code.

(2) Insert the borrower's name as it appears on the promissory note.

(3) Enter the borrower's case number using the first two boxes for state code, the next three boxes for county code, and the last ten boxes for the borrower number. All the boxes should be completed.

Example

0	1	0	0	1	0	0	0	1	2	3	4	5	6	7

(4) Enter the correct loan code, such as 84-01. The loan code for the request should be the code for the initial loan of the project.

(5) Indicate the total number of units under each category for which rental assistance is being requested. The total number will include those previously obligated and the change being requested if applicable.

(6) Indicate whether the project is new (no unit in the project has been occupied) or existing (one or more units in the project has been occupied).

(7) Enter the total number of units in the project.

(8) Enter the number of units to receive rental assistance.

(9) Indicate the estimated date on which rental assistance will be effective.

(10) Enter the number of units to receive rental assistance shown on the last approved request.

(11) Indicate the difference (+ or −) in the number of units receiving rental assistance.

(12) Enter the number of units now to receive rental assistance.

(13) Indicate whether the project was reported as new or existing on the last approved request.

(14) Enter the date of obligation as shown on the last approved request.

(15) Indicate the effective date of the initial rental assistance agreement.

(16) Insert the estimated effective date that the increase or decrease in number of units will be effective.

(17) Insert date of execution.

(18) Signatures of the requesting officials.

(19) Title of the requesting official.

(20) The Finance Office will indicate whether or not the units were obligated for rental assistance.

(21) Finance will indicate the date the units were obligated for the project.

(22) The reverse side of the form is to be completed and mailed to borrower before or no later than the time the forms are sent to the Finance Office.

State (a)

INTEREST CREDIT AND RENTAL ASSISTANCE AGREEMENT County (1b)

(1e) RRII (1e) RCH Case Number (1c)

(1e) LII Loan Code (1d)

1. This Agreement to be effective on ___ day of _____, 19——between the United States of America, acting through the Farmers Home Administration pursuant to Section 521 of the Housing Act of 1949, (herein called "the Government") and (3) (herein called "Borrower") supplements a promissory note in the principal amount of $ (4a), dated (4b) which was drawn in ☐ (5) a single advance ☐ (5) multiple advances.

2. Subject to the provisions of this agreement, the Government will compute interest on the Borrower's account at the rate specified for the plan of operation selected below:

☐ (6) *Plan I.*—The effective interest rate is three (3) percent plus surcharge as determined by the Government formula or proceedure based on the income of the family.

☐ (6) *Plan I S 8.*—For a profit type operation with a HUD Section 8 Housing Assistance Payment Contract in effect on all or a part of the units in the project.

The effective interest rate is __ percent as determined by the Government formula or procedure based on market and contract rental rates.

☐ (6) *Plan II.*—For non-profit and limited profit type operation with or without a HUD Section 8 Housing Assistance Payments Contract in effective on a part of the units in the project.

The effective interest rate is one (1) percent plus all rental income over basic rent as determined by the Government formula or procedure for the program.

☐ (6) *Plan II RA.*—For nonprofit and limited profit type operations utilizing the Rental Assistance Payments Program.

The Government agrees to credit the account or make a cash payment to the borrower in accordance with Government formula and procedure for the program.

☐ (6) *RA.*—For labor housing loans, direct RRH loans and insured RRH loans approved prior to August 1, 1968, utilizing the Rental Assistance Payments Program.

The Government agrees to credit the account or make a cash payment to the borrower in accordance with Government formula and procedure for the program.

3. Borrower shall submit to the Government, as required by the Government in form prescribed or approved by it, proof of Borrower's income and expenses for the previous calendar year or other designated periods, and any information on the family size and income of the occupants of the housing financed with the loan evidenced by the note.

4. If the Government should determine that the Borrower has defaulted under any terms or conditions of this agreement, the note, Borrower's related Loan Resolution, and supplementary or related agreements, or any related security instrument, or violates any program regulations, at its option the Government may terminate this agreement as of any specified date following the default.

5. No credit to the Borrower's account provided for in paragraph 2 shall be made following any termination date specified pursuant to paragraph 4.

6. The Government shall credit annually or more often to Borrower's account, and/or pay the borrower in case of rental assistance so long as there is no default in any obligation of Borrower to the Government, amounts equal to the difference, determined in accordance with a formula and procedure prescribed by the Government, between the payment that would be required in accordance with the terms of the note and the payment required under such formula and procedure.

7. No terms or conditions of the note or any related security or other instrument shall be affected by this agreement except as expressly set forth herein.

8. This agreement is subject to the present regulations of the Farmers Home Administration, and to its future regulations not inconsistant with the express provisions hereof.

9. Upon request, the borrower will permit representatives of FmHA (or other agencies of the Department of Agriculture authorized by the Department) to inspect and make copies of any records of borrower pertaining to FmHA loans and this agreement.

10. If the borrower has received any excessive credit or payment, in addition to any other rights of recovery, the Government may deduct the amount from any subsequent credit or payment.

[CORPORATE SEAL]

(8)
(Name of borrowers)

(9) and (10)
(Signature and title of executive official)

(11)
(Signature of attesting official)

(13)
(P.O. box or street address)

(12)
(Title of attesting official)

(14)
(City, State, and ZIP code)

UNITED STATES OF AMERICA

FARMERS HOME ADMINISTRATION

By (15)

(16)
(Date of execution)

(17)
(Title)

PROCEDURE REFERENCE: FmHA Instruction 444.4 and 444.5.

PREPARED BY: County Supervisor except by State Director when Form FmHA 444–27, "Rental Assistance Agreement" is required for rental assistance.

NUMBER OF COPIES: Original and two except original and three for rental assistance.

SIGNATURES REQUIRED: All copies by Official authorized to sign for the organization and the person authorized to act as attesting official and also by the County Supervisor or other authorized FmHA official.

DISTRIBUTION OF COPIES: Original retained in County Office; Copy to borrower; Copy to Finance Office. Unsigned Copy retained in State Office when prepared for rental assistance.

INSTRUCTIONS FOR PREPARATION

(1) Insert (a) State and (b) County in which property is located, (c) borrower's case number, (d) borrower's loan code, and (e) check type of loan.

(2) Insert date the Agreement is effective. For initial interest credit agreements the effective date will be (a) the date of the promissory note when interim financing is used or (b) the beginning of the month in which there are units ready for occupancy when multiple advances are used.

(3) Type name of borrower as it appears in the promissory note.

(4a) Insert amount of loan in figures as shown in the promissory note.

(4b) Insert the date of the promissory note.

(5) Check whichever is appropriate: single or multiple advances.

(6) Check appropriate block to indicate the Plan the borrower will follow. When "Plan II RA" or "RA" is checked indicating that rental assistance is available to the project, Form FmHA 444–27, "Rental Assistance Agreement", will be completed and attached to the borrower's and County Office copy of this form.

(7) Insert the effective interest rate which is applicable to the loan.

(a) *For a project with all units under Section 8*, the interest rate may be reduced by 1 or 2 percentage points below the note rate of interest in accordance with FmHA Instruction 444.5.

(b) *For a mixed project operating for profit* the interest rate may be reduced a proportionate part of 1 or 2 percentage points in accordance with FmHA Instruction 444.5. The proportionate amount of 1 or 2 percent (as appropriate) will be in direct ratio as the number of units under section 8 are to the total units in the project.

(8) Same as (3).

(9) Signature of official of organization authorized to sign.

(10) Insert title of official signing the agreement.

(11) Signature of attesting official.

(12) Insert title of attesting official.

(13) Insert address of borrower.

(14) Signature of FmHA Official.

(15) Insert title of FmHA Official.

(16) Insert date the agreement is executed. If the borrower is to receive interest credit, this agreement should not be executed until the provisions of Exhibit J of FmHA Instruction 444.5 are met. In other cases the agreement will be executed at the same time Form FmHA 444–27 (Exhibit R–2) is executed.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authorty by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration 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.

Dated: November 7, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77–32711 Filed 11–14–77;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

Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

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

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1977 ed.), as amended April 26, 1977 (42 FR 21269), May 27, 1977 (42 FR 27218), July 5, 1977 (42 FR 34276), and October 28, 1977 (42 FR 56719), prescribing the commuted traveltime that shall be included in each period or overtime or holiday duty, and hereby amended by adding to or deleting from the respective lists therein as follows:

§ 97.2 Administrative instructions prescribing the commuted traveltime.

* * * * *

OUTSIDE METROPOLITAN AREA

* * * * *

FOUR HOURS

Delete: Moses Lake, Washington (served from Spokane, Washington).

FIVE HOURS

Add: Moses Lake, Washington (served from Spokane, Washington).

SIX HOURS

Add: Moses Lake, Washington (served from Oroville, Washington, and Lewiston, Idaho).

* * * * *

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

It is to the benefit of the public that these instructions be made effective at the earliest parcticable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of November 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.77-32958 Filed 11-14-77;8:45 am]

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1026, Amdt. 2]

PART 248—SUBMISSION OF AUDIT AND RECONCILIATION REPORTS

Approval by Comptroller General

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting requirements contained in a regulation concerning the filing of reconciliation reports of financial statements included in an independent auditor's report with similar CAB Form 41 financial statements. This approval is required by the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated November 4, 1977.

DATES: Effective: November 10, 1977. Adopted: November 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Civil Aeronautics Board amends Part 248 of its Economic Regulations (14 CFR Part 248) by adding the following note at the end of Part 248:

NOTE.—The reporting requirements contained in this part have been approved by the U.S. General Accounting Office under Number B-180226 (R0076).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204, Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-33015 Filed 11-14-77;8:45 am]

[4810-22]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-271]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Hong Kong-Coastwise Transportation

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to include Hong Kong in the lists of nations which permit vessels of the United States to transport certain articles between their ports. This amendment will provide reciprocal privileges for vessels of Hong Kong registry.

EFFECTIVE DATE: April 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Patrick J. Casey, Attorney, Carriers, Drawback and Bonds Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5706.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 27 of the Merchant Marine Act of 1920, as amended (46 U.S.C. 883), provides generally that no merchandise shall be transported by water, or by land and water, between points in the United States except in vessels built in and documented under the laws of the United States and owned by United States citizens. However, the Act also provides that upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that the government of a foreign nation of registry does not restrict the transportation of certain articles between its ports by vessels of the United States, reciprocal privileges shall be accorded to vessels of that nation and the prohibition against the transportation of those articles between points in the United States will not apply to its vessels.

In accordance with the Act, the Customs Service has listed in § 4.93(b)(1) of the Customs Regulations (19 CFR 4.93(b)(1)) those nations which have been found to extend reciprocal privileges to vessels of the United States for the transportation of empty cargo vans, empty lift vans, and empty shipping tanks. Those nations which have been found to grant reciprocal privileges to vessels of the United States in respect to the transportation of equipment for use with cargo vans, lift vans, and shipping tanks; empty barges specifically designed for carriage aboard a vessel, empty instruments of international traffic, and certain stevedoring equipment and material are listed in section 4.93(b)(2) of the Customs Regulations (19 CFR 4.93(b)(2)).

In accordance with 46 U.S.C. 883, the Secretary of State informed the Secretary of the Treasury on April 11, 1977 that Hong Kong, a crown colony of the United Kingdom, places no restriction on the transportation of the articles listed in the Act by vessels of the United States between Hong Kong and any other port under the jurisdiction of the United Kingdom. Therefore, reciprocal privileges are accorded to vessels of Hong Kong registry as of that date.

DRAFTING INFORMATION

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

Inasmuch as there is a statutory basis for the described extension of reciprocal privileges, and the amendments recognize an exemption from the transportation coastwise prohibition of section 27, 41 Stat. 999, as amended (46 U.S.C. 883), notice and public procedure thereon are unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

AMENDMENTS TO THE CUSTOMS REGULATIONS

§ 493 [Amended]

To reflect the reciprocal privileges granted to Hong Kong, paragraphs (b)(1) and (b)(2) of § 4.93 of the Customs Regulations (19 CFR 4.93(b)(1), (b)(2)), are amended by the addition of the following parenthetical material after "United Kingdom" in the lists of countries under those paragraphs: "(including Hong Kong)".

(Sec. 27, 41 Stat. 999, as amended, sec. 14, 67 Stat. 516 (5 U.S.C. 301, 19 U.S.C. 1322(a), 46 U.S.C. 883).)

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: October 31, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-33012 Filed 11-14-77;8:45 am]

[4110–03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 77C–0347]

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Termination of Provisional Listing for Bismuth Citrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document terminates the closing date for the provisional listing of bismuth citrate for use in cosmetics. The closing date is being terminated because the petitioner failed to comply with a requirement for the submission of short-term studies as a condition for provisional listing. Bismuth citrate may not be added to cosmetic hair dyes after November 15, 1977.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: The Color Additive Amendments of 1960 provide that a color additive may be approved only if data establish that it is safe under its permitted conditions of use. Section 203(b) of the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, 74 Stat. 404–407 (21 U.S.C. 376 note)) provides, however, for provisional listing of color additives in use in 1960 on an interim basis pending completition of scientific investigations needed for determinations about "permanent" listing in accordance with section 706 of the Federal Food, Drug, and Cosmetic Act (sec. 706, 74 Stat. 399–403 (21 U.S.C. 376)). Section 81.1 (21 CFR 81.1) of the color additive regulations designates those color additives that are provisionally listed.

Bismuth citrate was first placed on the provisional list by a regulation published in the FEDERAL REGISTER of March 13, 1974 (39 FR 9657, as corrected in the FEDERAL REGISTER of April 23, 1974 (39 FR 14438)) based on a petition submitted by Combe, Inc., White Plains, N.Y. The notice of filing of this petition was published in the FEDERAL REGISTER of August 7, 1973 (38 FR 21289). Bismuth citrate is currently provisionally listed for use in cosmetics, with a closing date of October 31, 1977. The establishment of October 31, 1977 as the closing date for this color additive originated with a proposal published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41860). The final regulations in response to that proposal were issued in the FEDERAL REGISTER of February 4, 1977 (42 FR 6992).

These regulations state that continued provisional listing of bismuth citrate and the other color additives is conditioned on compliance wtih the various testing requirements of § 81.27 (21 CFR 81.27) including the schedule for each. Paragraph (b) (2) of § 81.27 requires that a full written report on subchronic studies for bismuth citrate shall be submitted by the petitioner to the Division of Food and Color Additives, Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, by August 3, 1977. The necessary studies are a 90-day study with humans to determine the potential for absorption of bismuth citrate at 0.5 percent when used in a hair dye and a 90-day dermal toxicity study with rabbits with 0.5 percent bismuth citrate. As of November 15, 1977, reports of these studies have not been received. Section 81.27 further states that "if the requirements of paragraph (a), (b), (c), and (d) of this section are not complied with, the provisional listing for the color additive(s) involved will be terminated immediately."

By letter of June 14, 1977, Combe, Inc., White Plains, NY, the petitioner for bismuth citrate, requested that the closing date for the provisional listing of bismuth citrate be postponed for an additional 120 days to permit completion and evaluation of two ongoing studies being conducted on bismuth citrate. As the basis for the request, the petitioner cited a delay by FDA in formally approving the protocol for the studies. The studies were to begin on July 8, 1977, with an expected completion date of December 2, 1977.

Subsequently, Combe, Inc., advised by letters of August 11, 1977 and August 19, 1977, that the rabbits being used for the one study were sacrificed prematurely because of an apparent low-grade respiratory disease that resulted in the deaths of significant numbers of the animals. This particular study was terminated, and a new study was undertaken promptly. The petitioner predicted that the submission date for the final report of this second study would be February 25, 1978.

The purpose of the transitional provisions of the Color Additive Amendments of 1960, (section 203) as noted above, "is to make possible, on an interim basis for a reasonable period, through provisional listings, the use of commercially established color additives to the extent consistent with the public health, pending the completion of the scientific investigations needed as a basis for making determinations as to listing of such additives." This provisional listing of previously marketed colors was to expire on the date, also referred to as the closing date, 2½ years after the effective date of the Amendments.

Section 203 of the Amendments further provided, however, that the closing date for the provisional listing could be postponed to a later date as considered "necessary to carry out the purpose of this section, if in the Secretary's judgment such action is consistent with the objective of carrying to completion in good faith, as soon as reasonably practicable, the scientific investigations necessary for making a determination as to listing such additive, or such specified use or uses thereof, under section 706 of the basic Act."

Under the transitional provision of the Amendments (section 203(a)(2)) the Secretary may "terminate the postponement of the closing date at any time if he finds that such postponement should not have been granted, or that by reason of a change in circumstances the basis for such postponement no longer exists, or there has been a failure to comply with a requirement for submission of progress reports or with other conditions attached to such postponement." The requirements of § 81.27 have not been met by the petitioner, and having considered the available data for bismuth citrate and the request of June 14, 1977 from Combe, Inc., as well as the subsequent correspondence, the Commissioner of Food and Drugs finds that the petitioner was not diligent in attempting to comply with 21 CFR 81.27, and that reasonable cause has not been shown why the postponement of the closing date for the provisional listing of bismuth citrate should not be terminated. (The petitioner was not diligent because he failed to take "conscientious, concerted, and forceful action" to meet the requirements of § 81.27. (See the FEDERAL REGISTER of February 4, 1977 (42 FR 6998)). The petitioner clearly knew what the deadlines were, yet he apparently was content to let them pass without meeting his obligations). Therefore, the Commissioner concludes that the provisional listing of bismuth citrate for use in cosmetic hair dyes should be terminated. Published elsewhere in this issue of the FEDERAL REGISTER is a notice denying the petition to list bismuth citrate for use in cosmetics.

The addition of bismuth citrate to cosmetic hair dyes after November 15, 1977 will cause such products to be adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 et seq.) and subject to regulatory action.

The Commissioner concludes that the protection of the public health does not require the recall from the market of externally applied cosmetics containing the color additive, or the destruction of externally applied cosmetics in preparation to which the color additive has already been added.

The Commissioner is aware that supplies of alternative color additives may be difficult to obtain immediately. Consequently, cosmetic labeling that states that the product contains bismuth citrate may continue to be used with the uncolored product or products containing alternative colors during the time necessary to obtain supplies of revised

labeling or until November 15, 1978, whichever occurs first.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618, sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 81 is amended as follows:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, in paragraph (g) by deleting the table entry for bismuth citrate.

2. In § 81.10 by reserving paragraphs (h) through (k) and adding new paragraph (l) to read as follows:

§ 81.10 Termination of provisional listing of color additives.

* * * * *

(h)-(k) [Reserved]

(l) *Bismuth citrate.* The Commissioner concludes that there are inadequate toxicological data to permit listing of bismuth citrate. In addition, the Commissioner has found that the petitioner failed to comply with the conditions attached to the postponement of the closing date in accordance with section 203(a)(2) of the transitional provisions of the Color Additive Amendments of 1960. The Commissioner of Food and Drugs hereby terminates the provisional listing of bismuth citrate for the use in cosmetic hair dyes, effective November 15, 1977.

Notice and public procedure are not necessary prerequisites to the promulgation of this order because section 203(d)(2) of Pub. L. 86-618 so provides.

Effective date. This regulation is effective November 15, 1977.

(Sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note).)

Dated: November 9, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-32930 Filed 11-14-77;8:45 am]

[4110-03]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77F-0170]

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Components in Contact With Aqueous and Fatty Foods

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This document amends the food additive regulations to provide for the use of a resin as a wet strength agent in the manufacture of paper and paper board for food-contact use. This order is based on a petition filed by the Georgia-Pacific Corp.

DATES: Effective November 15, 1977; objections by December 15, 1977.

ADDRESS: Written objections to the office of the Hearing Clerk (HFC-20), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

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: Notice was given in the FEDERAL REGISTER of July 8, 1977 (42 FR 35221) that a food additive petition (FAP 6B3196) had been filed by Schuyler, Birch, Swindler, McKie & Beckett, 1000 Connecticut Ave. NW., Washington, D.C. 20036, on behalf of Georgia-Pacific Corp., proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the use of polyamidol-epichlorohydrin resin, modified by reaction with formaldehyde, as a wet strength agent in the manufacture of paper and paperboard for food-contact use.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 176.170 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 176 is amended in § 176.170(a)(5) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

(a) * * *

(5) * * *

List of substances	*Limitations*
* * *	* *
Polyamidol-epichlorohydrin modified resin produced by reacting glutaric acid dimethyl ester with diethylene-triamine to produce a basic polyamide which is modified by reaction with formaldehyde and further reacted with epicholorohydrin to form a water soluble cationic resin having a nitrogen content of 10.9-11.9 percent and a chlorine content of 13.8-14.8 percent, on a dry basis, and a minimum viscosity, in 12.5 percent by weight aqueous solution, of 10 centipoises at 25°C, as determined by a Brookfield Model LVF viscometer using a No. 1 spindle at 60 r.p.m. (or equivalent method).	For use only as a wet strength agent employed prior to the sheet forming operation in the manufacture of paper and paperboard, and used at a level not to exceed 2.5 percent by weight of dry paper and paperboard fibers when such paper or paperboard is used in contact with food under conditions of use E through G described in table 2 of paragraph (c) of this section.
* * *	* *

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 15, 1977 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: November 15, 1977.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: November 4, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-32846 Filed 11-14-77;8:45 am]

[4110-03]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0285]

PART 446—TETRACYCLINE ANTIBIOTIC DRUGS

Tetracycline Hydrochloride for Topical Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the antibiotic drug regulations to provide for the certification of tetracycline hydrochloride for topical solution. Pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act, the manufac-

turer has supplied sufficient data and information to establish the safety and efficacy of tetracycline hydrochloride for topical solution.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs, having evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of tetracycline hydrochloride for topical solution, concludes that the data supplied by the manufacturer concerning the subject antibiotic drug product are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Part 446 (21 CFR Part 446) to provide for its certification.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 446 is amended by adding new § 446.581c, to read as follows:

§ 446.581c Tetracycline hydrochloride for topical solution.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Tetracycline hydrochloride for topical solution is a dry mixture of tetracycline hydrochloride, 4-epitetracycline hydrochloride, and sodium bisulfite packaged in combination with a suitable and harmless aqueous vehicle. When reconstituted as directed in the labeling, each milliliter contains 2.2 milligrams of tetracycline hydrochloride. The tetracycline hydrochloride content of the reconstituted solution is satisfactory if it contains not less than 90 percent and not more than 130 percent of the number of milligrams of tetracycline hydrochloride per milliliter that it is represented to contain. The 4-epitetracycline hydrochloride content is satisfactory if it contains not less than 115 percent and not more than 140 percent of the amount of tetracycline hydrochloride in the reconstituted solution at the time of reconstitution. The loss on drying of the dry mixture is not more than 5 percent. When reconstituted as directed in the labeling, its pH is not less than 2.8 and not more than 4.4. The tetracycline hydrochloride used conforms to the standards prescribed by § 446.31a, except sterility, safety, pyrogens, and histamine. The 4-epitetracycline hydrochloride used conforms to the following standards: It gives a positive identity test for 4-epitetracycline hydrochloride; its 4-epitetracycline content is not less than 70 percent; its total anhydrotetracycline and 4-epianhydrotetracycline content is not more than 2.0 percent; its loss on drying is not more than 6.0 percent; its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 2.3 and not more than 4.0.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The tetracycline hydrochloride used in making the batch for potency, loss on drying, pH, absorptivity, and crystallinity.

(*b*) The 4-epitetracycline hydrochloride used in making the batch for 4-epitetracycline content and identity, total anhydrotetracycline and 4-epianhydrotetracycline content, loss on drying, and pH.

(*c*) The batch for tetracycline hydrochloride content, 4-epitetracycline hydrochloride content, loss on drying, and pH.

(ii) Samples required:

(*a*) The tetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay of the tetracycline hydrochloride for topical solution*—(1) *Tetracycline hydrochloride content and 4-epitetracycline hydrochloride content*—(i) *Apparatus and reagents*—(*a*) Glass chromatographic column (1.0 centimeter ID X 30 centimeters long) with a coarse-fritted glass disc in the bottom and fitted with a Teflon stopcock or equivalent.

(*b*) *Solvent reservoir.* 60-milliliter separatory funnel equipped with Teflon stopcock or equivalent.

(*c*) *Column packing.* Use Chromosorb W(AW), 60–80 mesh or equivalent. Alternatively, slurry 300 grams of nonacid washed diatomaceous earth (Chromosorb W(NAW), 60–80 mesh, or equivalent) with 2.0 liters of 6*N* hydrochloric acid for 15 minutes in a 3.0-liter beaker; filter and wash with distilled water until the pH is neutral; slurry in 2.0 liters of ethyl acetate:methyl alcohol mixture (1:1 by volume) for 15 minutes; filter and vacuum dry at 60° C for about 16 hours. Place the column packing into a tared wide-mouth jar with a screw top and determine the weight of the column packing. Add 1.0 milliliter of buffer solution for each 2.0 grams of column packing and shake jar until column packing is uniformly moist. Keep tightly sealed.

(*d*) *EDTA solution.* Dissolve 74.4 grams of edetate disodium salt in approximately 1,800 milliliters of water. Adjust pH to 7.0 with ammonium hydroxide and dilute to 2,000 milliliters with water.

(*e*) *Polyethylene glycol 400 solution.* To 80 milliliters of glycerine, add sufficient polyethylene glycol 400 to make a volume of 100 milliliters. Mix well.

(*f*) *Buffer solution.* To 95 milliliters of the EDTA solution prepared as described in paragraph (b)(1)(i)(*d*) of this section, add sufficient polyethylene glycol 400 solution, prepared as described in paragraph (b)(1)(i)(*e*) of this section, to make a volume of 100 milliliters. Mix well.

(*g*) *Alkaline methanol solution.* Mix 5 milliliters of concentrated ammonium hydroxide with 95 milliliters methyl alcohol. Prepare fresh daily.

(*h*) *n-Butanol:chloroform (1:1 by volume).* Mix equal volumes of *n*-butanol and chloroform.

(ii) *Column preparation.* Firmly pack the column with 8.0 grams ± 0.1 gram of column packing. Use a vibrator along the length of the column for 10 to 15 seconds, then tap column lightly on bench top. Gently tamp top of column packing with a glass tamping rod. The top of the column packing should be flat across the entire surface with no feathery edges creeping up the column walls.

(iii) *Standard procedure.* Weigh accuratley 20 milligrams ±5 milligrams of tetracycline hydrochloride working standard and transfer to a 25-milliliter volumetric flask. Dissolve with 1.0 milliliter of methyl alcohol and dilute to volume with the buffer solution. Pipet a 2.0-milliliter aliquot to a 10-milliliter volumetric flask and dilute to volume with the buffer solution. Place the column in a suitable support. Place a 50-milliliter graduate under the column. Open the column stopcock, pipet 2.0 milliliters of tetracycline standard solution from the 10-milliliter volumetric flask onto the column packing and allow the sample to permeate the column packing. Place a solvent reservoir containing 20 milliliters of benzene on top of the column and begin to collect the eluate (at flow rate of approximately 1 milliliter per minute). When the benzene level reaches the top of the column packing, replace the empty solvent reservoir with a second solvent reservoir containing 60 milliliters of chloroform and continue elution. Collect 30 milliliters of the column eluate in the 50-milliliter graduate and discard. Replace the 50-milliliter graduate with a 50-milliliter low actinic volumetric flask to collect the eluate containing the tetracycline fraction of the standard. When the chloroform level reaches the top of the column packing, replace the second empty solvent reservoir with a third solvent reservoir containing 10-milliliters of the *n*-butanol:chloroform mixture and replace the 50-milliliter low-actinic volumetric flask with a 10-milliliter graduate. Collect 8 milliliters of eluate in the 10-milliliter graduate and close the column stopcock. Add the 8 milliliters of eluate to the 50-milliliter volumetric flask containing the tetracycline fraction. Rinse the graduate with about 2 milliliters of chloroform and also add the rinse to the tetracycline fraction. Determine the absorbance of the tetracycline

working standard eluate as described in paragraph (b)(1)(v) of this section.

(iv) *Sample procedure.* Reconstitute the sample as directed in the labeling. Transfer 2.0 milliliters of the solution thus obtained to a 25-milliliter volumetric flask and dilute to volume with buffer solution. Place the column in a suitable support. Place a 50-milliliter graduate under the column. Open the column stopcock, pipet 2.0 milliliters of the sample solution onto the column packing and allow the sample to permeate the column packing. Place a solvent reservoir containing 20 milliliters of benzene on top of the column and begin to collect the eluate (at flow rate of approximately 1 milliliter per mintue.) When the benzene level reaches the top of the column packing, replace the empty solvent reservoir with a second solvent reservoir containing 60 milliliters of chloroform and continue elution. Collect 30 milliliters of the column eluate in the 50-milliliter graduate and discard. Replace the 50-milliliter graduate with a 50-milliliter low-actinic volumetric flask and collect the eluate containing the tetracycline fraction of the sample. When the chloroform level reaches the top of the column packing, replace the second empty solvent reservoir with a third solvent reservoir containing 50 milliliters of the *n*-butanol:chloroform mixture and replace the 50-milliliter low-actinic volumetric flask with a 10-milliliter graduate. Collect 8.0 milliliters of eluate. Replace the 10-milliliter graduate with a second 50-milliliter low-actinic volumetric flask and continue collecting the eluate containing the 4-epitetracycline fraction until the column runs dry. Add the 8-milliliters of eluate in the 10-milliliter graduate to the first 50-milliliter volumetric flask containing the tetracycline fraction. Rinse the graduate with about 2 milliliters of chloroform and add the rinsing to the eluate in the first 50-milliliter volumetric flask containing the tetracycline fraction. Determine the absorbance of the tetracycline and the 4-epitetracycline eluates as described in paragraph (b)(1)(v) of this section.

(v) *Determination of tetracycline hydrochloride and 4-epitetracycline hydrochloride absorbances.* Add 2.0 milliliters of alkaline methanol solution to the eluate in each 50-milliliter low-actinic volumetric flask containing tetracycline or 4-epitetracycline fractions. Dilute the volumetric flasks to volume with chloroform. Mix well. Using a suitable spectrophotometer equipped with 1.0-centimeter cells, and chloroform as the blank, determine the absorbance of each solution at 366 nanometers within 10 minutes after preparation of the solutions.

(vi) *Calculations for tetracycline hydrochloride working standard column recovery.*

$$a_s=\frac{A_s\times 25\times 10\times 50\times 1{,}000}{W\times 2\times 2\times P}$$

Where:

a_s = The absorptivity of the tetracycline hydrochloride working standard eluate in liters/gram/centimeter.

A_s = Absorbance at 366 nanometers of the tetracycline hydrochloride working standard eluate.

W = Weight of tetracycline hydrochloride working standard in milligrams.

P = Potency of tetracycline hydrochloride working standard in micrograms per milligram.

To be a valid assay, the absorptivity of the tetracycline hydrochloride working standard eluate (a_s) must be within 5 percent of the previously established mean absorptivity of the tetracycline hydrochloride working standard eluates with the calculation corrected for potency.

(vii) *Calculations for tetracycline hydrochloride and 4-epitetracycline hydrochloride content.*

Tetracycline hydrochloride content

$$\text{in milligrams per milliliter}=\frac{A_1\times 25\times 50}{a\times 2\times 2}$$

4-Epitetracycline hydrochloride content

$$\text{in milligrams per milliliter}=\frac{A_2\times 25\times 50}{a\times 2\times 2}$$

Where:

A_1 = Absorbance at 366 nanometers of the first 50-milliliter low-actinic volumetric flask containing the tetracycline fraction of the sample.

A_2 = Absorbance at 366 nanometers of the second low-actinic 50-milliliter volumetric flask containing the 4-epitetracycline fraction of the sample.

a = Previously established mean absorptivity of the tetracycline hydrochloride working standard eluates in liters/gram/centimeter with the calculation corrected for potency.

(2) *Loss on drying.* Proceed as directed in § 436.200(a) of this chapter, except use the contents of one immediate container.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the solution obtained when reconstituted as directed in the labeling.

(c) *Tests and methods of assay of the 4-epitetracycline hydrochloride used in making the batch*—(1) *4-epitetracycline content and identity.* Proceed as directed in paragraph (b)(1) of this section, except in lieu of § 446.581c(b)(1)(iv) prepare the sample by weighing accurately 20 milligrams ±5 milligrams of 4-epitetracycline hydrochloride bulk powder and transfer to a 25-milliliter volumetric flask. Dissolve with 1.0 milliliter of methyl alcohol and dilute to volume with the buffer solution. Pipet a 2.0-milliliter aliquot to a 10-milliliter volumetric flask and dilute to volume with the buffer solution. Place the column in a suitable support. Place a 100-milliliter graduate under the column. Open the column stopcock, pipet 2.0 milliliters of solution from the 10-milliliter volumetric flask onto the column packing and allow the sample to permeate the column packing. Place a solvent reservoir containing 20 milliliters of benzene on top of the column and begin to collect the eluate (at flow rate of approximately 1 milliliter per minute). When the benzene level reaches the top of the column packing, replace the empty solvent reservoir with a second solvent reservoir containing 60 milliliters of chloroform and continue elution. When the chloroform level reaches the top of the column packing, replace second empty solvent reservoir with a third solvent reservoir containing 50-milliliters of the *n*-butanol:chloroform mixture and replace the 100-milliliter graduate with a 10-milliliter graduate. Collect 8.0 milliliters of eluate. Replace the 10-milliliter graduate with a 50-milliliter low-actinic volumetric flask and continue collecting the eluate containing the 4-epitetracycline fraction until the column runs dry. Determine the absorbance of the 4-epitetracycline eluate as described in paragraph (b)(1)(v) of this section.

Calculate the 4-epitetracycline hydrochloride content of the 4-epitetracycline hydrochloride bulk powder as follows:

Percent by weight 4-epitetracycline content

$$=\frac{A\times 25\times 10\times 50\times 100}{a\times W\times 2\times 2}$$

Where:

A = Absorbance at 366 nanometers of the low-actinic 50-milliliter volumetric flask.

a = Previously established mean absorptivity of the tetracycline hydrochloride working standard eluates in liters/gram/centimeter with the calculation corrected for potency.

W = Weight of 4-epitetracycline hydrochloride bulk powder in milligrams.

The identity of the 4-epitetracycline hydrochloride is confirmed if the absorbance of the sample after column elution is such that the 4-epitetracycline hydrochloride content is greater than 70 percent by weight.

(2) *Total anhydrotetracycline and 4-epianhydrotetracycline content.* Proceed as directed in § 436.309 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(a) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using a solution containing 10 milligrams per milliliter.

Since the conditions prerequisite to providing for certification of this drug have been complied with and as the matter is noncontroversial, the Commissioner finds for good cause that prior notice and public procedure are impracticable and unnecessary and that the amendment may become effective upon the day of its publication. Interested persons may, on or before December 15, 1977 file with the Hearing Clerk (HFC–20), Food and Drug Administration, room 4–65, 5600 Fishers Lane, Rockville, MD. 20857, written comments, in four copies and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday. Any changes in

this regulation justified by such comments will be the subject of a further amendment.

Effective date. This regulation is effective November 15, 1977.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: November 8, 1977.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.77-32844 Filed 11-14-77;8:45 am]

[4110-03]

[Docket No. 76N-0199]

PART 452—MACROLIDE ANTIBIOTIC DRUGS

Erythromycin Tablets and Erythromycin Stearate Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the antibiotic drug regulations that provide for certification of erythromycin tablets and erythromycin stearate tablets to (1) establish a satisfactory uniform moisture test method; (2) lower the moisture limit to 5 percent for both erythromycin tablets and erythromycin stearate tablets; and (3) add provisions for certification of a new 500-milligram strength of erythromycin tablet. These changes are being adopted based upon a recent reevaluation of certification data and the approval for marketing of a new strength of erythromycin tablet.

EFFECTIVE DATE: December 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4292.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs proposed in the FEDERAL REGISTER of July 1, 1976 (41 FR 27083) that the loss on drying method in § 436.200(b) (21 CFR 436.200(b)) should be used for determining the moisture content of all strengths of erythromycin tablets and erythromycin stearate tablets. In addition, the Commissioner proposed that moisture limits of 5 percent for erythromycin tablets and 4 percent for erythromycin stearate tablets are more appropriate than the moisture limits of 7.5 percent and 7 percent, respectively, currently specified in the regulations.

The Commissioner also proposed that provisions for certification of 75-milligram and 100-milligram strengths of erythromycin tablets be deleted from § 452.110a to update the current regulations.

The Commissioner noted that a new strength, 500 milligrams of erythromycin per tablet, had recently been approved for marketing. In the proposal he announced that the final regulation would provide for certification of that drug product. Interested persons were allowed 60 days for comment.

1. Three comments, concerning only the part of the proposal pertaining to erythromycin stearate tablets, were received from interested members of industry. The respondents expressed the opinion that the moisture limit should not be lowered from 7 percent to 4 percent as proposed. One respondent suggested that a 5 percent moisture limit would be more appropriate.

In view of the comment and a reevaluation of the certification data, the Commissioner concludes that the 5 percent limit is more appropriate than the 4 percent limit when the loss on drying method is used to determine moisture.

2. One manufacturer stated that its product fuses into a solid mass when the loss on drying method is used.

The FDA's laboratories have tested several of this manufacturer's products by the loss on drying method. They have experienced some fusing of the drug product. However, they find that the fusing does not affect the determination of moisture content. Therefore, the Commissioner concludes that the loss on drying method is satisfactory for determining the moisture content of erythromycin stearate tablets being submitted for certification.

3. One manufacturer stated that he was unable to find the necessary equipment to perform loss on drying testing.

In direct correspondence to the respondent, FDA provided the names of two suppliers of the equipment.

After considering the comments, the Commissioner concludes that the amendments should be adopted as proposed with the exception that the loss on drying requirement for erythromycin stearate tablets is set at 5 percent and a provision for the 500-milligram tablet of erythromycin is added.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 452 is amended as follows:

1. In § 452.110a by revising paragraphs (a)(1), (a)(3)(i)(*b*), and (b)(2) to read as follows:

§ 452.110a Erythromycin tablets.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Erythromycin tablets are erythromycin with suitable and harmless buffer substances, diluents, binders, lubricants, colorings, flavorings, and suitable preservatives. The potency of each tablet is 250 milligrams or 500 milligrams of erythromycin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of erythromycin that it is represented to contain. Tablets shall disintegrate within 1 hour. The loss on drying is not more than 5.0 percent. The erythromycin used in making the batch conforms to the standards prescribed by § 452.10(a)(1), except heavy metals.

* * * * *

(3) * * *

(i) * * *

(*b*) The batch for potency, disintegration time, and loss on drying.

* * * * *

(b) * * *

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

* * * * *

2. In § 452.135a by revising the next to the last sentence of paragraph (a)(1) (setting forth below the last two sentences) and by revising paragraphs (a)(3)(i)(*b*) and (b)(2) to read as follows:

§ 452.135a Erythromycin stearate tablets.

(a) * * *

(1) * * * The loss on drying is not more than 5.0 percent. The erythromycin stearate used in making the tablets conforms to the standards prescribed by § 452.35(a)(1).

* * * * *

(3) * * *

(i) * * *

(*b*) The batch for potency, loss on drying, and disintegration time.

* * * * *

(b) * * *

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

* * * * *

Effective date. This amendment shall become effective December 15, 1977.

(Sec. 507, 59 Stat, 463, as amended (21 U.S.C. 357).)

Dated: November 8, 1977.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.77-32879 Filed 11-14-77;8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Fenbendazole Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by American Hoechst Corp., proposing safe and effective use of an anthelmintic suspension for treatment of horses.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: American Hoechst Corp., Route 202-206 North, Somerville, N.J. 08876, filed an NADA (104-494V) providing for use of fenbendazole suspension orally or by stomach tube for the control of large strongyles, small strongyles, pinworms, and ascarids in horses.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), room 4-65, 5600 Fishers Lane, Rockville, MD 20857, Monday through Friday, from 9 a.m. to 4 p.m., except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 520 (21 CFR Part 520) is amended by adding new § 520.905 to read as follows:

§ 520.905 Fenbendazole suspension.

(a) *Chemical name.* Carbamic acid, [5 - (phenylthio) - 1*H*-benzimidazol-2-yl] methyl ester.

(b) *Specifications.* The drug is a suspension containing 10 percent (100 milligrams per milliliter) fenbendazole.

(c) *Sponsor.* See No. 000039 in § 510.600 (c) of this chapter.

(d) *Conditions of use.* (1) *Amount.* 5 milligrams per kilogram (2.3 milligrams per pound) for the control of large strongyles, small strongyles, and pinworms; 10 milligrams per kilogram for the control of ascarids.

(2) *Indications for use.* For the control of large strongyles (*Strongylus edentatus, S. equinus, S. vulgaris*), small strongyles *Cyanthostomum* spp., *Cylicocyclus* spp., *Cylicostephanus* spp., *Triodontophorus* spp.), pinworms (*Oxyuris equi*), and ascarids (*Parascaris equorum*) in horses.

(3) *Limitations.* Administer orally by dose syringe or suitable plastic syringe. The drug may also be administered by stomach tube. Do not use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation shall be effective November 15, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: November 7, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-32845 Filed 11-14-77;8:45 am]

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 11—ACCOUNTING

Amendments

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration prescribes amendments to its regulations, which outline the procedures by which States submit reports to this agency of unbilled accrued costs on Federal-aid programs. The amendments, in addition to various minor changes and additions, would require the States to submit the reports on a quarterly rather than a monthly basis as presently required. This particular change would have the effect of reducing the State's paperwork submission, with a corresponding reduction in the amount of FHWA's internal paperwork processing.

EFFECTIVE DATE: November 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard M. Bander, Finance Division, Office of Fiscal Services (202/426-0575); Wilbert Baccus, Office of the Chief Counsel (202/426-0786), Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: This regulation amendment was not issued in proposed form, and no comments were solicited, as the matters affected relate to grants within the purview of 5 U.S.C. § 553(a)(2), thus general notice of proposed rulemaking was not required.

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

Issued on: November 7, 1977.

WILLIAM M. COX,
Federal Highway Administrator.

Part 11 of Chapter I, Title 23 of the Code of Federal Regulations is amended as follows:

1. The Table of Sections of Part 11 is amended by deleting the word "Monthly" in the body for § 11.302 and in lieu thereof adding "Quarterly."

2. The Table of Sections of Part 11 is amended by adding § 11.304 to read as follows:

* * * * *

11.304 Costs to be excluded.

§ 11.301 [Amended]

3. In § 11.301, the first sentence is amended by deleting the word "directive" and adding in lieu thereof the word "part."

4. Section 11.302 is revised to read as follows:

§ 11.302 Quarterly reporting by State Highway Departments.

(a) Each State shall submit a report of unbilled costs as of the quarter ending December 31, March 31, June 30, September 30, signed and dated by an authorized official of the State highway department.

(b) Unbilled costs shall be reported to FHWA on Form FHWA-186 "Accounting Statement—Accrued Unbilled Costs," and the original and one copy submitted to the FHWA Division Office by the close of business on the eighth working day of the following quarter. The amounts reported on Form FHWA-186 must be supported by the accounting records of the State whi h shall be available to FHWA officials at all times. These costs shall include:

(1) Right-of-Way—amounts (i) paid former owners; (ii) placed in escrow for future payment; and (iii) paid for appraisal fees and other incidental costs of right-of-way.

(2) Construction—amounts paid to contractors, State construction employees, or vendors for work performed and material received.

(3) Railroad and Utility—amounts paid to railroad and utility companies.

(4) Preliminary and Construction Engineering—amounts paid for engineering services or materials.

§ 11.303 [Amended]

5. In § 11.303, the second sentence is amended by striking the period and adding "in columns 6 and 7 of Form FHWA-186.[1] Unbilled Highway Planning and Research Costs (HPS)/(PR) are to be reported on the line provided."

6. A new § 11.304 is added to read as follows:

"§ 11.304 Costs to be excluded.

The costs of projects authorized in Stage 1, Advance Construction Program (ACP) and Bond Issue projects for which no Federal funds have been reserved shall be excluded from the reports. When Stage 1 projects are advanced to Stage 2, the cost of work paid to date in conformance with Stage 1 authorization will be reported. Likewise, when Bond Issue and ACP projects are converted to regularly financed projects—in whole or in part—the cost of work converted will be reported under the same procedures as those governing regular projects."

(23 U.S.C. 315; 49 CFR 1.48(b); 31 U.S.C. 66.)

[FR Doc.77-32945 Filed 11-14-77;8:45 am]

[1] Available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

[4510-29]

Title 29—Labor

CHAPTER IV—OFFICE OF LABOR-MANAGEMENT STANDARDS ENFORCEMENT, DEPARTMENT OF LABOR

SUBCHAPTER A—LABOR-MANAGEMENT REPORTS

EDITORIAL CHANGES TO CFR SUBCHAPTER

AGENCY: Labor Management Services Administration, Department of Labor.

ACTION: Final editorial amendments.

SUMMARY: These amendments make a number of editorial changes required to update Subchapter A of Chapter IV. They reflect such things as changes in titles and addresses, and they delete obsolete material. These amendments do not make any substantive changes.

EFFECTIVE DATE: Since these amendments are editorial in nature, they are effective November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Herbert Raskin, Chief, Branch of Interpretations and Standards, Division of Program Standards, Office of Labor-Management Standards Enforcement, Labor-Management Services Administration, Department of Labor, Washington, D.C. 20216, 202-523-7373.

SUPPLEMENTARY INFORMATION: This document was prepared under the direction and control of Carl Rolnick, Director, Office of Labor Standards Enforcement, Room N5408, New Department of Labor Building, 200 Constitution Ave., NW., Washington, D.C. 20210, telephone: 202-523-8388.

Accordingly, Subchapter A of Chapter IV is amended as follows:

1. Whenever the title "Office of Labor-Management and Welfare-Pension Reports" appears in the subchapter, it is changed to read "Office of Labor-Management Standards Enforcement."

PART 403—LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS

§ 403.1 [Amended]

2. Section 403.1(b) is amended by deleting the words "because the date of enactment of the Act (September 14, 1959) occurred during such fiscal year or" and "otherwise."

§ 403.4 [Amended]

3. Section 403.4(b)(4) is amended by changing the ZIP Code "20210" to "20216."

PART 405—EMPLOYER REPORTS

§ 405.1 [Amended]

4. Section 405.1 is amended by deleting paragraph (a)(2) and renumbering paragraph (a)(1) as (a).

§ 405.3 [Amended]

5. Section 405.3 is amended by deleting the word "following" which appears twice.

6. Section 405.5 is amended by replacing the words "in the second box in Part B" with "in the second paragraph under the instructions for Question 8A" so that the section reads as follows:

§ 405.5 Special reports.

In addition to the report on Form LM-10, the Director, Office of Labor-Management Standards Enforcement, may require from employers subject to the Act the submission of special reports on pertinent information, including but not necessarily confined to reports with respect to specifically identified personnel on the matters referred to in the second paragraph under the instructions for Question 8A of Form LM-10.

7. Section 405.7 is amended by replacing the words "Part D" which appear twice with "Question 8C" so that the section reads as follows:

§ 405.7 Relation of section 8(c) of the National Labor Relations Act, as amended, to the reporting requirements of § 405.2.

While nothing contained in section 203 of the Act shall be construed as an amendment to, or modification of the rights protected by section 8(c) of the National Labor Relations Act, as amended, activities protected by such section of the said Act are not for that reason exempted from the reporting requirements of section 203(a) of the Labor-Management Reporting and Disclosure Act of 1959 and § 405.2, and, if otherwise subject to such reporting requirements, are required to be reported if they have been engaged in during the course of the reporting fiscal year. However, the information required to be reported in Question 8C of Form LM-10 does not include matters protected by section 8(c) of the National Labor Relations Act, as amended, because the definition in section 203(g) of the term "interfere with, restrain, or coerce", which is used in Question 8C does not cover such matters.

PART 406—REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS, CERTAIN AGREEMENTS WITH EMPLOYERS

§ 406.1 [Amended]

8. Section 406.1 is amended by deleting paragraph (b)(2) and renumbering paragraph (b)(1) as (b).

PART 408—LABOR ORGANIZATION TRUSTEESHIP REPORTS

§ 408.3 [Amended]

9. Section 408.3 is amended by deleting the last sentence.

10. Section 408.4 is amended by replacing the words "information required by Item 10 thereof relating to the financial condition of the subordinate organization as of the time trusteeship was assumed over it" with the words "Statement of Assets and Liabilities" so that the section reads as follows:

§ 408.4 Semiannual trusteeship report.

Every labor organization required to file an initial report under § 408.2 shall thereafter during the continuance of trusteeship over the subordinate labor organization, file with the said Office of Labor-Management Standards Enforcement semiannually, and not later than six months after the due date of the initial trusteeship report, a semiannual trusteeship report on Form LM-15 containing the information required by that form except for the Statement of Assets and Liabilities. If in answer to Item 9 of Form LM-15, there was (a) a convention or other policy determining body to which the subordinate organization sent delegates or would have sent delegates if not in trusteeship or (b) an election of officers of the labor organization assuming trusteeship, Form LM-15A should be used to report the required information with respect thereto.

PART 409—REPORTS BY SURETY COMPANIES

11. Section 409.2 is amended by replacing the words "section 13 of the Welfare and Pension Plans Disclosure Act" with the words "section 412 of the Employee Retirement Income Security Act" so that the section reads as follows:

§ 409.2 Annual report.

Each surety company having in force any bond required by section 502 of the Labor-Management Reporting and Disclosure Act of 1959 or section 412 of the Employee Retirement Income Security Act during the fiscal year, shall file with the Office of Labor-Management Standards Enforcement, U.S. Department of Labor, Washington, D.C. 20216, a report, on U.S. Department of Labor Form LMSA S-1, entitled "Surety Company Annual Report" [1] signed by the president and treasurer or corresponding principal officers, in the detail required by the instructions accompanying such form and constituting a part thereof.

PART 417—PROCEDURE FOR REMOVAL OF LOCAL LABOR ORGANIZATION OFFICERS

12. Part 417 is amended by changing the title "Hearing Examiner" to "Administrative Law Judge" whenever it appears.

§§ 417.7 and 417.21 [Amended]

13. Sections 417.7 and 417.21 are amended by changing the address of the Labor-Management Services Adminis-

trator, United States Department of Labor to "200 Constitution Avenue NW., Washington, D.C. 20210."

PART 451—LABOR ORGANIZATIONS AS DEFINED IN THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

14. Section 451.3 is amended by deleting the period at the end of the third sentence in paragraph (a)(4) and adding the following: "with the exception of a labor organization composed of employees of the United States Postal Service which is subject to the Act by virtue of the Postal Reorganization Act of 1970. (A labor organization composed of employees of the Executive Branch of the United States Government is subject to Executive Order 11491 with the exceptions set forth in section 3(b) of the Order.)" and by changing "§ 452.3" in footnote 8 to "§ 452.12" so that the section reads as follows:

§ 451.3 Requirements of section 3(i).

* * * * *

(4) In defining "employer," section 3(e) expressly excludes the "United States or any corporation wholly owned by the Government of the United States or any State or political subdivision thereof." The term "political subdivision" includes, among others, counties and municipal governments. A labor organization composed entirely of employees of the governmental entities excluded by section 3(e) would not be a labor organization for the purposes of the Act with the exception of a labor organization composed of employees of the United States Postal Service which is subject to the Act by virtue of the Postal Reorganization Act of 1970. (A labor organization composed of employees of the Executive Branch of the United States Government is subject to Executive Order 11491 with the exceptions set forth in section 3(b) of the Order.) However, the case of a national or international labor organization composed both of government locals and non-government or mixed locals, the parent organization as well as its mixed and non-government locals would be "labor organizations" and subject to the Act. In such case, the locals which are composed entirely of government employees would not be subject to the Act, although elections in which they participate for national officers or delegates would be so subject.[1]

* * * * *

15. Section 451.4 is amended by adding the following sentence after the second sentence in paragraph (f) which ends "bodies.[12]": "(It should be noted that the above listing is included in the Act as words of illustration, not of limitation.)" so that the section reads as follows:

§ 451.4 Labor organizations under section 3(j).

* * * * *

(f) *Intermediate bodies.* Included in this category is any conference, general committee, joint or system board, or joint council, subordinate to a national or international labor organization, which includes a labor organizatoin engaged in an industry affecting commerce within the categories discussed in paragraphs (b), (c), (d) and (e) of this section. Excluded from this definition, however, are State or local central bodies.[13] (It should be noted that the above listing is included in the Act as words of illustration, not of limitation.) The following is a description of typical intermediate bodies:

* * * * *

§ 451.6 [Amended]

16. Section 451.6(b) is amended by changing "§452.12" in footnote 16 to "§ 452.13."

PART 452—GENERAL STATEMENT CONCERNING THE ELECTION PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

§ 452.9 [Amended]

17. Section 452.9 is amended by changing "United States Board of Parole" to "United States Parole Commission."

Signed at Washington, D.C., this 9th day of November 1977.

FRANCIS X. BURKHARDT,
Assistant Secretary of Labor.

[FR Doc.77-32915 Filed 11-14-77;8:45 am]

[7708-01]

CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

PART 2606—ANNUAL REPORT

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule specifies the form and content of the Annual Report required by Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA"). For plan years beginning on or after January 1, 1977, the "5500 series" forms prescribed by the Internal Revenue Service (the "IRS") for reporting pursuant to sections 6057 and 6058 of the Internal Revenue Code and by the Department of Labor (the "DOL") for reporting pursuant to Section 104 cf ERISA also will be used for reporting to the Pension Benefit Guaranty Corporation (the "PBGC") pursuant to Title IV of ERISA.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

William G. Beyer, Staff Attorney, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, 202-254-4889.

SUPPLEMENTARY INFORMATION: On May 20, 1977, the PBGC, the IRS, and the DOL published in the FEDERAL REGISTER (42 FR 25934) an invitation to comment on these agencies' development of joint annual information returns/reports to be filed with the IRS, rather than with each agency separately, in satisfaction of the separate reporting obligations imposed on plan administrators and plan sponsors by sections 104 and 4065 of ERISA and by sections 6057 and 6058 of the Internal Revenue Code.

All of the comments received in response to the proposed joint use of the forms were favorable. Accordingly, the PBGC has determined to prescribe, for plan years beginning on or after January 1, 1977, IRS/DOL/PBGC Forms 5500, 5500-C and 5500-K (as appropriate) for satisfying the Annual Report requirements imposed by section 4065 of ERISA. For plan years beginning on or after September 2, 1974 but before January 1, 1977, the present Form PBGC-1 will continue to be prescribed.

In consideration of the foregoing, the PBGC hereby amends §§ 2606.3, 2606.4 and 2606.5 of Part 2606, Chapter XXVI of Title 29, Code of Federal Regulations, as follows:

§ 2606.3 Filing Requirement.

(a) For plan years beginning on or after September 2, 1974 and ending on or before December 30, 1977, plan administrators shall file the Annual Report on Form PBGC-1 (Rev. August 1976) in accordance with the instructions therein.

(b) For plan years beginning on or after January 1, 1977, plan administrators shall file the Annual Report on IRS/DOL/PBGC Forms 5500, 5500-C, or 5500-K, as appropriate, in accordance with the instructions therein.

§ 2606.4 [Deleted]

§ 2606.5 [Deleted]

Issued in Washington, D.C. this 10th day of November 1977.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors approving these regulations and authorizing its Chairman to issue same.

RAY MARSHALL,
Chairman, Board of Directors Pension Benefit Guaranty Corporation.

HENRY ROSE,
Secretary.

[FR Doc.77-33023 Filed 11-14-77;8:45 am]

[1] See also, § 452.12 of this chapter which discusses the election provisions of the Act.

[3810–70]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER M—MISCELLANEOUS

[DoD Directive 1344.1]

PART 276—SOLICITATION AND SALE OF INSURANCE ON DEPARTMENT OF DEFENSE INSTALLATIONS

Standards of Conduct

AGENCY: Office of the Secretary of Defense.

ACTION: Issuance of DoD Directive 1344.1 [1]

SUMMARY: This directive updates Department of Defense (DoD) policies governing the standards of conduct in soliciting and selling insurance on DoD installations. In the final document, we added a sentence to emphasize the intent of the prohibition that an insurance agent may not serve as a representative of an association in the sale of insurance. In addition, we made minor editorial changes and deleted the last paragraph on policies on general forms of insurance because it is covered in other more relevant DoD documents.

EFFECTIVE DATE: August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Colonel Robert E. Spencer, USAF, Tel. 202–697–9191.

SUPPLEMENTARY INFORMATION: On June 1, 1977, we published a proposed rule in the FEDERAL REGISTER (42 FR 27963) affording interested persons an opportunity to participate in this rulemaking. All comments received were considered insofar as they related to matters within the scope of the proposed rule. Except for editorial changes and those mentioned in the SUMMARY and detailed below, no other changes were made.

The intent of the prohibition that an insurance agent may not serve as a representative of an association in the sale of insurance was deleted from § 276.6(c)(2) and was emphasized by an additional sentence in § 276.5(a)(1)(ii). § 276.8 was deleted in its entirety, since the requirements of this Part are contained in other Department of Defense documents.

Accordingly, Part 276 reads as follows:

Sec.
276.1 Reissuance and purpose.
276.2 Applicability.
276.3 Objective and scope.
276.4 Definitions.
276.5 General policies and responsibilities.
276.6 Policies on life insurance.
276.7 Overseas accreditation program.

AUTHORITY: 5 U.S.C. 301.

§ 276.1 Reissuance and purpose.

This part updates Department of Defense policies governing the standards of conduct in soliciting and selling all types of insurance on DOD installations and sets forth limitations in soliciting and selling such insurance. It continues the established annual DOD accreditation requirement for life insurance companies operating in overseas areas. It also establishes policy on the use of military personnel allotments in payment of premiums for life insurance.

§ 276.2 Applicability.

The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, and the Unified Commands (hereafter referred to as "DoD Components").

§ 276.3 Objective and Scope.

The policies and procedures contained in this part are designed (1) to promote uniformity of approach in the conduct of insurance solicitations and sales to DOD personnel on DOD installations on a world-wide basis, and (2) to initiate protective measures for DOD personnel where neither Federal nor State consumer protection policies govern.

§ 276.4 Definitions.

(a) *Insurer.* Any company or association engaged in the business of selling insurance policies to DOD personnel.

(b) *Association.* Any organization which has been established, whether or not the word "Association" appears in its title, and which:

(1) Is composed of and serving exclusively, members of the Armed Forces of the United States (on active duty, in a Reserve status, in a retired status, or individuals who entered into such associations while on active duty) and their dependents.

(2) Offers its members life insurance coverage, either (i) as part of the membership dues, or (ii) as a separately purchased plan made available through an insurance carrier or the association as a self-insurer, or a combination of subdivisions (i) and (ii) of this subparagraph.

(c) *Insurance carrier.* An insurance company issuing insurance through an association or reinsuring or coinsuring such insurance.

(d) *Solicitation.* The conduct of any private business, including the offering and sale of insurance on a military installation. Solicitation on installations is a privilege as distinguished from a right, and its control is a responsibility vested in the installation commander, subject to compliance with this part and Part 43 of this chapter.

(e) *Agent.* An individual who receives remuneration as a salesman for an insurer or whose remuneration is dependent on volume of sales or the making of sales.

(f) *Insurance policy.* A policy or certificate of insurance issued by an insurer or evidence of insurance coverage issued by a self-insured association.

(g) *DOD Personnel.* DOD personnel as used in this part, unless the context indicates otherwise, means all active duty officers and enlisted members of the Army, Navy, Air Force, and Marine Corps (officers include commissioned and warrant) and all civilians, officers, and employees, including special Government employees of all the offices, agencies, and departments carrying on functions on a Defense installation (including nonappropriated fund instrumentalities).

§ 276.5 General policies and responsibilities.

(a) The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) shall be responsible for overall administration of the DOD Insurance Program and for assuring its effective implementation throughout the Department of Defense.

(b) DOD Components shall develop sound internal insurance programs to meet the varying requirements of personnel under their jurisdiction. These programs will be supported by implementing instructions which are consistent with this part, Part 43 of this chapter, and 32 CFR 40. The following general policies will be included:

(1) *Solicitation.* (i) Insurers are authorized to solicit on DOD installations provided they are licensed under the insurance laws of the State in which the installation is located. In overseas areas, DOD Components shall limit this authorization to those insurers accredited under the provisions of § 276.7.

(ii) The conduct of all insurance business on DOD installations shall be by specific appointment. When establishing the appointment insurance agents must identify themselves to the prospective purchaser as an agent for a specific insurance company. Disinterested third-party counseling shall be provided, interviewing hours set aside and facilities supplied; if feasible.

(iii) Interviews by appointment at the designated areas shall be extended to all agents on an equitable basis. (Where space and other considerations dictate the limiting of the number of agents using the designated interviewing area, the DOD installation commander may develop and publish local policy consistent with this concept.)

(iv) The DOD installation commander shall deny or suspend permission to an insurer or an agent to solicit DOD personnel on an installation when the provisions of this Part have been violated.

(v) The solicitation provisions and suspension procedures outlined in Part 43 of this chapter will govern in all sales of insurance on DOD installations.

(2) *Supervision.* The offering and sale of insurance to DOD personnel on DOD installations shall be appropriately supervised.

(i) DOD personnel are expressly prohibited from representing any insurer, or dealing either directly or indirectly with any insurer or any recognized representative of an insurer, as an agent or in any official or business capacity with or without compensation from soliciting personnel on a military installation to purchase insurance.

(ii) This is in addition to the policies outlined in Part 43 and Part 40 of this chapter.

[1] Filed as part of original. Single copies may be obtained, if needed, from U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attn: Code 301.

(3) *Prohibitions.* In addition to the solicitation prohibitions contained in Part 43 of this chapter, DOD Components shall prohibit:

(i) The use of an agent as a participant in any military-sponsored insurance education or orientation program.

(ii) The designation of any agent or the use by any agent of titles such as "Battalion Insurance Counselor," "Unit Insurance Advisor," "SGLI Conversion Consultant," etc.

(iii) The assignment of desk space for interviews to other than a specific prearranged appointment. During such appointment, the agent shall not be permitted to display desk or other signs announcing name or company affiliation.

(iv) The use of the "Daily Bulletin" or any other notice, official or unofficial, announcing the presence of an agent and his availability.

(v) The distribution of literature other than to the person being interviewed.

§ 276.6 Policies on life insurance.

(a) *Life insurance policy content prerequisites.* (1) Insurance policies, other than certificates or other evidence of insurance issued by a self-insured association, offered and sold to personnel on a military installation worldwide must:

(i) Comply with the insurance laws of the State or country in which the installation is located and the procedural requirements of this part.

(ii) Contain no restrictions by reason of military service or military occupational specialty of the insured, unless such restrictions are clearly indicated on the face of the policy.

(iii) Plainly indicate any extra premium charges imposed by reason of military service or military occupational specialty.

(iv) Not provide for a variation in the amount of death benefit or premium based upon the length of time the policy has been in force, unless any such variations are clearly described therein.

For the purposes of this paragraph, an appropriate reference stamped on the face of the policy shall be utilized to draw the attention of the policyholder to any extra premium charges imposed and to any variations in the amount of death benefit or premium based upon the length of time the policy has been in force.

(2) Variable life insurance policies may be offered provided they meet the criteria of the appropriate insurance regulatory agency and the Securities and Exchange Commission.

(3) Premiums shall reflect only the actual premiums payable for life insurance coverage.

(b) *Use of the allotment of pay system.* (1) Allotments of military pay for life insurance premiums shall be made in accordance with Part 59 of this chapter.

(2) For personnel in pay grades E–1, E–2, and E–3, at least 7 days shall elapse for counseling between the signing of a life insurance application and the certification of an allotment. The purchaser's commanding officer may grant a waiver to this requirement for good cause, such as the purchaser's imminent permanent change of station.

(c) *Associations—general.* The recent growth and general acceptability of quasi-military associations offering various insurance plans to military personnel are acknowledged. Some associations are not organized within the supervision of insurance laws of either the Federal or State Governments. While some are organized for profit others function as nonprofit associations under Internal Revenue Service regulations. Regardless of the manner in which insurance plans are offered to members, the management of the association is responsible for complying fully with the instructions contained herein and the spirit of this part.

§ 276.7 Overseas Accreditation Program.

(a) *Accreditation Criteria*—(1) *Initial Accreditation.* (i) Insurers must demonstrate continuous successful operation in the life insurance business for a period of not less than 5 years on December 31 of the year preceding the date of filing the application.

(ii) Insurers must be listed in Best's Life-Health Insurance Reports and be assigned a rating of B+ (Very Good) or better for the business year preceding the Government's fiscal year for which accreditation is sought.

(2) *Reaccreditation.* (i) Insurers must demonstrate continuous successful operation in the life insurance business, as described above.

(ii) Insurers must retain a Best's rating of B+ or better, as described above.

(iii) Insurers must establish an agency sales force in one of the overseas commands within 2 years after initial accreditation.

(iv) Insurers must comply with the provisions of applicable DOD Directives as evidenced by an absence of substantiated complaints concerning operations and sales techniques.

(v) Waivers of the above provisions will be considered for those insurers accredited as of the effective date of this part.

(b) *Application instructions.*—(1) *Applications filed annually.* During the months of May and June of each year insurers may apply for solicitation privileges for personnel assigned to U.S. military installations in foreign areas for the fiscal year beginning the following October 1.

(2) *Application prerequisities.* A letter of application, signed by the President, Vice-President, or designated official shall be forwarded to the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), Attention: Directorate, Personnel Services, ODASD (MPP), the Pentagon, Washington, D.C. 20301. The letter will contain information set forth below, submitted in the order listed. (Where not applicable so state).

(i) Overseas commands (e.g., European, Pacific, Atlantic) where presently soliciting, or planning to solicit, on U.S. military installations.

(ii) A statement that the insurer has complied with, or will comply with, the applicable laws of the country or countries wherein it proposes to solicit (by "laws of the country" is meant all national, provincial, city or country laws or ordinances of any country, as applicable).

(iii) An authenticated copy of the current Annual Statement as filed with the insurance department of the state of domicile.

(iv) A current Report of Examination from an insurance department of a State.

(v) A statement that the policies to be offered for sale conform to the standards prescribed in § 276.6 and contain only the standard provisions such as those prescribed by the laws of the state of domicile.

(vi) A statement that the insurer will assume full responsibility for the acts of its agents with respect to solicitation in accordance with Part 43 of this chapter and this part. Sales personnel will be limited in numbers to 1 General Agent (or company manager or director) and no more than 50 sales personnel for each overseas area. If warranted, the number of agents may be further limited by the overseas command concerned.

(vii) A statement that the insurer will not utilize agents who have not been accredited by the appropriate overseas command for sale to DoD personnel on or off military installations overseas.

(viii) Any explanatory or supplemental comments that will assist in evaluating the application. For example, in the year in which a merger is involved, the Annual Statement referred to in paragraph (b)(2)(iii) of this section, should be submitted for parent and subsidiary companies.

(ix) Where the Department of Defense requires detailed facts or statistics over and beyond those normally involved in accreditation processing, it will be incumbent upon the applicant to provide the necessary information by separate arrangements.

(x) A statement that the General Agent and other accredited agents are appointed consistent with the prerequisites established in paragraph (c) of this section.

(c) *General Agent and Agent Requirements.* Unified commanders shall apply the following principles:

(1) An agent must be a U.S. citizen. Unified commanders may waive this requirement for indigenous personnel accredited prior to January 21, 1972.

(2) An agent must possess a current State license. The overseas commander may waive this requirement on behalf of an accredited agent who has been continuously residing and successfully selling life insurance in foreign areas and forfeits his eligibility for a State license, through no fault of his own, due to the operation of State law (or regulation) governing domicile requirements, or requiring that the agent's company be licensed to do business in that State. The

request for a waiver shall contain the name of the State or jurisdiction which would not renew the agent's license.

(3) General Agents and agents will represent only one accredited commercial insurance company. This requirement may be waived by the overseas commander if multiple representation can be proven to be in the best interest of DOD personnel.

(4) An agent must have at least 1 year of successful life insurance underwriting in the United States or its territories, generally within the 5 years preceding the date of application, in order to be initially employed for overseas solicitation and designated as an accredited agent.

(5) Appropriate overseas commanders shall exercise further agent control procedures as deemed necessary.

(6) An agent, once accredited in an overseas area may not change his affiliation from the staff of one General Agent to another, unless the losing company certifies in writing that the release is without justifiable prejudice. Unified commanders will have final authority to determine justifiable prejudice.

(7) Where the accredited insurer's policy permits, an overseas accredited life insurance agent—if duly qualified to engage in security activities either as a registered representative of a member of the National Association of Securities Dealers or an associated person of a broker/dealer registered with the Securities and Exchange Commission only—may offer life insurance and securities for the purchase of securities cannot be made to the insurer.

(d) *Announcement of findings.* (1) Accreditation by the DOD upon annual applications of insurers shall be announced as soon as practicable by a notice to each applicant and by a listing released annually in September to the appropriate overseas commander. This approval does not constitute DOD endorsement of the insurer. Any advertising by insurers which suggests such endorsement is prohibited (CFR 43).

(2) In the event accreditation is denied, specific reasons for such findings shall be submitted to the applicant.

(i) Upon receipt of notification of an unfavorable finding, the insurer shall have 30 days from the receipt of such notification (forwarded certified mail, return receipt requested) in which to request reconsideration of the original decision. Such requests must be accompanied by substantiating data or information in rebuttal of the specific reasons upon which the adverse findings are based.

(ii) Action by the ASD(MRA&L) on appeal is final.

(iii) If the applicant is presently accredited as an insurer, up to 90 days from final action on an unfavorable finding shall be granted in which to close out operations on overseas installations.

(3) Upon receiving the annual letter of accreditation, each insurer shall send to the applicable unified commander a verified list of agents currently accredited for overseas solicitation. Where applicable, the insurer shall also include the names of new agents for whom original accreditation and permission to solicit on base is requested. Insurers initially accredited will be furnished instructions by the DOD for agent accreditation procedures in overseas areas.

(4) Material changes affecting the corporate status and/or financial conditions of the insurer which may occur during the fiscal year of accreditation must be reported at the time of occurrence. (i) The Department of Defense reserves the right to terminate accreditation if such material changes appear to substantially affect the financial and operational criteria (§ 276.7(a), above) on which accreditation was based. (ii) Failure to report such material changes can result in termination of accreditation regardless of their effect on the criteria.

(5) If an analysis of information furnished by the insurer indicates that unfavorable trends are developing which may possibly adversely affect its future operations, the Department of Defense may, at its option, bring such matters to the attention of the insurer and request a statement as to what action, if any, is contemplated to deal with such unfavorable trends.

MAURICE W. ROCHE,
Director, Correspondence and Directive, Washington Headquarters Service, Department

NOVEMBER 9, 1977.

[FR Doc.77-32931 Filed 11-14-77;8:45 am]

[3810-71]

CHAPTER VI—DEPARTMENT OF THE NAVY

PART 724—NAVAL DISCHARGE REVIEW BOARD

Amendments to Naval Discharge Review Board Regulations

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Naval Discharge Review Board regulations are amended pursuant to commitments made in two recent District Court cases. These amendments further delineate which cases decided by the Board are subject to Secretarial review; provide petitioners with certain additional rights prior to such review; and set forth, among other things, the location and mailing address of the reading room where Board decisions and documents are available for public inspection and copying.

EFFECTIVE DATES: June 29, 1977, for §§ 724.321, 724.501, 724.808, and 724.902; July 15, 1977, for §§ 724.503, 724.803, 724.808, 724.811, and 724.814.

FOR FURTHER INFORMATION CONTACT:

Rear Admiral John M. De Largy, room 911, 801 North Randolph Street, Arlington, Va. 22203, telephone number 202-692-4355.

SUPPLEMENTARY INFORMATION: Under the authority of 10 U.S.C. 1553 the Secretary of the Navy has established the Naval Discharge Review Board and has, from time to time, promulgated regulations governing the functions and procedures of that Board.

The revised regulations governing the Naval Discharge Review Board were published on April 8, 1977, at 42 FR 18589. The revised regulations have been amended pursuant to commitments made in the case of *Attard, et al.*, v. *Secretary of the Navy, et al.*, Civil Action No. 76-1701 U.S.D.C., D.C., decided August 5, 1977), and to conform them more closely with the Stipulation of Dismissal in the case of *Urban Law Institute of Antioch College, Inc., et al.*, v. *Secretary of Defense, et al.*, Civil Action No. 76-0530 (U.S.D.C., D.C., approved January 31, 1977). Since the amendments hereby published have been effected to accord these regulations to the cited cases, it has been determined that prepublication for public comment would be unnecessary and impractical, and therefore not required under the public rule-making provisions in Parts 296 and 701 of 32 CFR. However, interested persons are invited on a continuing basis, to comment in writing on these revised regulations. All written material received will be considered before taking action on future revision of these regulations and the regulations may be changed in light of comments received.

Accordingly, Part 724 of 32 CFR is amended as follows:

1. Section 724.321 is revised as follows:

§ 724.321 Secretarial review of naval discharge review decisions.

(a) The decisions of the Board are final, subject only to Secretarial review.

(b) Secretarial review shall include:

(1) Cases in which a preliminary showing is made that a Board decision was erroneous on the facts, against the substantial weight of the evidence, or contrary to law or governing regulation;

(2) Cases involving special interest categories as designated by the Secretary, including all cases pertaining to officers, warrant officers, and midshipmen;

(3) Nonunanimous decisions by the Board;

(4) Cases involving recommendation for extraordinary relief;

(5) Sensitive, naval, or other important cases identified by the Director, Naval Council of Personnel Boards.

(c) In those instances of Secretarial review, the requirements contained in Subpart H of this part, regarding provision of a statement of findings, conclusions, and reasons, shall apply, except to the extent that the Secretary expressly adopts the statement of findings, conclusions, and reasons of the Board. Where the Secretary adopts such statements, publication and indexing under the terms of § 724.814 is not required where such would duplicate existing publication and indexing of the same material.

(d) Requests from a petitioner for Secretarial review of a Board decision under the provisions of paragraph (b)(1) of this section, or material submitted prior to Secretarial review to correct alleged errors under the provisions of § 724.501(i), must be addressed to the Director, Naval Council of Personnel Boards, and must be received within 25 days of the date on which the notification of the decision was mailed to the petitioner. Requests or material received subsequent to that date shall not be considered.

(e) Requests for review pursuant to paragraph (b)(1) of this section shall be screened by the Director and referred to the Secretary when the required preliminary showing has been made. Those cases described in paragraphs (b)(2) through (b)(5) of this section shall be forwarded by the Director to the Secretary for review.

2. Section 724.501 is revised as follows:

§ 724.501 Rights of a petitioner.

An individual has the right:

(a) To a review of discharge, if other than the result of a general court-martial, provided a petition is submitted within fifteen years subsequent to the date of the issuance of the discharge;

(b) To a personal hearing either in the Washington, D.C. area or before the Traveling Board;

(c) To a documentary review in absentia;

(d) To be accompanied by a representative during a hearing;

(e) To present evidence in person or by affidavit;

(f) To present witnesses;

(g) To present other information in sworn or unsworn statements;

(h) To examine prior to the time of a scheduled hearing all official documents which will be considered by the Board in the review;

(i) To present a timely statement rebutting any findings, conclusions, or reasons of the Discharge Review Board or the Director, Naval Council of Personnel Boards, which are alleged to be erroneous on the facts, against the substantial weight of the evidence, or contrary to law or governing regulation, prior to final Secretarial review;

(j) To privacy in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a);

(k) To access to the discharge review case index in accordance with § 724.814 of this part;

(l) To the record of review in accordance with § 724.811 of this part.

3. Section 724.503 is revised as follows:

§ 724.503 Response to petition for discharge review.

(a) The petitioner shall be sent an acknowledgement of receipt of the petition.

(b) In the event a hearing is requested, the petitioner shall be notified of the time and place of the hearing and shall be advised of the availability of the official documents to be considered by the Board.

(c) In the event a documentary review is requested, the petitioner shall normally receive no further communication from the Board until notified of the decision in the case.

(d) A copy of Board correspondence to a petitioner shall be sent to the petitioner's representative of record, if any.

4. Section 724.803 is revised as follows:

§ 724.803 Findings.

The Board shall make findings of facts in each discharge review which shall include:

(a) The date, type, and reason of the discharge/dismissal and the authority under which it was issued;

(b) The circumstances and character of the petitioner's service as extracted from service records, health records, and information provided by other Government authority or the petitioner;

(c) A brief of relevant information developed from testimony when the review involves a discharge review hearing;

(d) Reference to petitioner's written brief, if any;

(e) Reference to advisory opinions, if any. Factual information and/or advice from advisory opinions relied upon for final decision shall normally be set forth verbatim. In lieu thereof, a copy of the advisory opinion(s) may be appended.

Care must be taken to ensure that the findings, constructed as prescribed herein, include those factors required by applicable service regulations to be considered for the determination of the character and reason for the discharge in question where such factors are a basis for denial of any of the relief requested by the petitioner. So constituted, the findings comprise the basis for the conclusion.

5. Section 724.808 is revised as follows:

§ 724.808 Issuance of decisions following discharge review.

The petitioner and petitioner's representative, if any, shall be provided with a copy of the Board's decision, and of any further action by the Director, Naval Council of Personnel Boards, prior to any Secretarial review. Final notification of decisions shall be issued to the petitioner, with a copy to the representative, if any, and the service personnel managers.

(a) Notification to petitioners, with copies to representatives, shall normally be made through the United States Postal Service. Such notification shall consist of a notification of decision together with a copy of the form NAVSO 1900/5C (and appendices thereto) executed in connection with the review.

(b) Notification to the Commandant of the Marine Corps and the Chief of Naval Personnel shall be for the purpose of appropriate action and inclusion of review matter in personnel records. Such notification shall normally be issued en bloc and shall bear the personal signature of the Executive Secretary of the Board in certification of completeness and accuracy. Delivery of en bloc notifications shall normally be via interoffice mail.

(c) Actions of the Director, Naval Council of Personnel Boards, and of the Secretary of the Navy in cases referred to him for review, shall be issued by the Board in a manner similar to decisions of the Board.

6. Section 724.811 is revised as follows:

§ 724.811 Final disposition of the record of proceedings in discharge review.

(a) The original Record of Review of Discharge (NAVSO 1900/5C) and all appendices thereto shall in all cases be incorporated in the service record of the petitioner and the service record shall be returned to the custody of the National Personnel Records Center, St. Louis, Missouri, via the service personnel manager, if applicable.

(b) A case file consisting of copies of the application, findings, conclusions, decisions, notification of Board action and hearing transcripts, if any, shall be maintained for reference by the Board for one year, after which it shall be transferred to the Washington National Records Center, Suitland, Maryland. Case files retained at the Washington National Records Center shall be destroyed three years following transfer to the Center.

(c) Upon written request by the petitioner, guardian, or other authorized representative, a copy of the complete record of proceedings shall be furnished providing the request is received prior to final disposition.

(d) Sanitized copies of certain documents described in § 724.814 will be made available for public inspection and copying.

7. Section 724.814 is revised as follows:

§ 724.814 Availability of Naval Discharge Review Board documents for public inspection and copying.

(a) Although discharge review decisions are not precedential, following the issuance of a decision in each case, the Board shall make available for public inspection and copying the statement of issues/contentions, findings, conclusions, and reasons, record of Board members' votes together with the decision and minority opinion, if one exists, associated with the case. If not otherwise listed in the statement of findings, conclusions, and reasons, a list of contentions and the issue of fact, law, or discretion presented by the petitioner will be made public with the decision.

(b) Identifying details of the petitioner and other persons shall be deleted by the Board from all documents made available for public inspection and copying to the extent required to prevent a clearly unwarranted invasion of privacy or display of information derogatory to an individual.

(c) Written justifications, which are to be made available for public inspection, shall be made for all other deletions.

(d) Documents made available for public inspection and copying shall be made available at the reading room

which is located in the Concourse of the Pentagon. They shall be indexed so as to enable the public to identify those cases that may be similar in issue together with the circumstances under and/or reasons for which the Board and/or the Secretary of the Navy have granted or denied relief.

(e) The reading file index shall include the case number, the date, character of, reason for, and authority for the discharge. It shall further include the decisions of the Board/reviewing authority, if any, and the issues addressed in the findings, conclusions, and reasons.

(f) The index shall be made available at sites selected for Traveling Board hearings for such periods as the Board is present and in operation. Applicants at Traveling Board hearing sites shall be informed in notices of hearings of the availability at the sites of the index for inspection and copying.

(g) The Board shall publish indexes quarterly. These indexes shall be available for public inspection and distribution by sale at the reading room, which is in the Concourse of the Pentagon.

(h) Correspondence relating to matters under the cognizance of the reading room should be addressed to:

Armed Forces Discharge Review/Correction Boards Reading Room, The Pentagon Concourse, Washington, D.C. 20301.

8. Section 724.902 is revised as follows:

§ 724.902 Functions.

(a) Under the Secretary of the Navy, exercise primary cognizance within the Department of the Navy for matters relating to discharge review.

(b) Make recommendations to the Secretary of the Navy regarding the organization, tasking, and resources of the Board, and its associated administrative support.

(c) Supervise and direct the activities of the Board.

(d) Submit recommendations to the Secretary of the Navy regarding policy and procedures for discharge review.

(e) Provide administrative and clerical support for the Board.

(f) Maintain appropriate liaison with discharge review activities in other services.

(g) Maintain coordination with the Commandant of the Marine Corps and the Chief of Naval Personnel in matters associated with discharge review.

(h) Inform the Secretary of the Navy of matters of interest to him.

(i) Screen requests for Secretarial review and all other cases automatically forwarded to the Secretary.

(1) Forward for Secretarial review cases which meet the criteria established in § 724.321(b) and return all others without further action. A statement of the Director's findings, conclusions, and reasons, in the same manner as required in Subpart H of this part, shall accompany the Director's action, except to the extent that he expressly adopts the statement of findings, conclusions, and reasons of the Board. Where the Director adopts such statements, publication and indexing under the terms of § 724.814 is not required where such would duplicate existing publication and indexing of the same material.

(2) In those cases forwarded for Secretarial review, the Director shall provide the Secretary with the Record of Review of Discharge (NAVSO 1900/5C), a statement of the Director's findings, conclusions, and reasons, if any, and any additional statements submitted by the petitioner pursuant to § 724.501(i). In those cases where any additional documentation is necessary to allow accurate review by the Secretary, such as portions of the record as provided in § 724.810(a), such material shall be included in the record forwarded to the Secretary, and a list of such documentation shall be included in the petitioner's record of Board proceedings.

(j) Maintain a system of records, including as a minimum:

(1) Records specified for the Board as stipulated in the procedures prescribed in Subpart H of this part.

(2) Records required for the administration of military and civilian personnel.

(3) Files of correspondence received and issued.

(4) A public reading file and associated indexes updated quarterly.

(k) In conformance with SECNAVINST 5211.5A, protect the privacy of individuals in connection with discharge review.

(l) Assure that Board functions are administered in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a) and the Freedom of Information Act (5 U.S.C. § 552).

(m) Prepare and submit to the Secretary of the Navy an annual report covering the operations of the Board.

(n) Establish billet/position assignment criteria for the Board.

(o) Propose to the Secretary of the Navy changes to the Department of the Navy Manual for Discharge Review.

(p) Convene the Board as authorized by the Secretary of the Navy, remove and add members to the Board from personnel detailed to serve on the Naval Council of Personnel Boards, or from personnel otherwise made available.

(q) Direct the movements of the Traveling Board on the basis of regional hearing requests.

Dated: November 9, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc.77-33030 Filed 11-14-77;8:45 am]

[3710-92]

Title 36—Parks, Forests and Public Property

CHAPTER III—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1130-2-411]

PART 327—RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCE DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

PART 328—REGULATION OF SEAPLANE OPERATIONS AT CIVIL WORKS WATER RESOURCE DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

Miscellaneous Amendments

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: The final rule amends regulations governing aircraft use of project lands and waters, and adds new policies, guidelines, and procedures for establishment of areas not available for seaplane operations and areas subject to restrictions for seaplane operations at Civil Works projects under the jurisdiction of the Chief of Engineers. After due consideration of public interest and after consultation with other public agencies, particularly the Federal Aviation Administration, it was determined that specific rules and regulations were needed for seaplane operation at Corps of Engineers projects. The effect of this action is to remove the blanket prohibition for seaplane use of project water except where restricted or limited by the District Engineer.

DATES: Effective date for amendment to § 327.4 is November 15, 1978. Part 328 is effective as of November 15, 1977.

ADDRESSES: HQDA (DAEN-CWO-R) Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT:

Mr. Dale Crane, Chief, Recreation-Resource Management Branch, Construction-Operations Division, Office, Chief of Engineers, Washington, D.C. 20314, 202-693-7177.

SUPPLEMENTARY INFORMATION: On October 18, 1974, the Department of the Army, acting through the Chief of Engineers, published proposed regulations in the FEDERAL REGISTER to prescribe policy, practice and procedures for designating seaplane landing areas at water resource development projects under the jurisdiction of the Chief of Engineers.

After consultation with the public agencies and consideration of the public interest and public comments, it has been decided to modify the present prohibition against seaplane operations (while retaining such prohibition for other types of aircraft), and to provide some general restrictions applicable to

seaplane operations at such projects. These revisions take the form of an amendment to § 327.4 of Title 36 of the Code of Federal Regulations, effective November 15, 1978. Further revisions take the form of the creation of a new Part 328 of Title 36 CFR, effective as of November 15, 1977, which calls for the examination and investigation of Corps projects for the designation of areas in which seaplane operations will continue to be prohibited and areas in which operations will be restricted. Part 328 provides for a one-year period of study to determine those projects, or portions thereof, where seaplane operations should be prohibited or restricted. If the district engineer cannot complete his examination, investigation, determination and notifications within the year, he may extend the present prohibition for an additional year. Restrictions on seaplane operations will continue to be enforced pursuant to § 327.4, as presently, worded for the next year (or longer, if extended) and as amended, after the one-year (or longer) period.

Twenty-seven comments were received in response to the proposed regulation. Four comments favored the regulation as proposed. Several others supported the proposed regulation, but suggested minor modifications. The remainder either opposed the proposed regulation or sought major revisions. The comments included the following:

1. Designation of seaplane landing areas is wrongfully discriminatory against seaplane operations. For example, boats are permitted except for certain prohibited areas.

2. Seaplanes should be treated as other watercraft when on the water.

3. Operation of seaplanes on water presents no more hazard than the operation of boats.

4. Seaplane operators are qualified to operate seaplanes as watercraft when on water and would be subject to existing boating regulations when on water.

5. A statement should be added to the regulation that seaplane operators use Corps of Engineers lakes at their own risk.

6. The Corps of Engineers should move slowly in permitting seaplane operations, and only after full public involvement, especially at the lower level, in the decision-making process.

7. Several States believed that regulating seaplanes is a State responsibility, or should be the responsibility of the Federal Aviation Administration.

8. Seaplanes do not cause environmental damage.

9. Designation of seaplane landing areas on Corps of Engineers lakes may require the Corps to maintain such areas as certified airports.

10. Marking of areas or hazards would be unnecessary if lakes were simply made open to seaplane operation with any of the risks for seaplane use clearly to be assumed by plane's owner, operator, and passenger(s).

11. Several comments were concerned with the need to make applications to use or to designate seaplane landing areas.

The final regulation as revised herein should maximize recreation enjoyment of the water resources at Corps projects with minimum impact on other uses.

The final rule will remove the present prohibition against seaplane operations, but allows District Engineers to prohibit or restrict seaplane operations in projects, or portions thereof. The proposal published in October, 1974, generally would have retained the present prohibition, but permitted District Engineers to establish landing areas.

List of those Who Commented on the Proposed Regulations for Designation of Seaplane Landing Areas;

1. U.S. Federal Aviation Administration, Washington, D.C.
2. U.S. Department of Transportation, U.S. Coast Guard, Washington, D.C.
3. Central Flying Service, Little Rock, Ark.
4. Flying, Addison, Tex.
5. Anthony Island Seaplane Base, Lake Hamilton, Alaska.
6. State of Ohio, Department of Natural Resources, Columbus, Ohio.
7. State of Arkansas, Division of Aeronautics, Little Rock, Ark.
8. State of Delaware, Department of Highway and Transportation, Division of Transportation, Dover, Del.
9. State of Oklahoma, Oklahoma Aeronautics Commission, Oklahoma City, Okla.
10. State of Illinois, Department of Transportation, Division of Aeronautics, Springfield, Ill.
11. Aircraft Owners and Pilots Association, Washington, D.C.
12. National Air Transportation Associations, Washington, D.C.
13. State of Idaho, Transportation Department, Division of Aeronautics and Public Transportation, Boise, Idaho.
14. Mr. David E. Jones, Elgin, Ill.
15. State of New Mexico, Department of Aviation, Santa Fe, N. Mex.
16. State of Wisconsin, Department of Transportation, Division of Aeronautics, Madison, Wis.
17. State of Nebraska, Department of Aeronautics, Lincoln, Nebr.
18. State of Missouri, Department of Transportation, Jefferson City, Mo.
19. Alaska Airmen's Association, Inc., Anchorage, Alaska.
20. Mr. Thomas Helms, U.S. Seaplane Pilots Association, Little Ferry, N.J.
21. Mr. David A. Ludtke, Lincoln, Nebr.
22. Prince Electronics Company, Hot Springs National Park, Ark.
23. State of Florida, Department of Transportation, Bureau of Aviation, Tallahassee, Fla.
24. Mr. Francis M. Parks, M.D., Centralia, Ill.
25. Mr. David Quam, U.S Seaplane Pilots Association, Little Ferry, N.J.
26. National Wildlife Federation, Washington, D.C.
27. State of Alaska, Department of Public Works, Division of Aviation, Anchorage, Alaska.

NOTE.—The U.S. Army Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

In consideration of the comments received and pursuant to the authority contained in Section 4 of the Act of December 1944, 58 Stat. 889, as amended, 16 U.S.C. 460d, § 327.4 is amended, effective November 15, 1978, and a new Part 328 is added, effective on November 15, 1977, all to read as follows:

§ 327.4 Aircraft.

(a) The operation of aircraft on project lands other than at the landing areas designated by the District Engineer is prohibited.

(b) Any use of project waters by aircraft is subject to the following restrictions:

(1) Such use is limited to seaplanes at the risk of the owner, operator, and passenger(s).

(2) Seaplane's operations contrary to the prohibitions or restrictions established by the District Engineer (pursuant to Part 328 of this title) are prohibited. The responsibility to ascertain whether or not projects, or portions thereof, are available for seaplane operations or whether seaplane operations are prohibited or restricted is incumbent upon the person(s) contemplating the use of, or using, such waters.

(3) All operations of seaplanes while upon project waters shall be in accordance with marine rules of the road for power boats or vessels.

(4) Seaplanes on project waters and lands in excess of 24 hours shall be securely moored at mooring facilities and at locations permitted by the District Engineer. Seaplanes may be temporarily moored on project waters and lands, except in areas prohibited by the District Engineer, for periods less than 24 hours providing that (i) the mooring is safe, secure, and accomplished so as not to damage the rights of the Government or members of the public and (ii) the operator remains in the vicinity of the seaplane and reasonably available to relocate the seaplane if necessary.

(5) Commercial operation of seaplanes from project waters is prohibited without written approval of the District Engineer following consultation with and necessary clearance from the Federal Aviation Administration (FAA) and other appropriate public authorities and affected interests.

(6) No person shall operate any seaplane while on or above project waters or adjacent project land in a careless, negligent, or reckless manner so as to endanger any person or property. Seaplanes may not be operated at Corps projects between sunset and sunrise unless adequate lighting and supervision are available.

(c) (1) Nothing in the preceding provisions bestows authority to deviate from rules and regulations or prescribed standards of the appropriate State Aeronautical Agency, or the Federal Aviation Administration, including but not limited to regulations and standards concerning pilot certifications or ratings, and airspace requirements.

(2) Except in extreme emergencies threatening human life or serious prop-

erty loss, the air delivery of any person or thing by parachute, helicopter or other means onto project lands or waters without written permission of the District Engineer is prohibited.

(3) The provisions of this section shall not be applicable to aircraft engaged on official business of the Federal Government or used in emergency rescue in accordance with the directions of the District Engineer or forced to land due to circumstances beyond the control of the operator.

Sec.
328.1 Purpose.
328.2 Applicability.
328.3 References.
328.4 Policy
328.5 Guidelines for Seaplane use of project waters.
328.6 Procedures.
328.7 Other authorities.

AUTHORITY: Sec. 4 of the Act of December, 1944, 58 Stat. 889, as amended, (16 U.S.C. 460d).

§ 328.1 Purpose.

This regulation, in connection with the modification of the present prohibition of seaplane operations by the amendment to § 327.4 of Title 36 of the Code of Federal Regulations, is designed to provide uniform policies and criteria for designating Corps projects, or portions thereof, at which seaplane operations are prohibited or restricted; and to continue to protect the integrity and all authorized uses of such projects and the safety of users of such projects. As used in this regulation, "projects" or "Corps projects" means water resources development projects administered by the Chief of Engineers.

§ 328.2 Applicability.

This regulation is applicable to all Field Operating Agencies having Civil Works responsibilities.

§ 328.3 References.

(a) Title 36 CFR, Part 327, Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers (38 FR 7552, March 23, 1973).
(b) ER 1105–2–507
(c) ER 1130–2–400
(d) ER 1145–2–301
(e) ER 1145–2–303
(f) ER 1165–2–400
(g) ER 405–2–800 Series

§ 328.4 Policy.

(a) The objective of Corps of Engineers resources management is to maximize public enjoyment and use of the lands, waters, forests, and associated recreational resources, consistent with their aesthetic and biological values. Such management includes efforts to preserve and enhance the environmental amenities that are the source of the recreational value associated with the project and to allow such other new and innovative uses of the projects that are not detrimental thereto.

(b) Seaplane operations at water resource development projects administered by the Chief of Engineers may involve hazards including, but not limited to, conflicting recreational activities, floating debris, and underwater hazards, which may be accentuated by the normal fluctuations of water levels.

(c) Seaplane operations may be prohibited or restricted at such water resource development projects, or portions thereof, for a variety of management reasons. Prohibiting or restricting seaplane operations in certain portions within a project in no way implies that safety hazards to seaplane operations or to other recreation users may not exist in other portions of such project.

(d) The operation of a seaplane at Corps projects is at the risk of the plane's owner, operator, and passenger(s). The responsibility to ascertain whether seaplane operations are permitted, prohibited or restricted at such projects, and portions thereof, is incumbent upon the person(s) contemplating the use of, or using, such waters.

§ 328.5 Guidelines for seaplane use of project waters.

(a) All operations of the aircraft while upon the water shall be in accordance with the marine rules of the road for power boats or vessels.

(b) Seaplanes on project waters and lands in excess of 24 hours shall be securely moored at mooring facilities and at locations permitted by the District Engineer. Seaplanes may be temporarily moored on project waters and lands, except in areas prohibited by the District Engineer, for periods less than 24 hours providing that (1) the mooring is safe, secure, and accomplished so as not to damage the rights of the Government or members of the public and (2) the operator remains in the vicinity of the seaplane and reasonably available to relocate the seaplane if necessary.

(c) No commercial operation of seaplanes from project waters will be allowed without written approval of the District Engineer following consultation with and the necessary clearance from the Federal Aviation Administration (FAA) and other appropriate public authorities and affected interests.

(d) Seaplanes may not be operated at Corps projects between sunset and sunrise unless adequate lighting and supervision are available.

(e) Requests for public commercial facilities in support of seaplanes will be handled under normal concession policies.

(f) Permits for floating and nonfloating structures of any kind, in, on, or affecting project waters, under the management of the Resource Manager, including waters under lease, license or other outgrant agreement, shall be handled in accordance with the lakeshore management plan or policy statement for the project involved, § 327.19 of Title 36, Code of Federal Regulations and, where required by statute or regulation, Section 10 of the River and Harbor Act (approved March 3, 1899) and Section 404 of the Federal Water Pollution Control Act of 1972 (Pub. L. 92–500).

(g) Appropriate signs should be employed to inform users of projects, or portions thereof, where seaplane operations are permitted.

§ 328.6 Procedures.

(a) In order to protect the integrity and all authorized uses of Corps projects and the safety of all users of the lake projects, the District Engineer shall:

(1) Examine and investigate each Corps project within his district which a seaplane operator could conceivably attempt to use for seaplane operations, and determine those projects, or portions thereof, in which seaplane operations should be prohibited.

(2) Establish such restrictions on seaplane operations as he deems necessary or desirable in accordance with these regulations for other areas. Seaplane takeoff and landing maneuvers within specified distances of the shoreline, bridges, causeways, water utility crossings, dams, and similar structures should be prohibited.

(3) Prior to concluding any such examination and investigation, consult with the FAA, appropriate State aeronautical agency, lessee or licensee of outgranted lands, the Coast Guard, and state boating law administrators, and use his best efforts to consult with other interested or affected public authorities and private interests for their guidance, particularly for those projects which are regularly used by the public for recreational purposes or are located in the vicinity of actively used airports, air fields, or densely populated areas. News releases, public notice, and congressional liaison should be used. Public hearings are encouraged.

(4) In making his investigation, examination, and determination, consider environmental factors in accordance with the National Environmental Policy Act of 1969 (NEPA), Pub. L. 91–190—particularly should he consider the impact that seaplane operations may have on the safety at the project, aquatic, fish and wildlife, noise levels, recreation, and air and water quality. Prior to concluding such investigation and examination, he shall prepare an environmental impact assessment (EIA) and, if necessary, an environmental impact statement (EIS) assessing the environmental impacts of permitting seaplanes to operate at the projects, or portions thereof, in his district.

(5) Place on Corps maps, brochures and otherwise adequately apprise the public and interested agencies of projects, or portions thereof, where seaplane operations are prohibited or restricted. Each map, brochure, or other notice should clearly indicate that operation of a seaplane at Corps projects is at the risk of the plane's owner, operator, and/or passenger(s).

(6) Notify the FAA by letter of projects, or portions thereof, where seaplane

operations are prohibited or restricted. The letter should use the words "seaplane operations prohibited," or "seaplane operations restricted," describe the geographical location of such areas as precisely as possible, describe any restrictions, include a telephone number for FAA to contact the District, and be sent to: Federal Aviation Administration, Area Traffic Service, Flight Services Division (AAT-432), 800 Independence Avenue SW., Washington, D.C. 20591.

(b) The removal of the present prohibition on seaplane operations will be effective one year from the date of publication of these regulations. The District Engineer should complete the examination, investigation, determination and notification to the FAA of projects, or portions thereof, where seaplane operations are prohibited or restricted, within one year from the date of this regulation. The District Engineer may extend the present prohibition for up to one additional year if he cannot complete his examination, investigation, determination, and notification within one year. In such event, he should notify the FAA by letter and publish other appropriate notices. Any further extension of time will require the approval of the Chief of Engineers.

(c) After he has completed his examination, investigation, determination and notification of the FAA of projects, or portions thereof where seaplane operations will be prohibited or restricted, The District Engineer should periodically reevaluate his determination as additional operational data becomes available. He may modify, delete, or add projects, or portions thereof, where seaplane operations are prohibited or restricted. Except where immediate action is required, he should consult with appropriate public authorities and private interests for their guidance with regard to such actions. Notification of these actions shall be forwarded to the FAA as indicated in paragraph (a)(6) of this section.

§ 328.7 Other authorities.

Nothing in the preceding provisions bestows authority to deviate from rules and regulations or prescribed standards of the State Aeronautical Agency, Federal Aviation Administration, Coast Guard, or other appropriate federal, state, or local authority.

For the Chief of Engineers.

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

[FR Doc.77-33054 Filed 11-14-77;8:45 am]

[7710-12]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

REGULATIONS ON THE DISCONTINUANCE OF POST OFFICES

AGENCY: United States Postal Service.

ACTION: Final rule.

SUMMARY: These regulations revise the Postal Service procedures for considering whether to discontinue a post office, to bring the procedures into line with new statutory provisions that recently became effective. The new statute and regulations are intended to assure, first, that decisionmaking about the continuation of a post office takes into account certain specified factors; and second, that customers of the post office under review have an opportunity to participate in the decisionmaking process.

EFFECTIVE DATE: December 15, 1977.

FOR FURTHER INFORMATION CONTACT:

W. Allen Sanders, 202-245-4636.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of August 24, 1977 (42 FR 42695), the Postal Service requested comments on a proposed rule designed to implement 39 U.S.C. 404(b), which establishes new standards and procedures for the consideration of post office closings and consolidations. More than 1,900 comments were received. While a few comments discussed the proposed regulations, most dealt with issues relating to the merits of a particular post office or small post offices generally. These comments taken together suggest a range of concerns that people have on the issues involved, many of which must be evaluated on the local level as the procedures established by the final rule are applied.

The most frequent comment received was an expression of support for the commenter's own post office. A number of comments also favored the retention of most or all small post offices. However, a large number of other comments expressed the view that some or many small post offices should be discontinued.

The statute governing post office closings and consolidations requires that each case be evaluated on its own merits, with the aid of comments by local customers, through a procedure involving notices, individual decisions, and appeal rights. Thus, while the present rulemaking does not provide an appropriate forum for deciding the issues presented by the general comments received, the new rule does assure the opportunity for post office customers to submit comments raising many of these issues in the context of the facts bearing on particular proposals for post office discontinuances, when such proposals are made.

While the general comments do not advocate changes in the proposed regulations, a summary of the views expressed is presented below, without implying any present ruling on the merits or relevance of particular arguments under the statutory criteria for closing and consolidating post offices.

GENERAL COMMENTS

Comments expressed differing views about the service advantages of small post offices. Many commenters expressed appreciation of the lockbox delivery service available in small offices, particularly for the security they felt lockboxes provide in comparison to rural route boxes. Some comments indicated that parcel mailing and money order services are much enhanced by small post offices. Comments also cited the convenience of having a post office close at hand and argued that small post offices promote energy savings. Elderly and handicapped persons and businesses wrote to express special needs for small post offices. However, other comments criticized small post offices as compared to rural route service. These commenters appreciated avoiding the need for frequent trips to the post office.

Many comments also expressed concern for social and other community factors related to the presence of small post offices. Some argued that these offices provide more personal service, both in terms of friendlier contacts and through personalized help such as making out money orders and reading and explaining business letters for citizens who are not well-educated. Comments also saw the small post office as a community meeting place and a symbol of the community's status as a separate entity recognized by the Federal Government. Others felt that the service of the local post office helps to preserve businesses and jobs needed for the continuation of the community. On the other side, some comments found small post offices often to be gossip centers, not properly financed through public funds. Comments also argued that in some areas changing population and economic factors already have eliminated former communities, leaving the post office an anachronism.

Commenters revealed that many persons are also concerned about employment and budgetary matters. Some urged that post offices be retained to prevent unemployment of the persons who work there and who might have a difficult time finding another job in a small community. Other comments contended that many employees of small post offices do not have a full day's work to do and reflect a waste of public resources. A great many comments, from both supporters and critics of small post offices, criticized what they regarded as unreasonably high salaries of the employees of those offices. Some comments expressed the view that balancing budgets should not be a concern in evaluating small post offices, which they felt are worth the cost. Others argued that at least some offices represent an inefficient allocation of resources, wasting hard-earned postage and tax dollars, and that the Government should show the same concern for making ends meet that the individual citizen of local communities must show, even if it means making sacrifices. Some comments suggested alternative courses to achieve budget savings, while retaining small post offices. In addition to cutting salaries, either generally or in the less productive offices, the most frequent suggestion for internal savings was the elimination of Saturday delivery. However, many other comments that generally supported and many that generally opposed uneconomic post offices strongly opposed anything less than six delivery days. Another suggestion was that the Postal Service charge for home delivery of mail. Other

comments suggested alternatives not within the responsibility of the Postal Service, such as economies in the welfare or defense programs.

Finally, many commenters felt that the question of whether small post offices are needed involves principles of fair treatment for all citizens, in small and larger communities alike. Some urged that small towns deserve a post office just as much as large cities do. Many of these commenters felt that small communities have already been the subject of increasingly discriminatory treatment by national and regional institutions, that the small post office may be perhaps the only exception to this trend, and that closing the small post office would strike a final blow ending all hope of reversing the trend. These comments tended to characterize rural and small town life as preserving the best and most important facets of the national character, thus deserving to be fostered rather than abandoned by national policy. Other commenters viewed the fairness of small post offices from an entirely different perspective. These argued that the amount of public money spent per capita to provide a small post office for a few families is unjustified in comparison to the lesser amount per capita devoted to service for persons in more heavily populated areas, who have to face crowded conditions and longer delays in competition with others to receive postal services. Some of these comments mentioned that many communities and neighborhoods, within urban and suburban areas and in rural areas as well, do not have their own independent post offices, even though they may support many more people than do many of the older small communities that have their own post offices. Some comments argued that many small post offices are inefficient remnants of "horse and buggy" practices characteristic of an earlier, more insular pattern of life.

The Postal Service appreciates the sincerity and conviction that attend these widely diverse opinions. This diversity of opinion serves to underscore the need for careful case-by-case application of the regulations which are set forth below.

COMMENTS DEALING WITH THE REGULATIONS

Among the comments addressed to the proposed regulations, one urged that no regulations at all be adopted, so that no post office could be closed. We believe, however, that it would not be appropriate to preclude the closing or consolidating of post offices regardless of these circumstances. Consistently, for a great many years, postal officials have found it appropriate to phase out some post offices. (Since reaching a peak of just under 77,000 post offices in 1901, the number has declined to less than 31,000 at the present time.) Many comments received in this rulemaking have urged that some post offices be closed. Many other comments have disagreed. The new statute anticipates that proposals to close post offices will be made from time to time and provides guidelines for undertaking analysis which may lead to final determinations to close some offices. We believe it appropriate to implement these guidelines through the final rule adopted here.

Most of the comments received that addressed the merits of the proposed regulations generally favored them. The principal policy change included in the proposed rule, aside from changes required by statute, was the proposed national policy on preserving the community mailing address when a post office is closed or consolidated. Some opposed this proposal, on the basis that it would be confusing or of no or too little benefit. However, most of the comments that mentioned the policy favored it. One commenter stated that his community address had been preserved in this manner as a result of local postal policy when his post office was closed several years ago and that he believed the change had worked well. While we recognize that some additional confusion may be a price of this policy, we believe the address retention proposal should be tried and have included it in the final rule.

One comment argued that portions of the language of proposed § 247.4, relating to the address retention policy, were "self-serving". The questioned language has been deleted from the equivalent final provision (§ 247.21).

Some comments requested that in addition to the community name, the community's present ZIP Code be preserved in the address of persons who have used that ZIP Code, after the post office assigned that ZIP Code has been discontinued. We recognize that ZIP Code changes may cause some transitional expense for firms that have stocks of printed stationery. ZIP Codes also have come to be identified with particular addresses in other ways, often for nonpostal uses. However, ZIP Codes were created by the Postal Service for the purpose of contributing to efficiency and speed of mail processing and we believe that this purpose should continue to be controlling in their allocation. While § 247.22 provides that the ZIP Code of a consolidated post office may continue to be used at the replacement community post office, station, or branch if mail service would benefit, permitting continued use of a ZIP Code for a closed post office would inject a sorting complication not justified in terms of the amount of mail involved. Indeed, it is the ability to change the ZIP Code that makes it seem practical to adopt the rule permitting continued use of the name of the community in the address.

Several comments requested that the policy permitting continued use of closed post office names in mailing addresses be expanded to permit persons living in areas which they consider communities but which do not now have post offices to substitute what they consider their community name for the name of the post office now used in their mailing address. While this matter is not an appropriate subject for resolution in the post office closing regulations, local Postal Service managers do have authority to permit communities that do not have a separate post office address to use the name of their community in a line above the post office name in their address, or above the star route name in the case of a star route address. A general policy permitting substitution of customer-selected names for the post office name before the ZIP Code in the bottom line of the address would not appear to be a manageable policy. While there is a finite number of present named post offices with established address traditions, it would be difficult to hold within administrable bounds a rule that would permit a patchwork quilt of free neighborhood or individual choices of address names. Since ZIP Codes are not always used by mailers, it remains important for the Postal Service to be able to sort and deliver the mail with reasonable dispatch and efficiency if only a community name appears with the State name in the last address line.

One comment urged that postmarks of discontinued post offices be kept in use, for the benefit of collectors. In our opinion, the expense of maintaining and using a separate postmark for mail collected within the area using the name of a discontinued post office, even if by special request only, would not be justified.

With regard to the criteria under the regulations for reaching a decision concerning possible closing or consolidation of a particular post office, several comments argued that in certain respects the proposed regulations did not stay close enough to the language of 39 U.S.C. 404(b)(2). Other comments urged that the Postal Service delineate by regulation more specific criteria than the statute itself provides. One comment appeared to advocate both greater and less variation from the statute in different contexts, even in applying the same criterion. The principal points of contention were the application of section 404(b)(2)(C), which provides that the Postal Service shall consider "whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b) of (Title 39), that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;" and the application of the discretionary criterion of section 404(b)(2)(E), which provides that the Postal Service may consider "such other factors as [it] determines are necessary." In incorporating these and other statutory criteria into the proposed regulation, we had not sought to develop more detailed grounds for decision but had paraphrased the statutory language only insofar as it seemed appropriate to obtain language with which the Sectional Center Managers and postal customers who are not lawyers would be comfortable.

Upon considering the comments received, we continue to believe that uni-

form standards for decision more detailed than those provided by the statute should not be adopted, since post offices serve a broad range of situations and since we as yet have no experience in applying the new statutory requirements. While we understand the concern expressed by one comment that the general discretionary criterion not be used in an overextensive or unannounced manner, we believe that it is best, without having the benefit of actual experience, not to restrict by regulation the use of the discretionary criterion at this point. We would also call attention to §§ 247.34(e) and .41, which require the Sectional Center Manager to disclose for public comment any use he plans to make of the discretionary criterion. We have revised §§ 247.12 and .34 to adhere more closely to the words of the statute. While it has been necessary to paraphrase the more lengthy statutory criteria such as section 404(b)(2)(C) on occasion to avoid undue length and formality, such as in § 247.32 and the heading of § 247.34(a), these paraphrases are to be understood to refer to the full statutory language as incorporated in §§ 247.12 and 247.34. We have also revised other provisions in minor ways to adhere more closely to certain other words of the statute.

Another focus of comments received was the notice provisions of the proposed rule. One question posed was the extent of participation permitted by persons who are not served by the post office being considered for closing or consolidation. It was suggested that a formal invitation for *amicus curiae* presentation be included in the rules. The Conference Report on the bill that enacted section 404(b) makes clear that Congress was particularly concerned with participation by the "regular patron" of the post office proposed for closing or consolidation, inasmuch as the regular patrons are the only persons entitled to appeal a decision to the Postal Rate Commission. H.R. Rep. No. 94–1444, 94th Cong., 2d Sess. 18 (1976). Accordingly, the notice provisions of § 247.41 and other sections are geared primarily toward providing notice to and encouraging comments by the persons served by the post office, who regularly use the office and will have ready access to the notice and other posted documents. Nevertheless, § 247.51 and related provisions provide that "public comments received" will be taken into account by the Postal Service; while the comments of those most directly concerned necessarily carry a special weight, it is our intention to welcome and to consider fully all comments submitted.

Several comments suggested that the rules be amended to provide special notice to particular individuals or organizations. One suggestion was that the Congressman whose district includes the post office proposed for closing or consolidation be notified, at the point that the Sectional Center Manager first begins to focus on the question whether such an action should be proposed, before a formal proposal is prepared and made public. We believe that such a provision might give the erroneous impression that closing and consolidation decisions would be made for reasons extraneous to the criteria and procedures established by statute.

Another comment suggested that special notice should be provided to each government agency for which the Postal Service provides non-postal services through some post offices, such as the sale of Migratory Bird Hunting and Conservation Stamps for the Fish and Wildlife Service and the acceptance of passport applications of the Department of State. The types of and outlets for these kinds of services are all established under terms of agreements between the Postal Service and the other agencies involved. We believe that the terms of the interagency agreements, and not section 404(b) or implementing procedures on post office closings must govern the relations between the contracting agencies.

Another comment urged an amendment requiring special notice to the Advisory Council on Historic preservation, in view of the possibility that some affected post offices may be included or eligible for inclusion in the National Register of Historic places. The Postal Service policy of providing notification to the Council extends to a much broader range of matters involving the disposition of buildings than just buildings affected by post office closings. Moreover, the relationship of the Postal Service to the Council has not been altered by the enactment of section 404(b). Accordingly, we do not see the need for incorporating into Part 247 a special rule governing a limited application of the Postal Service's overall historic preservation practices.

Another comment received suggested an amendment requiring special notice of closing and consolidation proposals to an organization representing postmark collectors. We do not believe the administrative costs would warrant a special notice requirement for collector organizations in the regulation.

Certain other suggestions relating to public comment opportunities also have been received and considered. One suggestion urged that postal customers be afforded a second opportunity to comment on a closing or consolidation proposal, after receiving and reviewing the work of the Sectional Center Manager under §§ 246.51 and .52 in analyzing public comments and revising his initial proposal. It might well be appropriate in certain instances, such as when the Sectional Center Manager's review leads him to believe that a major change should be made in the kinds of continued arrangements for postal services to be provided under his proposal, for further customer review and comment to be invited and the regulation adopted would certainly not preclude this. However, the statute and the supplementary provisions of the final rule already provide for a lengthy procedure including numerous provisions for the protection of the local postal customers. Until and unless experience suggests a different course, we do not believe that adding still another mandatory stage of review to the standard procedure would return sufficient benefits to be justified.

Another comment urged the adoption of a uniform rule that no inference can be drawn from the failure of persons served by an office proposed for closing or consolidation to comment one way or another. We believe that at least initially this matter should be left to the informed discretion of the Sectional Center Manager, who should be in the best position to determine what inferences, if any, fairly should be drawn.

Several comments asserted that the proposed regulations and the suggested comment form included in the Appendix improperly would place on the local customers the major burden of coming forward with a statement of the community's needs for postal services. This is not our intent, and we do not agree that the regulations could be properly construed to have this effect. In the first instance, it is the obligation of the Sectional Center Manager, under § 247.34, to disclose in writing a full consideration of all statutory factors, expressly including any factors tending to show that the proposed action should not be approved. The customers, in submitting their comments on the appended form or in some other format, necessarily respond principally to the work that the Sectional Center Manager already has done, although they are encouraged to submit new information and arguments. All analyses, those in favor and those opposed to change, those by the Postal Service and those by postal customers, should focus on how the needs of the community and the other statutory considerations best can be met.

One commenter suggested a large number of textual changes explained in terms of the statements that the regulations "do not conform to the provisions and policies of the law, although they appear to do so", that "the entire procedure is no more than a charade", and similar charges. While the charges are without foundation, in our opinion, some of the textual criticisms and suggestions offered were well taken or at least acceptable, and have been reflected through changes incorporated in the final rule. For example, while §§ 247.12 and .18 of the proposed rule (§§ 247.34 and .61 of the final rule) required an initial proposal to be justified on the basis of the statutory criteria and required intermediate and final decisions to be conducted "on the basis of the record" and "fully supported in the record", this commenter argued that the proposal would permit grounds for decision outside the record and exclusion of relevant materials from the record. In the final rule, §§ 247.34, .42, and .43 have been revised to provide further emphasis that the record must be complete and the decision must be made on the basis of the record. This commenter also requested numerous amendments to

state each individual provision requiring consideration or decision by a postal official as an express requirement for "full and fair" or "genuine" consideration or decision. We believe that the good will of the public servants implementing these regulations, together with the safeguard of both internal and external review, provides adequate assurance that these rules will be administered fairly. Without such good will, all the hortatory language proposed would probably not help.

Another set of comments dealt with such matters as titles of postal management positions, assignment of duties among various positions, and specific rules for the treatment of employees. We believe that these matters should be governed in accordance with more general Postal Service organizational and employee policies and other internal rules rather than through special consideration in the present rulemaking. In connection with those internal rules, we have considered these and other suggestions submitted by this commenter.

A further comment dealt with the closing of branches and stations created by post office consolidations. The commenter urged that the full review procedure of Part 247 be extended to such closings or that at least the regulations require prominent emphasis of the fact that a facility created as a result of a consolidation could be closed at some point in the future without repeating the statutory review procedures afforded in connection with the consolidation itself. We recognize that substituting a new kind of facility for a consolidated post office or a new kind of service for a closed post office does not end the Postal Service's responsibility to a community, just because the newly created provisions of 39 U.S.C. 404(b) no longer apply. Proposals to close or consolidate post offices may be approved only if they include provision for meeting the service needs of the community. The services offered in such a proposal may not and will not be temporary expedients to satisfy formal requirements. We would not want to put anything into the regulations to suggest that any other course might be considered.

A number of the letters we received supporting the retention of particular postal facilities dealt with postal stations or branches, urban or rural. We welcome community involvement in advising the Postal Service about facility deployment and other service decisions as they relate to branches and stations of post offices. But by long tradition, postal laws and regulations have placed decisions with respect to stations and branches on a more flexible and decentralized basis than decisions concerning post offices, with the result that stations and branches tend to be changed more frequently than post offices are changed. This is most apparent in the case of contract stations and branches (including Community Post Offices), which are operated pursuant to contracts between the operator and the Postal Service that are terminable on notice by the operator.

A number of other minor textual changes have been suggested and some have been adopted. In addition, further consideration has caused the Postal Service to make various minor changes that we believe are improvements. The numbering system has been revised to facilitate incorporation in the Postal Service Manual. All comments received have been taken into account.

Since the final rule, as required by new section 404(b), differs in significant respects from previous Postal Service procedures for closing or consolidating post offices, the administration of the rule will entail a learning process for all concerned. As experience is gained, if members of the public have further suggestions for improving the regulations, the Postal Service would like to receive them.

The final rule is effective December 15, 1977. It should be understood that no post offices will be closed on that date. The adoption of this rule does not mark an effort by the Postal Service to close all or unprecedented numbers of post offices. The rule simply updates postal regulations outmoded by the enactment of the new post office closing statute.

In view of the foregoing considerations, the Postal Service adopts the following amendments, additions, and reservations to Parts 241, 245, 246, 247, 248, and 265 of title 39, Code of Federal Regulations, effective December 15, 1977.

Louis A. Cox,
General Counsel.

PART 241—ESTABLISHMENT AND CLASSIFICATION

1. Part 241 is amended by revising the caption as set forth above.

§ 241.1 [Amended]

2. Paragraph (c) of § 241.1 is deleted.

PART 245—[RESERVED]

PART 246—[RESERVED]

3. Parts 245 and 246 are reserved.

4. New Part 247 is added as follows:

PART 247—DISCONTINUANCE OF POST OFFICE

Subpart A—Introduction

Sec.
247.11 Coverage.
247.12 Requirements of law.
247.13 Additional requirements of this part.

Subpart B—Policy on Preservation of the Community Address

247.21 General.
247.22 Assignment of ZIP Code.
247.23 Post office name in address.
247.24 Name of facility established by consolidation.
247.25 Listing of discontinued post office.

Subpart C—Initial Investigation and Proposal by Local Management

247.31 General.
247.32 Consolidation.
247.33 Views of postmasters of affected offices.
247.34 Preparation of written proposal to close or consolidate a post office.

Subpart D—Notice, Public Comment, and Record

Sec.
247.41 Posting and availability of proposal and comment form.
247.42 Other steps.
247.43 Record.

Subpart E—Consideration of Public Comment and Final Local Recommendation

247.51 Analysis of comments.
247.52 Evaluation of proposal in light of comments.

Subpart F—Final Determination

247.61 Standard of review.
247.62 Review by district and regional management.
247.63 Final determination by Senior Assistant Postmaster General, Operations Group.

Subpart G—Notice and Implementation of Final Determination

247.71 Notice of final determination to discontinue post office.
247.72 Implementation of determinations not appealed.
247.73 Actions during appeal.
247.74 Actions following appeal decision.

AUTHORITY: The provisions of this Part 247 issued under 39 U.S.C. 101(b), 401, 403(b), 404.

Subpart A—Introduction

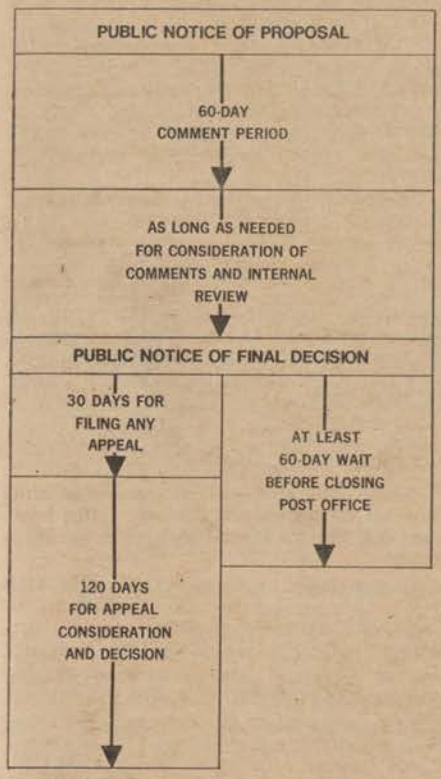
§ 247.11 Coverage.

This part establishes the rules that govern the Postal Service's consideration of whether an existing post office should be discontinued. The rules cover any proposal to replace a post office with a community post office, station, or branch through consolidation with another post office, as well as any proposal to discontinue a post office without providing a replacement facility.

§ 247.12 Requirements of law.

By law (39 U.S.C. 404(b)), any decision to discontinue a post office must be based on certain specific criteria. These include the effect on the community served; the effect on employees of the post office; compliance with Government policy established by law that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining; the economic savings to the Postal Service; and any other factors determined necessary by the Postal Service. In addition, certain mandatory procedures apply. These include providing 60 days' public notice of a proposed action in order to enable the persons served to evaluate the proposal and provide comments. In addition, any final determination to close or consolidate a post office, after public comments are received and taken into account, must be made in writing and must include findings covering all of the required considerations. The written determination must be made available to the persons served by the office at least 60 days before the discontinuance takes effect. Within the first 30 days after the written determination is made available, any person regularly served by the affected post office may appeal the decision to the

Postal Rate Commission. The Commission is required by 39 U.S.C. 404(b)(5) to make a determination on the appeal no later than 120 days after receiving the appeal. (See Subpart H of Part 3001 of this title.) A summary table of the notice and appeal periods under the statute or these regulations follows:



§ 247.13 Additional requirements of this part.

Subpart B of this part establishes specific rules designed to assure that the community's identity as a postal address will be preserved. Subparts C through G provide step by step rules for consideration of a proposed discontinuance and for its implementation if approved. These rules are designed to assure that the reasons which lead a postal manager to propose the discontinuance of a particular post office are fully articulated and disclosed at a stage that will enable customer participation to make a helpful contribution toward the final decision.

Subpart B—Policy on Preservation of the Community Address

§ 247.21 General.

It is the policy of the Postal Service to permit use of a community's separate address to the extent practicable, in accordance with this subpart.

§ 247.22 Assignment of ZIP Code.

The ZIP Code for each address formerly served from the discontinued post office shall be the ZIP Code of the facility providing replacement service to that address. In the case of a consolidation, the ZIP Code provided for the replacement community post office, station, or branch shall be either the ZIP Code originally assigned to the discontinued post office or the ZIP Code of the replacement facility's parent post office, whichever will provide the most expeditious distribution and delivery of mail addressed to the customers of the replacement facility. If the parent post office is a multiple-ZIP Code office, the ZIP Code shall be that of the delivery area within which the facility is located.

§ 247.23 Post office name in address.

If all of the delivery addresses using the name of the post office to be discontinued are assigned the same ZIP Code, each customer may continue to use the name of the discontinued post office in his address, instead of changing to or adding the name of the post office from which delivery is provided after the discontinuance.

§ 247.24 Name of facility established by consolidation.

If a post office to be discontinued is to be consolidated with one or more other post offices, by establishing in the place of the discontinued post office a community post office or classified or contract station or branch affiliated with another post office involved in the consolidation, the name of the community post office or classified or contract station or branch shall be the same as the name of the discontinued post office.

§ 247.25 Listing of discontinued post office.

The names of all post offices discontinued after March 14, 1977, shall be listed in an appropriate manner in Postal Service official directories of post offices, such as Publication 65, The National ZIP Code Directory, for mailing address purposes only, so long as they are used in addresses. The ZIP Code or ZIP Codes listed for the discontinued office shall be the ZIP Code or ZIP Codes assigned in accordane with § 247.22.

Subpart C—Initial Investigation and Proposal by Local Management

§ 247.31 General.

If a Sectional Center Manager believes that the discontinuance of a post office within his responsibility may be warranted, he may investigate, and if he finds it justified, may propose that the post office be discontinued, applying the standards and following the procedures of this subpart and Subpart D.

§ 247.32 Consolidation.

If the communities served by two or more post offices are being merged into a single incorporated village, town, or city, or if providing a replacement facility is necessary to maintain regular and effective service to the area served by the post office being considered for discontinuance, the proposed action may include a consolidation of post offices to substitute a community post office or a classified or contract station or branch for the discontinued post office.

§ 247.33 Views of postmasters of affected offices.

Whether the discontinuance under consideration involves a consolidation or not, the Sectional Center Manager shall discuss the matter with the postmaster (or the officer-in-charge if there is a vacancy in the postmaster's position) of the post office being considered for discontinuance, together with the postmaster (or officer-in-charge) of any other post office that would be affected by the change. In addition, the Sectional Center Manager shall encourage these postmasters (or officers-in-charge) to submit their comments and suggestions in writing to be made part of the record for further consideration and review of the proposal.

§ 247.34 Preparation of written proposal to close or consolidate a post office.

The Sectional Center Manager shall gather and preserve for the record all relevant documentation to enable him to decide whether or not the change under consideration is justified. Based on this documentation, if the change appears warranted, he shall prepare a written document entitled "Proposal to [Close] [Consolidate] the [name] Post Office." This document shall provide a description and analysis of the proposal that is sufficient to disclose both to higher management and to the persons served by the affected post office the nature of the changes in service being proposed and the reasons why those changes are considered justified. The written proposal must address each of the following matters in separate sections:

(a) *Responsiveness to community postal needs.* The Proposal must take into account the policy of the Government, as established by law, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. The Proposal should contrast the services available before and after the proposed change, should describe how the changes respond to the postal needs of the persons served by the post office, and should highlight any particular aspects of service that might be less advantageous to the persons served as well as those that would be more advantageous.

(b) *Effect on community.* The Proposal must include an analysis of the effect that the proposed discontinuance might have on the community served by the affected post office. The application of the requirements of §§ 247.21 through .25 must be discussed and taken into account.

(c) *Effect on employees.* In preparing the Proposal, the Sectional Center Manager shall determine what actions he proposes to comply with the applicable Regional Instructions relating to personnel actions to be taken in connection with the discontinuance and consolidation of post offices. The written proposal must include a summary of the contem-

plated effect of the proposed action on the postmaster and any supervisors and other employees of the post office proposed for discontinuance.

(d) *Economic savings.* The Proposal must include an analysis of the economic savings to be gained by the Postal Service from the proposed action, including the cost or savings expected from each of the major factors contributing to the overall estimate.

(e) *Other factors.* The Proposal should include an analysis of any other factors that the Sectional Center Manager determines are necessary to a complete evaluation of the proposed change, to be weighed in favor or to be weighed against the proposed action.

(f) *Summary.* The Proposal must include a summary that explains why the proposed action is considered to be needed, including an assessment of how those factors supporting the need for the proposed change outweigh any negative factors. In taking competing considerations into account, the need to provide regular and effective service shall be paramount.

(g) *Notices.* The Proposal must include the following notices:

(1) *"Supporting materials.* Copies of all materials upon which this Proposal is based are available for public inspection at the post office during normal office hours."

(2) *"Appeal rights.* Any final determination to [close] [consolidate] this post office, after public comments are received and taken into account, may be appealed by any person served by the office to the Postal Rate Commission at 2000 L Street NW., Washington, D.C. 20268, within 30 days after the final written determination is posted in the post office. If an appeal is filed, copies of appeal documents prepared by the Postal Rate Commission or the parties to the appeal will be made available for public inspection at the post office during normal office hours."

Subpart D—Notice, Public Comment, and Record

§ 247.41 Posting and availability of proposal and comment form.

A copy of the written Proposal, together with a signed Invitation for Comments, shall be prominently posted in each post office that would be affected. The Invitation for Comments shall include a request that interested persons provide written comments within 60 days, to a stated address, offering specific opinions and information, favorable or unfavorable, regarding the potential effect of the proposed change on postal services and on the community. It shall also indicate that copies of the Proposal with attached optional comment forms (see Appendix) are available upon request in the affected post offices and shall provide a name and telephone number to call for further information and questions.

§ 247.42 Other steps.

In addition to providing notice and inviting comment, the Sectional Center Manager should take any other steps that he considers to be needed to make sure that the persons served by the post office proposed for closing or consolidation understand the nature and implications of the proposed action, such as meeting with community groups and following up on comments received which seem to be based on incorrect assumptions or information. If oral contacts develop views or information not previously documented, whether favorable or unfavorable to the proposal, he should encourage the person offering the views or information to provide written comments, in order to preserve them for the record. He may not rely, as a factor in making his decision, upon communications received from anyone unless submitted for the record.

§ 247.43 Record.

The Sectional Center Manager shall maintain as part of the record for his consideration and for review by higher management all of the documentation he has gathered concerning whether the proposed change is needed. The record must include all information that the Sectional Center Manager has considered, and the decision must stand on the record. No information relevant to a decision may be excluded, whether or not it tends to support the proposal. The proposal shall be assigned a docket number, which shall be the ZIP Code of the office proposed for closing or consolidation. The record shall include a chronological index in which each document contained in the record is identified and numbered as filed. As written communications are received in response to the public notice and invitation for comments, they shall be included in the record. The Sectional Center Manager shall assure that a complete copy of the record is available for public inspection during normal office hours at the post office proposed for discontinuance, beginning no later than the date upon which notice is posted under § 247.41, and extending through the comment period. Copies of documents in the record shall be provided upon request and (except for the Proposal and comment form) payment of fees prescribed by § 265.8.

Subpart E—Consideration of Public Comment and Final Local Recommendation

§ 247.51 Analysis of comments.

After waiting not less than 60 days after notice has been posted in accordance with § 247.41, the Sectional Center Manager shall prepare an analysis of the public comments received, to aid his consideration and for inclusion in the record. Comments subsequently received should also be included in the analysis if possible. The analysis should list and briefly describe each of the points made favorable to the proposal and each of the points made unfavorable to the proposal, and should identify to the extent possible how many comments supported each point listed.

§ 247.52 Evaluation of proposal in light of comments.

Upon completion of the analysis, the Sectional Center Manager shall review the Proposal and re-evaluate all of the tentative conclusions previously made in light of the additional information and views received from the public and included in the record.

(a) *Discontinuance not warranted.* If the Sectional Center Manager decides not to proceed with the proposed discontinuance, he shall post, in the post office considered for discontinuance, a notice that the proposed closing or consolidation has been determined not to be warranted.

(b) *Discontinuance warranted.* If the Sectional Center Manager decides that the proposed discontinuance is justified, he shall revise the appropriate sections of the Proposal to take into account the comments received from the public. Upon completing the necessary revisions, he shall forward the revised Proposal together with the entire record through his District Manager and Regional Postmaster General to the Senior Assistant Postmaster General, Operations Group, for final review. The Sectional Center Manager shall attach his certification that all documents included in the record are originals or true and correct copies.

Subpart F—Final Determination

§ 247.61 Standard of review.

The District Manager, Regional Postmaster General, and Senior Assistant Postmaster General each shall conduct his review under this subpart on the basis of the record developed by the Sectional Center Manager. The decision of each reviewing authority shall be fully supported in the record. As necessary, each reviewing authority may provide instructions to the Sectional Center Manager, through appropriate channels, to supplement the record. Each decision and instruction shall be added to the record.

§ 247.62 Review by district and regional management.

The District Manager shall review the Proposal and may approve it, with or without making revisions, and send it forward with the record to his Regional Postmaster General, or may disapprove it and return it with the record to the Sectional Center Manager with his reasons for disapproval. If the Proposal is returned disapproved, the Sectional Center Manager shall post a notice, in the post office considered for discontinuance, that the proposed closing or consolidation has been determined not to be warranted. If the District Manager sends it forward, the Regional Postmaster General may approve it, with or without making revisions, and send it forward to the Senior Assistant Postmaster General, Operations Group, or may disapprove it and return it with the record and with his reasons for disapproval, through the District Manager to the

Sectional Center Manager for posting of the required notice.

§ 247.63 Final determination by Senior Assistant Postmaster General, Operations Group.

The Senior Assistant Postmaster General, Operations Group, may approve a revised Proposal forwarded for his review, with or without making further revisions, or may disapprove it and return it with the record and with his written reasons for disapproval, through the Regional Postmaster General and the District Manager to the Sectional Center Manager for posting of the notice required in § 247.62. If he approves it, he shall substitute "Final Determination" for "Proposal" in the title and in the notice required by § 247.34(g)(1). The final determination shall constitute the determination and findings of the Postal Service for purposes of 39 U.S.C. 404(b). He shall return a copy of the Final Determination and of the completed record through the Regional Postmaster General and the District Manager to the Sectional Center Manager. A copy of each Final Determination and a copy of each disapproval of a proposal under this section shall be placed on public file as provided in § 265.6(a)(2).

Subpart G—Notice and Implementation of Final Determination

§ 247.71 Notice of final determination to discontinue post office.

The Sectional Center Manager shall provide notice of the Final Determination by having a copy posted prominently in the affected post office or offices. The date of posting shall be noted on the first page of the posted copy as follows: "Date of posting: _____, 19__". The Sectional Center Manager shall assure that a copy of the completed record is made available for public inspection during normal office hours at the post office or offices where the Final Determination is posted, beginning on the posting date and extending for a period of 30 days. Copies of documents in the record shall be provided upon request and payment of fees prescribed by § 265.8.

§ 247.72 Implementation of determinations not appealed.

If no appeal is filed pursuant to 39 U.S.C. 404(b)(5), the Sectional Center Manager may schedule an appropriate date for implementing the approved discontinuance. However, the post office may not be discontinued sooner than 60 days after the notice required by § 247.71 was posted.

§ 247.73 Actions during appeal.

(a) *Implementation of discontinuance.* If an appeal is filed, the affected post office may be discontinued, prior to final disposition of the appeal, only by direction of the Senior Assistant Postmaster General, Operations Group. However, the post office may not be discontinued sooner than 60 days after the notice required by § 247.71 was posted.

(b) *Display of appeal documents.* The Regional Counsel shall provide the Sectional Center Manager with copies of the Postal Rate Commission's service list and all pleadings, notices, orders, briefs, and opinions filed in the appeal proceeding. The Sectional Center Manager shall assure that a copy of each of these documents is prominently displayed and made available for inspection by the public in the post office to be discontinued, or if it has been or is discontinued, in the post office or post offices serving the customers affected. All documents except the Commission's final order and opinion must be displayed until the final order and opinion are issued. The final order and opinion must be displayed for a period of 30 days.

§ 247.74 Actions following appeal decision.

(a) *Determination affirmed.* If the Commission dismisses the appeal or affirms the Postal Service's determination, the Sectional Center Manager may schedule an appropriate date for implementing the approved discontinuance if not previously implemented. However, the post office may not be discontinued sooner than 60 days after the notice required under § 247.71 was posted.

(b) *Determination returned for further consideration.* If the Commission returns the matter for further consideration, the Senior Assistant Postmaster General, Operations Group shall direct either that notice be provided in accordance with § 247.62 that the proposed discontinuance has been determined not to be warranted, or shall direct that the matter be returned to an appropriate stage under these regulations for further consideration according to such instructions as he may provide.

APPENDIX—UNITED STATES POSTAL SERVICE

PROPOSAL TO [CLOSE] [CONSOLIDATE] THE [NAME] POST OFFICE AND OPTIONAL COMMENT FORM

Attached is a proposal that we are considering to attempt to provide your community's postal service more economically and efficiently, while also providing regular and effective service. Please read the proposal carefully and then let us have your comments and suggestions. If you choose, you may use the form provided below. Your comments will be carefully considered and will be made a part of a public record. If you use the form provided below and need additional room, please attach additional sheets of paper. Return the completed form to _____ by _____.

In considering this proposal, if you have any questions you want to ask a postal official, you may call _____, whose telephone number is _____.

I. Effect on Your Postal Services

Please describe any favorable or unfavorable effects which you believe the proposal would have on the regularity or effectiveness of your postal service.

_____
_____
_____
_____
_____
_____

II. Effect on Your Community

Please describe any favorable or unfavorable effects which you believe the proposal would have on your community.

_____
_____
_____
_____
_____
_____

III. Other Comments

Please provide any other views or information which you will believe the Postal Service should consider in deciding whether to adopt the proposal.

_____
_____
_____
_____
_____
_____

_____ _____
(Signature of Postal Customer) (Date)

_____
(Mailing Address)

_____
(City) (State) (Zip Code)

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5. New Part 248 is added as follows:

PART 248—SUSPENSION OF POST OFFICE OPERATIONS

§ 248.1 Emergency suspension.

In emergencies, when it is necessary to suspend operations of a post office without a full review and evaluation, as in the case of natural disaster or in the termination of a lease when alternative quarters are not available, notice of the action taken shall be provided by telephone or TWX, through the District Manager and the Regional Postmaster General, to the Senior Assistant Postmaster General, Operations Group. In any such case, if it is proposed to discontinue the post office rather than to restore operations, the procedures of Part 247 must be observed. All notices and other documents required by that part to be posted or maintained in the affected post office shall be posted or maintained in the post office or offices temporarily serving the customers of the post office where operations have been suspended.

(39 U.S.C. 401, 404(b)).

PART 265—RELEASE OF INFORMATION

§ 265.6 [Amended]

4. Paragraph (a)(2) of § 265.6 is amended by inserting immediately after "Board of Contract Appeals," the following: "all final determinations pursuant to § 247.63 of Title 39, Code of Federal Regulations, to close or consolidate a post office, or to disapprove a proposed closing or consolidation,".

[FR Doc.77-32848 Filed 11-14-77;8:45 am]

[4110-35]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 460—PROFESSIONAL STANDARDS REVIEW

Correction of New York PSRO Area Designations

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: This rule reinstates the original numerical designations of New York PSRO areas so that Bronx County is designated as Area XVI and Suffolk County as Area XVII. Based on inaccurate information received by the Department, a correction notice was issued which erroneously transposed the original numerical designations of these two PSRO areas. However, the medical community, the PSROs, and the general public have continued to utilize the original designations. In order to avoid further confusion, this rule reinstates the original designations.

EFFECTIVE DATE: This rule is effective November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Arnold Wilson, 301-443-5327.

SUPPLEMENTARY INFORMATION: Notice and opportunity for public comment is unnecessary because the regulation merely corrects the numerical designations with no change in the area boundaries. 42 CFR 460.36 is amended by inverting the numerical designations of Bronx and Suffolk Counties as follows:

§ 460.36 New York.

* * * * *

AREA XVI—BRONX

AREA XVII—SUFFOLK

(Section 1152 of the Social Security Act, 42 U.S.C. (1320c-1); Section 1102 of the Social Security Act, 42 U.S.C. 1302.)

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

Dated: October 19, 1977.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

Approved: November 9, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-33011 Filed 11-14-77;8:45 am]

[4110-12]

Title 45—Public Welfare

CHAPTER IX—ADMINISTRATION ON AGING, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Chapter IX Vacated

AGENCY: Administration on Aging, Office of Human Development Services, Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: Regulations of the Administration on Aging, formerly appearing in 45 CFR Chapter IX, are transferred to 45 CFR Chapter XIII, Office of Human Development Services, Department of Health, Education, and Welfare, and redesignated as regulations in Subchapter C-Administration on Aging, Older Americans Programs of that Chapter. Therefore, 45 CFR Chapter IX is vacated (see today's FEDERAL REGISTER at page 59212).

45 CFR Chapter XIII is reserved for regulations of the Office of Human Development Services and its program office components. Although the Administration on Aging has been an Office of Human Development Services component since the latter was established in the Office of the Secretary March 29, 1973, the Administration on Aging's regulations have continued to occupy their own CFR chapter. By transferring the regulations in Chapter IX to Chapter XIII and vacating Chapter IX, the regulations of Office of Human Development Services programs will be consolidated and the Administration on Aging's organizational placement properly reflected.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard Ledder, Policies and Procedures Branch, Division of Grants and Contracts Management, Office of Human Development Services, Department of Health, Education, and Welfare, 341F South Portal, Washington, D.C. 20201, 202-245-2897.

Regulations formerly appearing in 45 CFR Chapter IX are transferred to 45 CFR Chapter XIII and redesignated as regulations in Subchapter C of the Chapter. Accordingly, 45 CFR Chapter IX is vacated.

Dated: May 23, 1977.

ARTHUR S. FLEMMING,
Commissioner on Aging.

Dated: June 15, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

Approved: November 7, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-32763 Filed 11-14-77;8:45 am]

[4110-12]

CHAPTER XIII—OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Subchapters Designated in Code of Federal Regulations

AGENCY: Office of Human Development Services, Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: Chapter XIII of Title 45 of the Code of Federal Regulations, regulations of the Office of Human Development Services, Department of Health, Education, and Welfare, is amended by adding subchapter designations. This rulemaking organizes the regulations of the several programs administered by the Office of Human Development Services into subchapters of Chapter XIII. The lack of an organizational structure in Chapter XIII, which the subchapter designations provides, has not only prohibited the identification of responsible program administrations, groups of related programs, and programs with several regulatory parts, but it has also restricted general issuances by a particular program administration or the Office of Human Development Services.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard Ledder, Policies and Procedures Branch, Division of Grants and Contracts Management, Office of Human Development Services, Department of Health, Education, and Welfare, 341F South Portal, Washington, D.C. 20201, 202-245-2897.

SUPPLEMENTARY INFORMATION: The Office of Human Development Services, located within the Office of the Secretary of Health, Education, and Welfare, has a mission to provide responsive and effective programs for special populations served by the Department of Health, Education, and Welfare. Five administrations within the Office of Human Development Services administer programs for groups of people identified as having special problems and needs. The administrations and types of programs they administer are as follows:

The Administration for Children, Youth, and Families—Head State Program; Child Abuse and Neglect Prevention and Treatment Program; Youth Services Programs; Child Welfare Services Program.

The Administration on Aging—Older Americans Programs.

The Administration for Native Americans—Native American Program.

The Administration for Handicapped Individuals—Vocational Rehabilitation Programs; Developmental Disabilities Program.

Administration for Public Services—Social Services for Individuals and Families Program; Work Incentive Program.

Chapter XIII of Title 45 of the Code of Federal Regulations is reserved for regulations governing the programs administered by the Office of Human Development Services. To date, each regulatory part within Chapter XIII has been issued as an independent set of

rules. There has been no organizational structure within the Chapter with which to clearly delineate a group of related programs or a single program with several regulatory parts, nor has the responsible program administration been readily identifiable. The lack of organizational structure within the Chapter has also inhibited the issuance of general rules applicable to all Office of Human Development Services programs or to a group of related programs or to a program with several regulatory parts.

The purpose of this rulemaking is to establish an organizational structure within Chapter XIII which will identify a responsible program administration, a group of related programs or a single program with several regulatory parts, and will provide opportunities for general issuances by a particular program administration and by the Office of Human Development Services. The basis for this rulemaking comes from the designation by the Secretary of Health, Education, and Welfare of Chapter XIII for the Office of Human Development Services regulations, and the Assistant Secretary of Human Development Services' request for improved comprehensibility and understanding of the regulations.

The rulemaking divides Chapter XIII into eleven subchapters, Subchapter A being reserved for general provisions of the Office of Human Development Services. Two of the five program administrations are given their own subchapters. Three program administrations (the Administration for Children, Youth and Families, the Administration for Handicapped Individuals, and the Administration for Public Services) are given two or more subchapters because they administer two or more major programs, (the Head Start Program, the Child Abuse and Neglect Prevention and Treatment Program, the Youth Services Programs and the Child Welfare Services Program are administered by the Administration for Children, Youth and Families).

As a result of the addition of subchapter designations, the Office of Human Development Services is able to move the regulations of the Administration on Aging from Chapter IX of Title 45 to a subchapter of Chapter XIII and retain the same system of regulatory parts which was in Chapter IX. (See today's FEDERAL REGISTER at page 59212).

It is the general policy of the Office of Human Development Services to allow interested parties to take part in the rulemaking process. However, because the provisions of this amendment are purely editorial, no purpose would be served in the notice, public participation and effective date requirements contained in 5 U.S.C. 553. The amendment set forth below shall become effective immediately.

45 CFR Chapter XIII is hereby amended by adding subchapter designations within the chapter as set forth below.

NOTE.—It is hereby certified that this rulemaking has been screened pursuant to Executive Order No. 11821 and it does not require an Inflation Impact Evaluation.

Effective Date: November 15, 1977.

Dated: June 15, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

Approved: November 7, 1977.

HALE CHAMPION,
Acting Secretary.

The following subchapter designations are added to Chapter XIII as indicated below:

SUBCHAPTER A—OFFICE OF HUMAN DEVELOPMENT SERVICES, GENERAL PROVISIONS

Part
1300 General (Reserved)

SUBCHAPTER B—THE ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES, HEAD START PROGRAM

1301 * * *
1302 * * *
1303 * * *
1304 * * *

SUBCHAPTER C—THE ADMINISTRATION ON AGING, OLDER AMERICANS PROGRAMS

1320 * * *
1321 * * *
1322 * * *
1323 * * *
1324 * * *
1325 * * *
1326 * * *

SUBCHAPTER D—THE ADMINISTRATION FOR NATIVE AMERICANS, NATIVE AMERICAN PROGRAMS

1336 * * *

SUBCHAPTER E—THE ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES, CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAM

1340 * * *

SUBCHAPTER F—THE ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES, YOUTH SERVICES PROGRAMS

1350 * * *
1351 * * *

SUBCHAPTER G—THE ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES, CHILD WELFARE SERVICES PROGRAM

1355 (Reserved)

SUBCHAPTER H—ADMINISTRATION FOR HANDICAPPED INDIVIDUALS, REHABILITATION SERVICES ADMINISTRATION

1361 * * *
1362 * * *
1369 * * *
1370 * * *

SUBCHAPTER I—THE ADMINISTRATION FOR HANDICAPPED INDIVIDUALS, DEVELOPMENTAL DISABILITIES PROGRAM

1385 * * *
1386 * * *
1387 * * *

SUBCHAPTER J—THE ADMINISTRATION FOR PUBLIC SERVICES, SOCIAL SERVICES FOR INDIVIDUALS AND FAMILIES PROGRAM

1390 (Reserved)
1391 (Reserved)
1392 (Reserved)
1393 (Reserved)
1394 (Reserved)
1395 (Reserved)
1396 (Reserved)
1397 (Reserved)

SUBCHAPTER K—THE ADMINISTRATION FOR PUBLIC SERVICES, WORK INCENTIVE PROGRAM

1398 (Reserved)

[FR Doc.77-32762 Filed 11-14-77;8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 73—RADIO BROADCAST SERVICES

Reregulation of Radio and Television Broadcasting; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: This document corrects an Order appearing in the FEDERAL REGISTER at 42 FR 36823, July 18, 1977.

EFFECTIVE DATE: March 1, 1978 (for provision of paragraph (d) of Sec. 73.56).

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

FOR FURTHER INFORMATION CONTACT:

John W. Reiser, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Released: November 9, 1977.

In the matter of reregulation of Radio and Television Broadcasting.[1]

1. The Chief, Broadcast Bureau, by an *Order* adopted by delegated authority on October 7, 1977, postponed the effective date from November 1, 1977, to March 1, 1978, of a new paragraph (d) added to § 73.56 of the Rules. However, the postponing *Order* did not show that the date as shown in the rule was to be changed to March 1, 1978. The note following paragraph (d) of Section 73.56 should be corrected to read as follows:

§ 73.56 Modulation Monitors.

* * * * *

NOTE.—Provisions of paragraph (d) are effective March 1, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Acting Secretary.

[FR Doc.77-32991 Filed 11-14-77;8:45 am]

[1] See 42 FR 55619, Tuesday, October 18, 1977.

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.

[3410–02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 46]

MISREPRESENTATION OR MISBRANDING

Agricultural Commodities in Foreign or Interstate Commerce

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed revision of regulations.

SUMMARY: This notice invites written comments on a proposed revision to the procedure used in administering Section 2(5) of the Perishable Agricultural Commodities Act and includes definitions of serious and very serious violations and schedules of monetary penalties.

DATE: Comments must be received on or before December 30, 1977.

ADDRESSES: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Michael D. Price, 202–447–4180.

SUPPLEMENTARY INFORMATION: The section of the regulations under consideration has been in effect since September 1974, and it has been determined that it should be rewritten to replace the present general wording with specific definitions and a detailed outline of the procedure in order that all interested parties may have sufficient information concerning the assessment of monetary penalties.

The proposal is to amend § 46.45 of the Regulations (Other Than the Rules of Practice) under the Perishable Agricultural Commodities Act, 1930, as follows:

MISREPRESENTATION OR MISBRANDING

§ 46.45 Procedure in administering Section 2(5) of the Act.

It is a violation of Section 2(5) for a commission merchant, dealer or broker to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State, country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce.

(a) *Violations.* Violations are considered to be serious, very serious, or repeated and/or flagrant, depending upon the circumstances of the misrepresentation.

(1) *Serious violations:* Include, but are not necessarily limited to, the following:

(i) Any lot of a perishable agricultural commodity shown by official inspection to contain scorable defects, off-size, off-count, exceeding the tolerance(s) in an amount up to and including double the tolerance provided in the applicable grades, standards or inspection procedures;

(ii) Any lot of perishable agricultural commodity officially certified as failing to meet the declared weight;

(iii) Any lot of a perishable agricultural commodity in which the State, country, or region of origin of the produce is misrepresented because the lot is made up of containers with various labels or markings that reflect more than one incorrect State, country or region of origin. Example: A lot with containers individually marked to show the origin as Idaho or Maine or Colorado when the produce was grown in Wisconsin.

(iv) Any other physical act, verbal or written declaration, or record entry that misrepresents a lot of a perishable agricultural commodity to the same extent as the examples listed.

(2) *Very serious violations:* Include, but are not necessarily limited to, the following:

(i) Any lot of a perishable agricultural commodity shown by official inspection to contain scorable defects, off-size, off-count, in excess of double the tolerance(s) provided in the applicable grades, standards or inspection procedures;

(ii) Any lot of a perishable agricultural commodity packed in containers showing a single point of origin, which is other than that in which the produce was grown, such as containers marked "California" when the produce was grown in Arizona;

(iii) Any lot of a perishable agricultural commodity officially certified as having an average net weight more than four percent below the declared weight;

(iv) Multiple sales or shipments of a misrepresented perishable agricultural commodity within a seven day period that can be attributed to one cause;

(v) Any other physical act, verbal or written declaration, or record entry that misrepresents a lot of a perishable agricultural commodity to the same extent as the examples listed.

(3) *Flagrant violations:* Include, but are not necessarily limited to, the following examples:

(i) Shipment or sale of a lot of a perishable agricultural commodity from shipping point after notification by official inspection that the inspected commodity fails to comply with any marking on the container without first correcting the misbranding.

(ii) To offer for resale or consignment, a lot of a perishable agricultural commodity that has been officially inspected at destination and found to be misbranded without advising a prospective receiver that the lot is misbranded and that the misbranding must be corrected before resale.

(iii) To withhold or fail to disclose full details with respect to a misrepresentation or misbranding.

(b) *Evidence.* (1) Evidence concerning a misrepresentation or misbranding includes official certificates of an inspection made by any person authorized by the Department to inspect fruits and vegetables or other public certifiers, and includes investigations and audit findings and any business records, testimony or other evidence bearing on the subject.

(2) When a lot of a perishable agricultural commodity has been officially inspected, and certification is made that the descriptive container markings are correct, but a subsequent inspection reverses the original findings, both inspection certificates will be accepted as evidence to show that the shipper/seller has not misrepresented the lot. The receiver of the commodity will be in violation if the misrepresentation is not corrected before the commodity is shipped, sold or offered for resale.

(c) *Sanctions.* (1) *Informal:* When liability for a violation of Section 2(5) of the Act is to be settled informally, the violator may:

(i) Be given written warnings;

(ii) Be given notice that liability for a violation may be settled by admitting the violation in writing and paying a penalty in an amount satisfactory to the Secretary in lieu of formal disciplinary action. In the event of a formal proceeding to suspend or revoke the license of such person because he has committed other violation(s), the admitted violation(s) will not be used to support the formal complaint but may be admitted to show a course of conduct prior to the filing of the formal complaint;

(iii) The schedule for informal disposition is as follows:

Violation:	Disposition	
1st	Warning letter.	
2d	Warning letter.	
	If serious violation	*If very serious violation*
3d	$200	$250
4th	350	500
5th	500	1,000
6th	1,000	2,000
7th	2,000	

(2) *Formal:* Formal proceedings to suspend or revoke a license may be instituted at any time against a person who has committed repeated and/or flagrant violations.

(d) *Cumulative Record.* A cumulative record of a licensees misrepresentation violations will be maintained with the following limitations:

(1) Two years after the date it was committed or after payment of a monetary penalty, the violation will not be used as a basis for instituting formal disciplinary action. However, it may be cited as a part of the pattern of violations if formal proceedings are instituted and will be used in determining the level of monetary penalty for informal settlements.

(2) The record of violations not involved in formal proceedings will be expunged if there are no violations during a 24-month period from the date of the most recent violation.

Dated: November 10, 1977.

WILLIAM T. MANLEY,
Deputy Administrator
Program Operations.

[FR Doc.77-33080 Filed 11-14-77;8:45 am]

[3410-05]

Agricultural Stabilization and Conservation Service

[7 CFR Part 728]

1978 WHEAT PROGRAM

Revised Proposed Determination Regarding National Program Acreage

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This action is to revise the proposed rulemaking concerning the 1978 national program acreage as published in the FEDERAL REGISTER, 42 FR 55242, Friday, October 14. In the October 14 FEDERAL REGISTER publication we stated that the Department does not propose to adjust the national program acreage because of excessive carryover stocks. The Department is now proposing that the Secretary may adjust the national program acreage to achieve the desired level of carryover stocks. The time period for receipt of written comments concerning this proposal and other proposals contained in 42 FR 55242 is extended through the date shown below.

DATES: This notice invites written comments on the proposed determination. Comments must be received on or before November 30, 1977.

ADDRESSES: Send comments to Acting Director, Production Adjustment Division, ASCS, USDA, room 3630, South Building, P.O. Box 2415, Washington, D.C. 20013. Comments will be made available for public inspection at the Office of the Acting Director during regular business hours (8:15 a.m. to 4:45 p.m.).

FOR FURTHER INFORMATION CONTACT:

Bruce R. Weber, (ASCS), 202-447-3677.

Section 107A(d)(1) of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977 (Pub. L. 95-113, 91 Stat. 924, effective October 1, 1977) requires that the Secretary proclaim a national program acreage for wheat for the 1978 crop as soon as practicable after enactment of the Food and Agriculture Act of 1977. The national program acreage is the number of harvested acres the Secretary determines (on the basis of the weighted average national farm program yield) will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that the quantity of carryover stocks is excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the national program acreage by the amount he determines will accomplish the desired decrease or increase of carryover stocks. As of November 3, 1977, the estimate of wheat carryover stocks from the 1977-78 crop is 1,182 million bushels. This would be the largest carryover since 1963 and represents more than twice the amount of wheat consumed in the United States for food uses each year.

In view of the anticipated high level of carryover stocks, consideration is being given to an adjustment in the national program acreage of wheat in order to accomplish a decrease in stocks. Written comments are invited with respect to the appropriateness and size of the adjustment.

Signed at Washington, D.C. on November 10, 1977.

WELDON B. DENNY,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-33046 Filed 11-14-77;8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 21, 36, and 91]

[Docket No. 15376; Reference Notice No. 77-23]

PROPOSED NOISE AND SONIC BOOM REQUIREMENTS FOR CIVIL SUPERSONIC AIRPLANES

Public Hearing

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public hearing.

SUMMARY: This notice announces a public hearing to be conducted on December 15, 1977, in Washington, D.C., to receive the views and comments of interested persons regarding the proposed amendments contained in Notice No. 77-23, regarding noise and sonic boom requirements for civil supersonic airplanes, and their relationship to the amendments recommended by the U.S. Environmental Protection Agency contained in Notice Nos. 75-15 and 76-1. Notice No. 77-23 was published October 13, 1977, in the FEDERAL REGISTER (42 FR 55176). The comment periods for Notices 75-15 and 76-1 have been reopened to coincide with the comment period for Notice 77-23.

DATES: Public hearing; December 15, 1977, at 9:00 a.m. Comments concerning Notices 75-15, 76-1, and 77-23 must be received on or before: December 31, 1977.

ADDRESSES: Hearing location: Auditorium, Third Floor, FAA Headquarters, Building, 800 Independence Avenue SW., Washington, D.C.

Make requests to be heard at the hearing to: Office of Environmental Quality (AEQ-200), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, Attention: Marion Faulk; Telephone: 202-755-9468.

Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 15376, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Tedrick, Program Management Branch (AEQ-220), Environmental Technical and Regulatory Division, Office of Environmental Quality, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone: 202-755-9027.

SUPPLEMENTARY INFORMATION:

THE PUBLIC HEARING

On December 15, 1977, the Federal Aviation Administration (FAA) will hold a public hearing in Washington, D.C., at the location stated above, regarding proposed amendments to the Federal Aviation Regulations (14 CFR Chapter I). This hearing will afford interested persons the opportunity to present views, data, and arguments regarding the substance and issues raised in the proposals contained in Notice No. 77-23, entitled "Proposed Noise and Sonic Boom Requirements for Civil Supersonic Airplanes," which was published in the FEDERAL REGISTER on October 13, 1977 (42 FR 55176). In addition, presentations and comments are specifically invited on the relationship of those proposals to the amendments recommended by the U.S. Environmental Protection Agency (EPA) contained in Notice Nos. 75-15 (40 FR 14093; March 28, 1975) and 76-1 (41 FR 6270; February 12, 1976), which are currently being considered by the

FAA under § 611(c) of the Federal Aviation Act of 1958, as amended. Presentations and comments are also invited on the draft environmental impact statement prepared in conjunction with the notice.

The hearing will be convened at 9:00 a.m. If response to this notice exceeds the time allotted for the hearing, it will be continued to 9:00 a.m., December 16, 1977, at the same location. Additional hearings, if any, would be predicated upon the showing of substantial interest by civic parties in one or more of the other eleven cities identified in the Supplemental Draft Environmental Impact Statement issued October 11, 1977. Requests should be submitted to the FAA's Office of Environmental Quality on or before December 31, 1977.

HEARING PROCEDURE

The hearing will be informal in nature and will be conducted by a designated representative of the Administrator under 14 CFR 11.33. At the hearing, FAA spokesmen will make a brief opening statement regarding the proposals contained in the notice. Since the hearing will not be evidentiary or judicial in nature, there will be no cross-examination or other adjudicatory procedure applied to the presentations. However, interested persons wishing to make rebuttal statements will be given an opportunity to do so at the conclusion of the presentations in the same order in which initial statements are made.

Interested persons are invited to attend the hearing and to participate by making oral or written statements concerning the respective proposals. Written statements should be submitted in duplicate and will be made a part of the regulatory docket. Persons wishing to make oral statements at the hearing must notify the FAA that they desire to be heard, and indicate the amount of time requested for their initial statements. Presentations will be scheduled on a first-come-first-served basis, as time may permit. Requests to be heard at the hearing may be made by contacting the person identified above for that purpose.

WRITTEN COMMENTS TO THE RULES DOCKET INVITED

In addition to material presented for the purpose of the hearing, persons not participating in the hearing are invited to submit written comments to the regulatory docket established for the supplemental notice of proposed rulemaking. As stated in the notice, such written comments should identify the notice or docket number and be submitted in duplicate to the FAA Rules Docket.

SCOPE OF INQUIRY

Notice No. 77-23 was issued by the FAA under § 611 of the Federal Aviation Act of 1958, as amended. The notice supplements FAA's review of several options for regulating the noise of civil supersonic airplanes proposed to the FAA by the U.S. Environmental Protection Agency (EPA) and previously published by the FAA pursuant to the Noise Control Act of 1972. These additional proposals would: (1) require all SSTs except Concordes with flight time before January 1, 1980, to comply with the Stage 2 noise limits of Part 36 in order to operate in the United States; (2) prohibit modifications of current SST types that increase their noise; (3) place operational restrictions on SSTs that do not comply with the Stage 2 noise limits of Part 36; and (4) add procedures adapting the flight test conditions of Part 36 to supersonic airplanes. A proposal to protect United States coastal areas from sonic boom is also included. Those proposals respond to the public need for the control of sonic boom and of the noise of SSTs.

The notice presents the FAA's analysis of the background of the respective proposals and contains the material that is the subject of the public hearing. While all relevant comments are of interest, the FAA specifically invites statements or comments concerning the following:

(a) Available data relating to aircraft noise, including the results of research, development, testing, and related evaluation activities.

(b) The views and positions of other Federal, State, and interstate agencies.

(c) Whether the proposed regulations would be consistent with the highest degree of safety in air commerce and air transportation in the public interest.

(d) Whether the proposed regulations would be—

(1) Economically reasonable;

(2) Technologically applicable; and

(3) Appropriate for the particular types of aircraft, aircraft engines, appliances, or certificates to which they would apply.

(e) The extent to which the proposed regulations would contribute to providing protection to the public health and welfare by carrying out the purposes of § 611 of the Federal Aviation Act of 1958, as amended.

(f) The overall environmental impacts of the proposed regulations (including environmental factors other than noise).

(g) The economic impact that might result because of adoption of the proposed rules.

Before taking further action under § 611 of the Federal Aviation Act of 1958, the FAA will consider all statements presented at the hearing and all written statements and comments submitted to the regulatory docket. The specific terms and substance of proposals contained in the notice may be changed in the light of those statements and comments presented.

Transcripts of the hearing will be made and anyone may purchase copies from the reporter. A transcript of the hearing will be available for examination in the Rules Docket.

DRAFTING INFORMATION

The principal authors of this document are Richard N. Tedrick, Office of Environmental Quality Branch, and Ronn E. Harding, Office of the Chief Counsel.

(Secs. 307, 313(a), 601(a), 603, and 611, Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1348, 1354(a), 1421(a), 1423, and 1431); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); Title I, National Environmental Policy Act of 1969 (42 U.S.C. § 1421 et seq.); Executive Order 11514; March 5, 1970; 14 CFR 11.45; and 44 U.S.C. § 1508.)

Issued in Washington, D.C., on November 10, 1977.

J. E. DENSMORE,
Acting Director, Office of Environmental Quality.

[FR Doc.77-33094 Filed 11-11-77;2:19 pm]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 101]

GENERAL PROVISIONS

Proposed Changes in the Field Organization of the Customs Service

AGENCY: United States Customs Service, Department of the Treasury..

ACTION: Proposed rule.

SUMMARY: This document proposes to change the field organization of the Customs Service by extending the port of entry limits of Corpus Christi, Tex., and Los Angeles, Calif., and by transferring jurisdiction over Morris County, New Jersey, from the Baltimore, Md., region to the New York, N.Y., region. Further, it is proposed that the port of Duluth, Minn., exercise supervision over the Customs stations at Crane Lake and Eli, Minn. The proposed changes are part of Customs' continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

DATES: Comments must be received on or before December 15, 1977.

ADDRESSES: Comments may be addressed to the Commissioner of Customs, Attention: Regulation and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Robert Schenarts, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8151.

SUPPLEMENTARY INFORMATION:

BACKGROUND

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, Customs proposes to make the following changes in its field organization.

MORRIS COUNTY, N.J.

It is proposed to transfer jurisdiction over Morris County, N.J., from Region III (Baltimore, Md.) to Region II (New York City, N.J.).

DULUTH MINN.

It is proposed to transfer supervisory authority over the Customs stations at Crane Lake and Ely, Minn., from the ports of International Falls and Grand Portage, Minn., respectively, to the port of Duluth, Minn., in Region IX (Chicago, Ill.).

CORPUS CHRISTI, TEX.

It is proposed to extend the port of entry limits of Corpus Christi, Tex., in the Galveston, Tex., district (Region VI). As extended, the geographical limits of the port of Corpus Christi, Tex., would include all the territory within the following boundaries:

Beginning on the north at the intersection of the northwest city liimts of Corpus Christi and the Nueces River and proceeding in a northerly, then easterly, then southeasterly direction along the Nueces River to the western city limits of Corpus Christi on Nueces Bay, then proceeding in a northerly direction along the western city limits of Corpus Christi to White Point Road and continuing in a northerly direction on White Point Road to its intersection with Farm to Market Road (FM) No. 1074, then proceeding in an easterly direction on Farm to Market Road (FM) No. 1074 to its intersection with Farm to Market Road (FM) No. 893, then continuing in an easterly direction on Farm to Market Road (FM) No. 893 to its intersection with U.S. Highway No. 181, then proceeding in a northeasterly direction on U.S. Highway No. 181 to its intersection with Texas State Highway No. 35, then proceeding in an easterly direction on Texas State Highway No. 35 to its intersection with the boundaries of San Patricio and Aransas Counties, then proceeding in a southeasterly direction along the boundary line between Aransas and San Patricio Counties to the Intracoastal Waterway, where the boundary between Aransas, San Patricio, and Nueces Counties intersect, then proceeding in a northeasterly direction along that portion of the Intracoastal Waterway which is the boundary between Aransas and Nueces Counties, then proceeding in a southeasterly direction along the boundary line between Aransas and Nueces Counties to the lighthouse on Harbor Island, then proceeding due east from the lighthouse on Harbor Island to the Gulf of Mexico shoreline of San Jose Island, then proceeding in a southwesterly direction along the Gulf of Mexico shoreline on San Jose Island and continuing in a southwesterly direction along the Gulf of Mexico shoreline of Mustang Island to Access Road No. 1A, then proceeding in a northwesterly direction on Access Road No. 1A to Mustang Island Road (Park Road No. 53), then proceeding in a southwesterly direction on Mustang Island Road (Park Road No. 53), to its intersection with Park Road No. 22, then proceeding in a northwesterly direction on Park Road No. 22 to its intersection with the city limits of Corpus Christi, then following the city limits of Corpus Christi in a generally southwesterly, then westerly, then northerly, then northwesterly direction to the place of beginning, all being in Texas.

LOS ANGELES, CALIF.

It is proposed to extend the port of entry limits of Los Angeles, Calif., in the Los Angeles, Calif., district (Region VII). As extended, the geographical boundaries of the port of Los Angeles, Calif., would include the area in Los Angeles County, State of California, described as follows:

All territory with Los Angeles County bounded on the west by Topanga Canyon Boulevard, north to the intersection of the Simi Valley—San Fernando Valley Freeway, and from the intersection of the Antelope Valley Freeway and the Golden State Freeway along the corporate limits of Los Angeles to the intersection of the Foothill Freeway on the west boundary of Glendale, southeast to the San Gabriel River Freeway, south to the Orange County border to the southeast corporate limit of Long Beach.

COMMENTS

Before adopting these proposals, consideration will be given to any written comments that are submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

AUTHORITY

These changes are proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 14 (42 FR 35239).

DRAFTING INFORMATION

The principal author of this document was Todd J. Schneider, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development, both on matters of substance and style.

Dated: October 31, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-33013 Filed 11-14-77; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 101 and 501]

[Docket No. 77N-0292]

NET-WEIGHT LABELING OF FOOD

Hearings; Extension of Time for Filing Notice of Participation

AGENCY: Food and Drug Administration.

ACTION: Notice of public hearings.

SUMMARY: The Commissioner of Food and Drugs is extending the time for filing a notice of participation in the public hearings on net-weight labeling of food. The extension is being granted in view of the recent decision by the U.S. Department of Agriculture to participate on the hearing panel.

DATES: The public hearings will be held on December 8 and 15, 1977, starting at 10 a.m. Written notice of participation must be filed by November 23, 1977.

ADDRESSES: Written notice of participation should be sent to the Hearing Clerk (HFC-20), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Heinz G. Wilms, Federal State Relations (HFO-310), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6200.

SUPPLEMENTARY INFORMATION: A notice of public hearings was published in the FEDERAL REGISTER of October 14, 1977 (42 FR 55227) scheduling hearings in San Francisco, CA, and Atlanta, GA, and setting forth the matters to be heard. The hearing in San Francisco will be held on December 8, 1977, starting at 10 a.m. in Rm. 1194, San Francisco State Building, 455 Golden Gate Ave. The hearing in Atlanta will be held on December 15, 1977, and will begin at 10 a.m. in the Sheraton "C" Conference Room, Sheraton-Biltimore Hotel, 817 West Peachtree St. NE. The presiding officer will be Donald Kennedy, Commissioner of Food and Drugs.

Since the publication of that notice, the U.S. Department of Agriculture (USDA) has decided to participate on the hearing panel. In view of the USDA's decision, the Commissioner believes that the time for filing written notice of participation should be extended to November 23, 1977.

A written notice of participation should be filed with the Hearing Clerk (HFC-20), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, no later than November 23, 1977. The envelope containing the notice of participation should be promi-

nently marked "NET WEIGHT HEARING." The notice of participation should be identified with Docket No. 77N-0292, contain the name, address, and telephone number of the person desiring to make a statement, along with any business affiliation, a summary of the scope of the presentation, and the approximate time requested for the presentation. A schedule of presentations for the hearings will be mailed to each person who files a notice of participation and will also be available from the Hearing Clerk. Individuals and organizations with common interests are urged to consolidate their presentations. Formal written statements (preferably four copies) may be presented to the presiding officer on the day of the hearing for inclusion in the hearing record of this proceeding.

The hearing will be open to the public. Any interested person who files a written notice of participation may be heard on relevant matters.

Dated: November 7, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-32843 Filed 11-10-77;8:45 am]

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 264]

PROPERTY MANAGEMENT

Protection of Insignia

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Forest Service, Department of Agriculture, is considering adding a section to establish the Official Forest Service Insignia and provide adequate future protection. This proposal also adds a section relating to Property Management. The insignia has long been recognized by the public as representing the Forest Service. This proposal would prevent all unauthorized use of the insignia.

DATES: Comments must be received on or before December 15, 1977.

ADDRESSES: Submit comments to:

Wallace R. Otterson, Director, Personnel Management Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

All written submissions made pursuant to this notice will be available for public inspection in room 909, Rosslyn Plaza E., 1621 North Kent Street, Rosslyn, Va., 8:15 a.m. to 4:45 p.m.; Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Elmer Moyer, Personnel Management Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, 703-235-8012.

It is proposed to amend 36 CFR, Chapter II by adding the following:

PART 264—PROPERTY MANAGEMENT

Subpart A—Official Forest Service Insignia

Sec.

264.1 Definitions.
264.2 Use of insignia.
264.3 Commercial use.
264.4 Unauthorized use.
264.5 Power to revoke.

AUTHORITY: 7 U.S.C. 2201.

§ 264.1 Definition.

(a) The term "Insignia" means the Official Forest Service Insignia

or a facsimile or simulation, in total or in part, thereof which is used in such a manner as to suggest the insignia.

(b) The term "Chief" means the Chief of the Forest Service, U.S. Department of Agriculture, or a person designated to act for him.

§ 264.2 Use of insignia.

The insignia is used as the Official Forest Service insignia on Agency materials. The use of this insignia is restricted to official materials or as approved in § 264.3.

§ 264.3 Commercial use.

(a) The Chief may authorize the commercial manufacture, importation, reproduction or use of the insignia based upon the following conditions:

(1) That the purpose will contribute to the public recognition of the Forest Service in an official capacity.

(2) That the proposed use is consistent with the status of a national insignia and that such use lends prestige and respect to the organization.

(3) That a use charge, royalty charge, or payment in kind which is reasonably related to the commercial value has been established.

(4) That such other conditions as the Chief may deem necessary in each case have been established.

(b) Requirements for licenses: Licenses when granted, shall conform to the following:

(1) A definite expiration date shall be specified.

(2) The Chief shall retain the right to issue additional licenses which in his judgment would be in public and Agency interest.

(3) The licensee shall be required to have the licensed item available for sale, and promotion within a specified period, or show cause why this could not be done.

(4) The licensee shall be required to invest a specified minimum amount of money in the development, production, and promotion of the licensed item, as determined by the Chief.

(5) The Chief shall retain the right to revoke any license for failure of the licensee to comply with all the terms and conditions of the license.

(6) The licensee shall be required to submit peridi: progress reports to appraise the Forest Service of his activities and progress in achieving stated objectives

(7) The license shall not be subject to transfer or assignment, except as approved in writing by the Chief.

(8) The licensee shall not be authorized to grant sublicenses in connection with the manufacture and sale of the item, except as approved in writing by the Chief.

§ 264.4 Unauthorized use.

The manufacture, importation, reproduction or use of the insignia, except as provided under § 264.3, is unauthorized. Furthermore, unauthorized manufacture, importation, reproduction or use is subject to criminal penalty under 18 U.S.C. 701.

§ 264.5 Power to revoke.

It is the intention of these regulations that the Chief, in exercising the authorities designated hereunder, will at all times consider the primary purpose of the insignia. All authorities and licenses granted under these regulations shall be subject to abrogation by the Chief at any time he finds that the use involved is injurious to the image of the Agency, is offensive to decency or good taste, or similar reasons, in addition to any other limitations and terms contained in the licenses and other authorities.

M. RUPERT CUTLER,
Assistant Secretary.

NOVEMBER 10, 1977.

[FR Doc.77-33014 Filed 11-14-77;8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20418; RM-2346; RM-2727; FCC 77-710]

ADDING NEW VHF STATIONS IN THE TOP 100 MARKETS

AGENCY: Federal Communications Commission

ACTION: Order of Clarification

SUMMARY: This action is designed to inform parties wishing to comment on the VHF "drop-in" proposal for Altoona, Pa. It informs them that use of the frequency offset 12+ would minimize the interference impact in that area, and it notes that offset changes would also be required at Clarksburg, W. Va.; Richmond, Va.; and New Bern, N.C.

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

DATES: Non-Applicable.

FOR FURTHER INFORMATION CONTACT: James J. Gross, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: October 13, 1977.

Released: November 3, 1977.

In the matter of petition for rule making to amend television table of assignments to add new VHF Stations in the top 100 markets and to insure that the new stations maximize diversity of ownership, control and programming.

1. Paragraph 142 of the Commission's *Memorandum Opinion and Order and Notice of Proposed Rule Making* ("*Notice*"), 63 F.C.C. 2d 840 (1977), in this proceeding stated that no offset arrangement was completely workable for the Altoona Channel 12 "drop-in" proposal, but that the Commission had sometimes permitted stations to operate with the same offset at less than 250 miles separations. No offset designation was included for this "drop-in" in the *Notice* pending further study by the Commission.

2. It now appears that the best offset arrangement, with respect to current allocation standards, would occur with a Channel 12+ offset designation for the proposed "drop-in" in Altoona. This would permit precise offset with the four stations to which the Altoona proposal is short-spaced (as shown in the maps and worksheets attached to the Docket), namely:

WBNG–TV Binghamton, N.Y., Channel 12, CBS;
WHYY–TV, Wilmington, Del., Channel 12, educational;
WBOY–TV, Clarksburg, W. Va., Channel 21, NBC; and
WICU–TV, Erie, Pa., Channel 12, NBC.

However, it would also require offset changes at Clarksburg, W. Va., from 12+ to 12−; at Richmond, Va., from 12− to 12+ and at New Bern, N.C., from 12+ to 12−.

3. This offset arrangement would result in the Channel 12 Altoona, Pa., proposal being assigned the same offset as WWBT, Channel 12, Richmond, Va., with a distance between sites of approximately 338 kilometers (210 miles). New interference from the "drop-in" to WWBT at Richmond, could be limited to a small area to the north of Fredericksburg, Va., by employing synchronized carrier operation.[1]

4. While a complete study of this area has not been done, it is noted that WWBT is an NBC affiliate, and that most of the area that would receive interference from the "drop-in" is also within the predicted Grade B service contour of WRC–TV, Channel 4, Washington, D.C., another NBC affiliate. Also, the entire area receives Grade B, NBC, service from either WHFV, Channel 69, Fredericksburg, Va., or WVIR–TV, Channel 29, Charlottesville, Va. The additional area of interference to the potential service of the "drop-in" is negligible due to the interference limitations from WHYY–TV, Channel 12, Wilmington, Del., and WBOY–TV, Channel 12, Clarksburg, W. Va. The small amount of additional interference now predicted for WWBT, Richmond, does not substantially affect the results of our cost-benefit analysis, and the conclusion reached to propose rule making remains valid.

5. We therefore direct the attention of parties wishing to comment on the Altoona, Pennsylvania, "drop-in" proposal to the attached map and our finding that a Channel 12+ offset designation would minimize the interference impact in this area, and that such offset would also require changes at Clarksburg, West Virginia (12+ to 12−); Richmond, Va.; (12− to 12+) and New Bern, North Carolina (12+ to 12−).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Acting Secretary.

[FR Doc.77–32992 Filed 11–14–77;8:45 am]

[1] Synchronized carrier operation (zero offset) results in a standard equal to the 28 dB desired-to-undesired co-channel signal ratio which is the present nominal 10 kHz offset standard. See paragraph 59 of the *Notice*.

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

LAND MANAGEMENT PLAN; BIG SUR COASTAL UNIT-LOS PADRES NATIONAL FOREST

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Land Management Plan, Big Sur Coastal Unit, Los Padres National Forest, Calif.. USDA-FS-R5-FES (Adm)-77-02.

The statement concerns a proposed land management plan for the 112,000 acres of National Forest land known as the Big Sur Coastal Unit of the Los Padres National Forest in Monterey County, Calif. Two areas within this Unit, Cone Peak and Silver Peak containing 34,000 acres, have been inventoried as "roadless." One of these areas, Cone Peak, is under Congressional consideration as an addition to the Ventana Wilderness.

On June 10, 1977, the Department of Agriculture recommended that the Cone Peak Area discussed in this statement be designated as an addition to the Ventana Wilderness in H.R. 3454. Accordingly, the Cone Peak Area will be protected to retain its wilderness characteristics until further decisions are made by the Congress or the Department.

The Plan recommends that maintenance of the unique visual qualities of the area be emphasized. It gives strong emphasis to dispersed types of recreation. There are also provisions for a fuel modification program on 10,000 acres, additional day-use facilities along California State Highway 1, and land purchase of 2,5000 acres of privately-owned lands. Adverse impacts include increased fire risk as a result of more people engaging in back-country activities, and some short-term erosion and visual losses resulting from the use of prescribed fire.

During the printing of the final environmental statement nearly one-third of the Planning Unit was burned in the devastating Marble Cone Fire which began as two separate lightning caused fires within the Ventana Wilderness on August 1, 1977. The fire consumed 177,900 acres of valuable watershed and recreational lands. Although resource damage caused by the fire will, in the short-term, reduce the area available for high-quality disphered recreation and aesthetic enjoyment, long-term Forest Service management goals as proposed in the Land Management Plan remain applicable.

This final environmental statement was transmitted to the Council on Environmental Quality (CEQ) on November 8, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, So. Agriculture Bldg., room 3210, Washington, D.C. 20013.
Regional Forester, U.S. Forest Service, room 529, San Francisco, Calif. 94111.
Forest Supervisor, Los Padres National Forest, 42 Aero Camino, Goleta, Calif. 93017.
District Ranger, Monterey Ranger District, 406 South Mildred, King City, Calif. 93930.

A limited number of single copies are available, upon request, from Forest Supervisor Allan J. West, Los Padres National Forest, 42 Aero Camino, Goleta, Calif. 93017.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guideline.

EINAR L. ROGET,
Acting Deputy Chief.

NOVEMBER 8, 1977.

[FR Doc.77-32946 Filed 11-14-77;8:45 am]

[3410-16]

Soil Conservation Service

FACTORY CREEK WATERSHED, ALA.

Intent to Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Factory Creek Watershed, Sumter County, Ala.

The environmental assessment of this Federal action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William B. Lingle, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection and flood prevention. Alternatives being considered are conservation land treatment and combinations of floodwater retarding structures.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invities participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. William B. Lingle, State Conservationist, Soil Conservation Service, PO Box 311, Auburn, Ala. 36830.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008)

JOSEPH W. HASS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture, Washington, D.C.

[FR Doc.77-32984 Filed 11-14-77;8:45 am]

[3410-16]

KIWANIS PARK RC&D MEASURE, ARIZ.

Intent To Not Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); the Soil Conservation Service Guidelines; (40 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, herein gives notice that an environmental impact statement is not being prepared for the Kiwanis Park RC&D Measure, City of Tempe, Maricopa County, Ariz.

The environmental assessment of this federally-assisted action indicates that this measure will cause no significant local, regional or national adverse impacts on the environment. As a result of these findings, Mr. Thomas G. Rockenbaugh, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this measure.

The purpose of this measure is the enhancement of an existing water-based recreation area in the city of Tempe through installation of basic facilities and by revegetation of barren areas. The planned works of improvement include an access road, two docks and piers, a parking lot, eight double and six single picnic ramadas, two flush-type sanitary facilities, and 27 acres of landscaped vegetation. An automatic sprinkler system will be installed on 15 of the 27 acres.

This notice of intent to not prepare an environmental impact statement has

been forwared to the Council on Environmental Quality. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service State Office, 3008 Federal Building, 230 North First Avenue, Phoenix, Ariz. 85025. An environmental impact appraisal has been prepared and provided to various federal, state, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposed measure will be taken until December 15, 1977.

Dated: November 9, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87-703 (16 U.S.C. 590 a-f, g).)

JOHN H. MINER,
Chief, Resource Conservation & Development Branch, Soil Conservation Service

[FR Doc.77-32985 Filed 11-14-77;8:45 am]

[3410-16]

UPPER SAN MARCOS RIVER WATERSHED, TEX.

Intent to Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Upper San Marcos River Watershed, Comal and Hays Counties, Tex.

The environmental assessment of this Federal action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan to treat and manage soil and water resources, obtain a 90–95 percent reduction in average annual damages to urban property, obtain a 60–75 percent reduction in average annual flood damages to agricultural properties, provide opportunities for public water-based recreation, protect fragile and unique habitats along the San Marcos River, and increase the quality of life for the area as a result of project installation.

The planned works of improvement are six floodwater retarding structures, water resources improvement, and public water-based recreation facilities to be installed within a 6-year installation period.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, Temple, Tex. 76501.

Dated: November 8, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008)

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, United States Department of Agriculture, Washington, D.C.

[FR Doc.77-32983 Filed 11-14-77;8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 29336; Order 77-11-43]

AIR BVI (1976) LTD.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of November 1977.

Air BVI Ltd. is the holder of a foreign air carrier permit[1] authorizing: (a) Foreign air transportation of persons, property, and mail between the coterminal points Antigua, Barbuda, Montserrat, St. Kitt, Nevis, and Anguilla, British West Indies; and the British Virgin Islands; the intermediate points St. Maarten, Netherlands Antilles; St. Croix and St. Thomas, V.I.; and San Juan, P.R.; and the terminal point Santo Domingo, Dominican Republic; and (b) the performance of charter trips in foreign air transportation pursuant to Part 212 of the Board's Economic Regulations.

By application filed on May 28, 1976,[2] Air BVI (1976) Ltd. requests approval of the transfer to Air BVI (1976) Ltd. of the foreign air carrier permit currently held by Air BVI Ltd. Air BVI (1976) Ltd. further requests[3] that its application be handled by show-cause procedures.

The Government of the United Kingdom has advised the United States Government that Air BVI Ltd. has undergone reorganization, and that, as a result of the reorganization, the ownership and effective control of the carrier by citizens of the United Kingdom has been strengthened. Further, the British Government stated that, as of May 28, 1976, Air BVI Ltd. is reconstituted as Air BVI (1976) Ltd. Accordingly, the Government of the United Kingdom has formally designated[4] Air BVI (1976) Ltd. under the Air Transport Services Agreement between the United States and the United Kingdom to provide the service contemplated by the Agreement in lieu of Air BVI Ltd. In the *Foreign Air Carrier Permit Investigation*, Air BVI Ltd., reconstituted as Air BVI (1976) Ltd., has submitted evidence that the carrier is substantially owned and effectively controlled by citizens of the United Kingdom and citizens of the British Virgin Islands.[5] Seven of the eight directors of Air BVI (1976) Ltd. are United Kingdom nationals, while the remaining director is a Canadian citizen residing in the British Virgin Islands. At the time the carrier submitted evidence for the *Foreign Air Carrier Permit Investigaiton*, that Canadian citizen (Mr. Peter M. Armour) was also Executive Vice President of the company. Effective June 30, 1977, however, Mr. Armour resigned as Executive Vice President, and no longer retains any active role in the day-to-day management of Air BVI (1976) Ltd. It is tentatively found from the foregoing that Air BVI (1976) Ltd. is owned and controlled by nationals of the United Kingdom, and that it has been duly designated to provide the services contemplated by the Agreement in lieu of Air BVI Ltd.

It is also tentatively found that Air BVI (1976) Ltd. is fit, willing, and able to perform the service for which authority is sought. In Order 72-4-149, the Board previously found that Air BVI Ltd. met the fitness standards of the Act, and that the service proposed was in the public interest. Air BVI Ltd. has no history of formal violations of Board Regulations. In the *Foreign Air Carrier Permit Investigation*, the carrier's submission demonstrates that Air BVI (1976) Ltd. has purchased the assets and liabilities of Air BVI Ltd. on May 28, 1976; that the carrier has shown an operating profit since July 1973, and that its financial position is sound.[6]

On the basis of the record before us, Air BVI (1976) Ltd. has demonstrated that the transfer of Air BVI Ltd.'s foreign air carrier permit to Air BVI (1976) Ltd. is in the public interest, and that it possesses the necessary fitness, willingness, and ability to provide the services authorized by that permit, and to conform to the provisions and requirements of the Act and the Board's Regulations.

In view of the foregoing and all the facts of record, the Board tentatively finds:

[1] Issued pursuant to Order 72-4-149, approved Apr. 26, 1972.

[2] A copy of the application has been transmitted to the President of the United States in accordance with the requirements of section 801 of the Act.

[3] By motion for an order to show cause, filed June 16, 1976, as amended on July 1, 1976, and Mar. 11, 1977.

[4] By diplomatic note dated May 25, 1976, from the Embassy of the United Kingdom.

[5] *Foreign Air Carrier Permit Investigation* (Docket 29747).

[6] Ibid.

1. That Air BVI (1976) Ltd. is substantially owned and effectively controlled by nationals of the United Kingdom;

2. That Air BVI (1976) Ltd. has been designated by the Government of the United Kingdom under the Air Transport Services Agreement between the United States and the United Kingdom to provide the service contemplated by the Agreement in lieu of Air BVI Ltd.;

3. That it is in the public interest to transfer and reissue to Air BVI (1976) Ltd., the foreign air carrier permit held by Air BVI Ltd.;

4. That Air BVI (1976) Ltd. is fit, willing, and able to perform the air transportation contemplated in the Agreement in lieu of Air BVI Ltd., and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board;

5. That the permit reissued to Air BVI (1976) Ltd. should be subject to the terms, conditions, and limitations contained in the specimen form of foreign air carrier permit attached to this order,[7] and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board;

6. That it is in the public interest to cancel the foreign air carrier permit issued to Air BVI Ltd., by Order 72-4-149, effective upon the effective date of the permit issued here to Air BVI (1976) Ltd.;

7. That Air BVI (1976) Ltd.'s present application presents no questions of fact or law that will require an evidentiary hearing for their resolution;

8. That except to the extent granted, the application of Air BVI (1976) Ltd. in Docket 29336 is denied; and

9. That the transfer of Air BVI Ltd.'s foreign air carrier permit to Air BVI (1976) Ltd. is not a "major federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975 (EPACA), as defined in § 313.4(a)(1) of the Board's regulations.[7a]

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not make final the tentative findings and conclusions set forth here, and why the foreign air carrier permit issued to Air BVI Ltd. by Order 72-4-149 should not, subject to the approval of the President pursuant to section 801 of the Act, be transferred and reissued to Air BVI (1976) Ltd. in the form of the specimen permit attached to this order, and the foreign air carrier permit issued to Air BVI Ltd. by Order 72-4-149 be canceled effective on the effective date of said permit;

2. Any interested person having objection to the issuance of an order making final the tentative findings and conclusions here and issuing said permit shall, within 21 days after the adoption of this order, file with the Board and serve upon the persons named in paragraph 5, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data and such evidence expected to be relied upon in support of the statement of objections. If an evidentiary hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board: *Provided,* That the Board may proceed to enter an order in accordance with the tentative findings and conclusions here if it is determined that there are no factual issues present that warrant the holding of an evidentiary hearing.[8]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth here; and

5. This order shall be served upon Air BVI Ltd., Air BVI (1976) Ltd., and the Ambassador of the United Kingdom in Washington, D.C.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[9]
Secretary.

[FR Doc.77-33005 Filed 11-14-77;8:45 am]

[7] Filed as part of the original document.

[7a] Our tentative finding is based upon the fact that the transfer to Air BVI (1976) Ltd. will not result in a significant increase in civil aviation operations at U.S. points, or in the consumption of aviation fuel.

[8] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[9] All Members concurred.

[6320-01]

[Docket Nos. 31426, 31455, 31502; Order 77-1057]

AMERICAN AIRLINES, INC. AND EASTERN AIR LINES, INC.

Order Dismissing Complaints; Correction [1]

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of October 1977.

The order should be titled: "ORDER DISMISSING COMPLAINTS".

The listing of Dockets should read as follows:

Dockets 31426, 31455, 31502.

The first line of the first sentence of the second paragraph should read as follows:

"The Commonwealth of Puerto Rico (Commonwealth) has filed complaints * * *"

On page 2 make the following change to the ordering paragraph as follows:

1. The complaints in Dockets 31426, 31455, and 31502 are dismissed; and

Dated: November 3, 1977.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-33006 Filed 11-14-77;8:45 am]

[1] Published at 42 FR 56141, Oct. 21, 1977.

[6320-01]

[Docket No. 30904; Order 77-11-48]

JOINT AIRLINE DISCUSSIONS

Order Regarding Transportation of the Handicapped

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of November 1977.

By Order 77-8-66, August 16, 1977, the Board authorized for a period of sixty days joint airline discussions on the carriage of handicapped persons.[1] On October 14, 1977, the carriers filed an application requesting that this discussion authority be extended for an additional 270 days.

Pursuant to Order 77-8-66, the carriers held an open meeting on September 28, 1977, to discuss implementation of uniform joint procedures and tariffs relating to the transportation of the handicapped. The discussion revealed that a considerable amount of work and time would be required to gather and disseminate all of the individual carrier procedural manual filings, as required by the Federal Aviation Administration, as well as the tariffs required to be filed with the Board. The carriers concluded that a working group would have to be appointed to formulate a set of uniform rules and procedures for joint interline application. The carriers agreed that further discussions would have to be held, and that a request be made to the Board to extend the discussion authority.

Upon consideration of the application, and all other relevant matters, it is clear that the extension of the authorization of these discussions should result in improved procedures for the transportation of handicapped persons and thus are in the public interest.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) 412, and 414 thereof:

It is ordered, That:

1. The authority to hold joint air carrier discussions relating to the transportation of the handicapped permitted by Order 77-8-66 is hereby extended to and including July 9, 1978; and

2. This order shall be served upon all U.S. air carriers.

[1] The discussion authority expired with October 14, 1977.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[3]
Secretary.

[FR Doc.77-33010 Filed 11-14-77;8:45 am]

[6320-01]

[Docket No. 30984; Order 77-11-44]

LEAVENS AIR CHARTER LTD.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of November 1977.

By application filed June 19, 1977,[1] Leavens Air Charter Ltd. (Leavens) requests a foreign air carrier permit to engage in charter foreign air transportation of persons and their accompanying baggage, and planeload charter foreign air transportation of property, between any point or points in Canada and the United States, using "small aircraft" [2] as defined by the Nonscheduled Air Service Agreement executed on May 8, 1974, by the Governments of the United States and Canada.

FITNESS OF APPLICANT FOR A FOREIGN AIR CARRIER PERMIT

Leavens was incorporated under the Corporations Act of the Province of Ontario on April 18, 1963.[3] The Air Transport Committee of the Canadian Transport Commission has issued Leavens license No. A.T.C. 212/51 (CF), dated August 9, 1976, a class 9-4 license which authorizes the holder to operate international charter commercial air services from a base at Toronto, Ontario. The licensee is restricted in its operations to the use of Group C aircraft.[4] The Canadian Department of Transport, Civil Aviation Branch, has issued Leavens Operating Certificate No. 287, dated July 6, 1976, which certifies that Leavens is adequately equipped and able to conduct a safe operation.

The applicant's balance sheet as of December 31, 1975, showed current assets of $2,280,777 and current liabilities of $2,492,332. Total assets were $2,299,812. For the year ended December 31, 1975, the carrier had a net loss of $244,899 compared with net earnings of $17,900 for the year 1974. However, the 1975 net result reflects a $265,253 write down of aircraft. Without the write down, net results for 1975 would have been a positive $20,354. Leavens states that at no time since its inception has it been unable to meet current financial obligations nor has it defaulted on any commitments to provide transportation.

The carrier owns two aircraft. Both are Mitsubishi MU-2's with a seating capacity of seven and a maximum authorized takeoff weight of 10,470 pounds. During the last five years, the applicant has not had any safety or tariff violations or any accidents.

"PUBLIC INTEREST" IN AWARD OF THE AUTHORITY SOUGHT

The applicant relies upon the Nonscheduled Air Service Agreement signed by the Governments of Canada and the United States on May 8, 1974, as the basis for the grant of the requested authority. By diplomatic note No. 258, dated June 21, 1977, the Government of Canada designated the applicant under the Agreement to perform charter services with small aircraft.[5]

OWNERSHIP AND CONTROL OF THE APPLICANT

The officers of the corporation are Mr. Charles Leavens, President; Mr. Robert Leavens, Vice President; Mr. Douglas Leavens, Secretary; and Mr. William Clark, Assistant Secretary. All of the officers are Canadian citizens. The sole shareholder of Leavens Air Charter Ltd. is Leavens Bros. Ltd., a company incorporated under the laws of the Province of Ontario. All of the shareholders of Leavens Bros. Ltd. are Canadian citizens.

The applicant states that none of its officers or shareholders owns either directly in indirectly any stock or other interest in any U.S. carrier, any Canadian carrier (other than Leavens), foreign air carrier, any person engaged in a phase of aeronautics, any common carrier, or any person whose principal business is the holding of stock in, or control of, any such entities.

In view of the foregoing and all the facts of record, the Board tentatively finds and concludes:

1. That Leavens Air Charter Ltd. is substantially owned and effectively controlled by nationals of Canada;

2. That it is in the public interest to issue a foreign air carrier permit for small aircraft operations to Leavens Air Charter Ltd. authorizing it to engage in charter foreign air transportation with small aircraft of persons and their accompanied baggage and planeload charters of property between any point or points in Canada and the United States;

3. That the public interest requires that the exercise of the privileges granted by said permit shall be subject to the terms, conditions, and limitations contained in the specimen form of permit attached to this order,[6] and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board;

4. That Leavens Air Charter Ltd., is fit, willing, and able properly to perform the above-described foreign air transportation and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder;

5. That except to the extent granted here, the application of Leavens Air Charter Ltd. in Docket 30984 should be denied; and

6. That an evidentiary hearing is not required in the public interest.[6a]

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not make final the tentative findings and conclusions set forth here, and why a foreign air carrier permit in the form of the specimen permit attached to this order should not, subject to the approval of the President pursuant to section 801 of the Act, be issued to Leavens Air Charter Ltd.;

2. Any interested person having objection to the issuance of an order making final the tentative findings and conclusions here and issuing said permit shall, within 21 days after the adoption of this order, file with the Board and serve upon the persons named in paragraph 5, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a sumary of testimony, statistical data and such evidence expected to be relied upon in support of the statement of objections. If an evidentiary hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board. *Provided,* That the Board may proceed to enter an order in accordance with the tentative findings and conclusions here if it determined that there are no factual issues

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[2] All Members concurred.

[1] A copy of the application has been transmitted to the President of the United States in accordance with the requirements of section 801 of the Act.

[2] "Small aircraft" are defined by the Nonscheduled Air Service Agreement as aircraft which are not "large aircraft." "Large aircraft" are defined as aircraft having both (a) a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds, and (b) a maximum authorized takeoff weight on wheels greater than 35,000 pounds.

[3] Leavens was originally incorporated under the name Leavens Car & Truck Leasing Ltd. On Nov. 22, 1968, the name of the corporation was changed to Leavens Air Charter Ltd.

[4] Under the Canadian Air Transport Committee regulations, Group C consists of aircraft having a maximum authorized takeoff weight on wheels greater than 7,000 pounds, but not greater than 18,000 pounds.

[5] See Docket 26473. The diplomatic note designates Leavens Air Charter Ltd. in lieu of Leavens Bros. Ltd., a carrier designated by the Government of Canada on May 9, 1974, for operations with small aircraft only pursuant to the Agreement. Leavens Bros. Ltd.'s class 9-4 international charter license was transferred to Leavens Air Charter Ltd. on Dec. 19, 1975.

[6] Filed as part of the original document.

[6a] We also tentatively find that our proposed action will not constitute a "major regulatory action" under the Energy Policy and Conservation Act as defined in § 313.4 (a)(1) of the Board's Regulations.

present that warrant the holding of an evidentiary hearing;[7]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter in accordance with the tentative findings and conclusions set forth here; and

5. This order shall be served upon Leavens Air Charter Ltd. and the Ambassador of Canada in Washington, D.C.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,*
Secretary.

[FR Doc.77-33007 Filed 11-14-77;8:45 am]

[6320-01]

[Docket No. 31261; Order 77-10-29]

PAN AMERICAN WORLD AIRWAYS, INC.

Order Regarding U.S.-United Kingdom Cargo Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of October 1977.

On August 9, 1977, Pan American World Airways, Inc. (Pan American) filed a petition requesting authority to engage in discussions with British Airways, Trans World Airlines, Inc. (TWA) and Seaboard World Airlines, Inc. (Seaboard) on the subject of cargo rates between the United States and the United Kingdom. In support of its petition, Pan American submits that cargo rates in the U.S./U.K. market are not now covered by an inter-carrier IATA agreement, and several allegedly uneconomic and discriminatory rates such as British Airways' contract rates (CCR) and TWA's advance purchase rates have been proposed or implemented in this market; that such rates have adversely affected other U.S./Europe markets and have caused other uneconomic rate reductions and tariff violations, especially in Europe-originating markets; and that the situation poses a serious threat to the continued operation of all-cargo services in transatlantic markets, and in these circumstances the Board should again permit carriers providing cargo service in the U.S./U.K. market to discuss rates.[1]

TWA has filed an answer in support of Pan American's petition, stating that it agrees that steps should be taken toward rationalizing the transatlantic cargo rate structure.

The Board has decided to deny Pan American's petition. In taking this action, we have closely considered the current situation in the U.S./U.K. market and the events of recent months which led to Pan American's request. British Airways filed cargo contract rates, which the Board suspended in Order 76-12-162, December 17, 1976, but which British Airways proceeded to use illegally through June 1977, when a court injunction was issued.[2] Subsequently, British Airways filed new contract rate tariffs slightly different from its original proposal, for effectiveness October 6, 1977. The Board set the matter for oral argument, which we heard on September 16, 1977.[3]

After carefully considering the positions of the various parties, the Board decided that British Airway's CCR tariffs should be suspended pending investigation. The Board concluded that, while we could not make a firm finding that the CCR rates should be suspended on the basis of unreasonableness or unjust discrimination, nevertheless British Airways' proposal was a serious competitive threat to the U.S. carriers' operations, particularly their all-cargo services, and that they should not go into effect until the United States was assured that the U.S. carriers would have the opportunity to compete on a fair and equal basis. As explained in Order 77-10-2, September 23, 1977, the U.S. carriers may not be able to respond effectively by merely matching CCR identically, but rather may need to seek other alternatives. Since it is uncertain whether the U.K. authorities would accept such alternative proposals by the U.S. carriers, and we could not suspend British Airways' CCR once it became effective, it was necessary to suspend it in order to determine if the U.S. carriers will have an adequate opportunity to explore competitive alternatives.

We consider Pan American's request for inter-carrier discussions against this background. The proponents of carrier discussions have not demonstrated that the benefits of authorizing talks outweigh their anticompetitive implications. The Board suspended the CCR tariffs solely on the basis that there was no assurance that competitive proposals by the U.S. carriers would be permitted by the U.K. authorities to become effective. We are not convinced that our goal of promoting the maximum feasible price competition in this market will be assured by authorizing all the competitors to sit down and discuss how they will compete. The proponents have not made a convincing case that discussions are necessary, or that the U.S. carriers will be unable to devise and offer effective competitive alternatives to CCR through the usual tariff filing procedure, and the request for discussion authority will therefore be denied.

Accordingly, it is ordered, That:

The petition of Pan American World Airways, Inc. in Docket 31261 is denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,*
Secretary.

[FR Doc.77-33009 Filed 11-14-77;8:45 am]

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[7] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

* All Members concurred.

[1] Pan American cites Order 77-2-117, February 24, 1977, in which the Board authorized U.S./U.K. cargo rate discussions for similar reasons. The Board approval is required because Seaboard is not an IATA member.

[2] *C.A.B. v. British Airways Board,* U.S.D.C., S.D.N.Y., 77 CIV.1456-CSH.

[3] British Airways and TWA supported the CCR tariffs. Pan American, Seaboard, and The Flying Tiger Line Inc. (Tiger) opposed them.

[632-5-01]

CIVIL SERVICE COMMISSION

DEPARTMENT OF DEFENSE

Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Assistant for Program Planning, Office of Director of Defense Research and Engineering, Office of the Secretary of Defense.

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

[FR Doc.77-32933 Filed 11-14-77;8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

INTERAGENCY REGULATORY LIAISON GROUP, TESTING STANDARDS AND GUIDELINES WORK GROUP

Meeting

CROSS REFERENCES: For the text of a notice announcing a meeting of the Interagency Regulatory Liaison Group, Testing and Standards Guidelines Work Group, on December 14, 1977, see FR Doc. 77-33025, which appears under the Environmental Protection Agency in the Notices section of this issue. For the correct page number, refer to the listing for the Environmental Protection Agency in the table of contents at the beginning of this issue.

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

SCIENTIFIC ADVISORY BOARD

Meeting

NOVEMBER 14, 1977.

The USAF Scientific Advisory Board ad hoc Committee on the Advanced ICBM Technology (M-X) Program will hold a meeting on November 29-30, 1977 at Norton Air Force Base, California from 8:30 a.m. to 4:30 p.m. each day.

The Committee will receive classified briefings and conduct classified discussions concerning M-X Basing Alternatives.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph

* All members concurred.

(1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at: 202–697–8404.

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

[FR Doc.77–33202 Filed 11–14–77;11:45 am]

[3710–08]

Department of the Army

ROCKY MOUNTAIN ARSENAL, COLO.

Filing of Final Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on 11 November 1977 provided the Council on Environmental Quality with the Final Environmental Impact Statement for OPERATION RMT, Movement of Weteye Bombs from Rocky Mountain Arsenal, Colo., to Tooele Army Depot (South Area), Utah.

Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies from Commander, US Army Armament Material Readiness Command, Building 390, ATTN: DRSAR–ASN (Mr. N. H. Baker), Rock Island, Ill. 61201 (phone (309) 794–5916).

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310 (phone (202) 694–1163).

Dated: November 4, 1977.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc.77–32920 Filed 11–14–77;8:45 am]

[3710–08]

TOOELE ARMY DEPOT, UTAH

Filing of Final Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on 4 November 1977 provided the Council on Environmental Quality with the Final Environmental Impact Statement for Operation of the Chemical Agent Munitions Disposal System (CAMDS) at Tooele Army Depot, Utah.

Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies from Project Manager, Chemical Demilitarization and Installation Restoration, ATTN: DRCPM–DRD–TM (Mr. S. P. Torrisi), Building E4585, Aberdeen Proving Ground, Md. 21010 (phone (301) 671–2041).

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310 (phone (202) 694–1163).

Dated: November 4, 1977.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc.77–32921 Filed 11–14–77;8:45 am]

[3710–08]

PRIVACY ACT OF 1974

Deletion of System of Records

In FR Doc. 77–28255 published in the FEDERAL REGISTER (42 FR 50396) of September 28, 1977 setting forth the systems of records prescribed by the Privacy Act of 1974 within the Department of the Army, the following system of records is deleted:

A0722.02DACH

System name: 722.02 Baptism, Marriage and Funeral Files (42 FR 50557) September 28, 1977.

Reason: The Army Chaplaincy no longer maintains baptism, marriage, and funeral records due to the present sophistication of such vital records keeping by federal and state agencies and religious denominations.

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

NOVEMBER 10, 1977.

[FR Doc.77–32975 Filed 11–14–77;8:45 am]

[3810–70]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON NATIONAL/TACTICAL INTERFACE

Change of Meeting Site

The meeting site of the Defense Science Board Task Force on National/Tactical Interface scheduled to meet in closed session on November 17 and 18, 1977, in the Office of the Assistant Secretary of Defense (Communications, Command, Control, and Intelligence), Directorate of Surveillance and Warning Systems, at the Pentagon, as published in the FEDERAL REGISTER (42 FR 57154, November 1, 1977—FR Doc. 77–31712), has been changed to the Space and Missile Systems Organization, Los Angeles, Calif. In all other respects, the original notice cited above remains the same.

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

NOVEMBER 8, 1977.

[FR Doc.77–33067 Filed 11–14–77;8:45 am]

[3810–70]

PRESIDENT'S COMMISSION ON MILITARY COMPENSATION

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the President's Commission on Military Compensation will be held Tuesday, November 29, 1977 from 9 a.m. to 4 p.m. at Dupont Plaza Hotel in the Circle Room (main floor), Connecticut at Massachusetts Avenue NW., Washington, D.C. The morning session will be on retirement, the afternoon session on current pay and benefits.

The following rules and regulations will govern participation by the public at this meeting:

(a) The meeting will be open to the public.

(b) Questions and statements from the public will not be accepted during this meeting.

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

NOVEMBER 9, 1977.

[FR Doc.77–33064 Filed 11–14–77;8:45 am]

[6740–02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP78–48]

ARKANSAS OKLAHOMA GAS CORP.

Application

NOVEMBER 7, 1977.

Take notice that on October 27, 1977, Arkansas Oklahoma Gas Corp. (Applicant), 115 North Twelfth Street, Fort Smith, Ark. 72901, filed in Docket No. CP78–48 an application pursuant to Section 7(c) of the natural gas act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities necessary to install one compressor station with dehydrator and other appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it would install a compressor, dehydrator and other related appurtenant facilities on its Line H at a point in LeFlore County, Okla. Applicant indicates that the facilities proposed to be constructed would not result in any increase in the delivery capacity of Applicant's presently authorized system. Applicant states that the additional gas supply to be obtained through the proposed facilities would be used to maintain service to Applicant's existing customers and that no new areas are proposd to be served by such facilities. The total estimated cost of constructing the facility is $146,150, which cost would be financed from funds on hand, it is said.

Any person desiring to be heard or to make any protest with reference to said

application should on or before November 25, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determinig the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-32953 Filed 11-14-77;8:45 am]

[6740-02]

[Docket No. CP78-41]

COLUMBIA GAS TRANSMISSION CORP. AND EQUITABLE GAS CO.

Application

NOVEMBER 8, 1977.

Take notice that on October 25, 1977, Columbia Gas Transmission Corp. (Columbia), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, and Equitable Gas Co. (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pa. 15219 (Applicants) filed in Docket No. CP78-41 a joint application pursuant to Section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas in interstate commerce at an existing point of interconnection and at one new point of interconnection and the construction and operation of certain natural gas facilities, and pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon an existing point of delivery and related facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that the exchange of gas contemplated herein is a continuation of an exchange which has been accomplished under a currently authorized arrangement since 1957 under Columbia's Rate Schedule X-1 and Equitable's Rate Schedule X-4. It is stated that Equitable has requested that Columbia deliver exchange volumes of natural gas on a best efforts basis from December 1, 1977, through November 30, 1978, at the following two new points which are located closer to Equitable's major storage and distribution areas, pursuant to an agreement dated October 18, 1977:

(1) At the intersection of Equitable's Line H-102 and Columbia's Line 1804 approximately 4.2 miles east of Columbia's Waynesburg Compressor Station in Greene County, Pa., which point of delivery will be referred to hereinafter as Waynesburg; and

(2) At an existing point of delivery from Columbia's Line 1740 to Equitable northeast of Smithfield, Wetzel County, W. Va., which point of delivery will be referred to hereinafter as Fallen Timber.

Applicants state that the Fallen Timber delivery point was authorized by the Federal Power Commission (FPC) in Docket No. CP76-234 on April 26, 1976, as an emergency connection between Applicants' systems.

Applicants assert that the new exchange points of delivery from Columbia to Equitable would obviate substantial capital investments which Equitable would be required to make if deliveries were continued only at the existing point of delivery located near Cedarville, Gilmer County, W. Va. Any exchange volumes not deliverable by Columbia at the two new exchange points of delivery during this period would be delivered at the existing point of delivery at Cedarville, it is indicated.

It is stated that in order to receive exchange gas deliveries at the proposed Waynesburg interconnection, Equitable requests authorization to install taps and appurtenant facilities at the Waynesburg interconnection at an estimated cost of $30,800, which cost would be financed by funds generated internally. At such times as Columbia proposes to abandon the following Cedarville interconnection, Columbia would be required to construct and operate 15.2 miles of 24-inch transmission pipeline loop in Greene County, Pa. Columbia also proposes to construct and operate new interconnecting measuring and regulating facilities near Waynesburg, and to expand and operate the existing interconnecting measuring and regulating facilities at Fallen Timber. Further, Columbia proposes to abandon after December 1, 1978, the existing point of delivery from Columbia to Equitable near Cedarville.

Applicants state that the proposed pipeline would extend from the Pennsylvania-West Virginia border to a northern terminus at Columbia's existing Waynesburg compressor station, and that Columbia's new interconnecting measuring and regulating facility would be located approximately 2.1 miles southeast of Waynesburg. Columbia's existing interconnecting measuring and regulating facility which it proposes to expand is located approximately 2.25 miles northeast of the Town of Smithfield in Grant District, Wetzel County, W. Va., it is said. Applicants indicate that the total cost of the proposed construction is estimated to be $5,535,400, which cost would be financed by funds generated internally.

The application states that Columbia would make a charge for the transportation of the volumes of natural gas to be exchanged hereunder and that Columbia would retain a percentage of the total volume of gas received in Kentucky from Equitable for company-use and unaccounted-for gas, which percentage is currently 4.0 percent. For the period December 1, 1977, through March 31, 1978, Columbia's charges would be a monthly capacity charge of $342,027 and a commodity charge of 1.47 cents per Mcf. Deliveries to Fallen Timber and Waynesburg would be made on a best efforts basis during this period. Receipts by Columbia in Kentucky from Equitable for transportation cannot exceed 81,600 Mcf per day during this period. For the period April 1, 1978, through November 30, 1978, Columbia's charges would be a monthly capacity charge of $256,520 and a commodity charge of 1.47 cents per Mcf. Deliveries to Fallen Timber and Waynesburg would be made on a best efforts basis during this period. Receipts by Columbia in Kentucky from Equitable for transportation cannot exceed 61,200 Mcf per day during this period. For the period December 1, 1978, through November 30, 1998, Columbia's charges, which charges are subject to adjustment to reflect the impact thereon of Columbia's future general rate proceedings, would be a monthly capacity charge of $336,489 and a commodity charge of 1.65 cents per Mcf. During this period deliveries to Fallen Timber and Waynesburg would be on a firm basis provided that the facilities proposed herein have been completed and are in operation. Receipts by Columbia in Kentucky from Equitable for transportation cannot exceed 70,000 Mcf per day during this period.

It is indicated that Columbia's monthly capacity charges are based on total annual fixed costs divided by twelve and that Columbia's commodity charges are based on variable costs divided by the estimated annual Mcf transported for Equitable.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appro-

priate action to be taken but will not serve to make the protestants parties to the proceeding. Any persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-32954 Filed 11-14-77;8:45 am]

[6740-02]

[Docket No. CP77-267]

MID LOUISIANA GAS CO. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Erratum Notice

NOVEMBER 3, 1977.

Order amending order granting rehearing, providing for formal hearing, and establishing procedures issued October 28, 1977.

On October 21, 1977, Chief Administrative Law Judge Joseph Zwerdling issued an order which granted an extension of time for procedural dates set by Commission Order issued September 30, 1977, in the above designated docket. The dates were extended as follows:

Case-in-chief, On or before November 4, 1977.
Hearing December 6, 1977.

On October 28, 1977, the Commission issued an order in this proceeding which failed to take into account the extension of time granted by the Judge's October 21 Order, and reaffirmed the dates set by the September 30 Order.

Notice is hereby given that the extended dates as set in the Chief Administrative Law Judge's October 21 Order are in effect.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-32957 Filed 11-14-77;8:45 am]

[6740-02]

[Docket No. CP78-46]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Application

NOVEMBER 8, 1977.

Take notice that on October 27, 1977, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP78-46 an applicaion pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon its limited term transportation of natural gas in interstate commerce for United Gas Pipe Line Co. (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that pursuant to the Federal Power Commission (FPC) order of September 19, 1977, in Docket No.. CP76-511, it was authorized to transport gas for United for 1 year pursuant to a transportation agreement dated August 10, 1976, between the two parties. Applicant indicates that pursuant to the subject agreement it received gas from Producer's' Gas Co. (Producer's) in Dewey and Woodward Counties, Okla., for United's account and redelivered equivalent volumes to United on a best efforts basis at an existing interconnection in Vermilion Parish, La.

The application states that Producer's, in its filing with the FPC on July 15, 1977, at Docket No. CI77-579 requested that the FPC extend the limited term sale of gas to United until Western Farmers Electric Cooperative exercises its right to receive and purchase its full requirements under its contracts with Producer's.

Applicant indicates that it has fulfilled the terms of its agreement with United for a period of 1 year, which delivery of gas commenced on October 21, 1976, and that it has advised United that it is unlikely that firm deliveries of gas to United could continue beyond November 1, 1977. United has, therefore, entered into an agreement with Panhandle Eastern Pipe Line Company and Trunkline Gas Co. whereby United could be assured of certain firm deliveries through the upcoming heating season plus the possibility of additional deliveries on a best efforts basis, and the three parties have filed an application seeking such limited term authorization at Docket No. CP77-653, it is indicated.

Applicant states that in light of its present inability to guarantee United firm deliveries of gas during the upcoming heating season and the fact that United has other arrangements available to it to continue receiving said gas on a limited-term basis, Applicant proposes to abandon said transportation of gas for United.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 25, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-32955 Filed 11-14-77;8:45 am]

[6740-02]

[Docket No. CP71-264]

SOUTHERN ENERGY CO.

Filing of Stipulation and Agreement

NOVEMBER 8, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Public Law 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 Fed. Reg. 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued

in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR _____, provided that this proceeding would be continued before the FERC. The FERC issues notice in this proceeding in accordance with the above mentioned authorities.

Take notice that on October 5, 1977, Southern Energy Co. (Southern Energy), P.O. Box 2563, Birmingham, Ala. 35202, filed a motion for approval of settlement incorporated in a Stipulation and Agreement resolving the issue of the appropriate allowance on equity capital of Southern Energy in the above-captioned proceeding, all as more fully set forth in the motion on file with the Commission and open to public inspection.

Southern Energy states that the FPC issued it certificates of public convenience and necessity authorizing the construction and operation of facilities for the receipt, storage and regasification of liquefied natural gas (LNG) and the sale of regasified LNG to Southern Natural Gas Co. (Southern). Southern Energy further states that its cerificate application contained a *pro forma* cost of service tariff which included an 11 percent return on equity capital. On July 23, 1976, Southern Energy filed a petition to amend its certificate of public convenience and necessity issued in option Nos. 622 and 622–A, so as to include a higher return on equitay capital in the cost of service tariff approved in said opinions.

Southern Energy reports that it, Southern, Southern's customers and the Commission Staff have conducted settlement conferences in order to resolve the issues arising out of the petition to amend the certificate issued in Opion Nos. 622 and 622–A. Those conferences have resulted in the Stipulation and Agreement for which Southern Energy seeks approval.

The Stipulation and Agreement provides that Southern Energy's certificate be amended to include an allowance on equity capital equal to the current allowance on equity capital of Southern. This allowance on equity capital would automatically change to Southern's new return on equity effective the date Southern's return on equity is modified by final Commission order. The settlement is said to be designed to last so long as the equity component of Southern Energy's total capitalization does not exceed by more than 2.5 percentage points the equity component of Southern's total capitalization, the happening of which event requires Southern Energy to file a notice of change in rate under Section 4 of the Natural Gas Act.

The term of the Stipulation and Agreement is from the date of initial service by Southern Energy to Southern until the date Southern Energy places into effect a tariff change modifying the charges made to Southern.

Any person desiring to be heard or to protest this motion or to answer or object to this motion should file such comments, answers, or petitions to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on or before November 22, 1977. All petitions to intervene or protests must be filed in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-32956 Filed 11-14-77;8:45 am]

[3128-01]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATION REVIEW

October 26 Through October 31, 1977

Notice is hereby given that during the period October 26 through October 31, 1977, the Proposed Decisions and Orders which are summarized below were issued by the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggreived by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Administrative Review, Room B–120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except federal holidays.

MELVIN GOLDSTEIN,
Acting Director, Office of Administrative Review.

NOVEMBER 8, 1977.

PROPOSED DECISIONS AND ORDERS

Bailer and Deshaw; Kawkawlin, Mich.; FEE–4130; Crude oil

Bailer & Deshaw filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Bailer to sell at exempt price levels the crude oil which it expects to produce from two wells it plans to drill on the Arbela Field located in Tuscola County, Mich. On October 31, 1977, the DOE issued a Proposed Decision and Order which will permit Bailer to sell crude oil that directly results from the drilling project during the first year of production at exempt price levels in order to attain a 15 percent rate of return on the project.

City of Long Beach, Calif.; Long Beach, Calif.; FXE–4856; Crude oil

The City of Long Beach, Calif., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted to the City and would permit Long Beach and the other working interest owners of Fault Block Unit 3 of the Wilmington Field, located in Long Beach, to sell certain quantities of the crude oil produced from Unit at upper tier ceiling prices. On October 31, 1977, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Texaco, Inc.; Atlanta, Ga.; FEE–3995; Motor gasoline

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR 211.9, with the Office of Administrative Review of the Department of Energy. The exception request, if granted, would result in the issuance of an Order terminating Texaco's base period supplier/purchaser relationship with F. E. "Jack" Glover, Inc. On October 26, 1977, the DOE issued a Proposed Decision and Order which determined that the exception request should be denied in the form submitted. However, the DOE determined that it should monitor Glover's sales of motor gasoline to ensure that no improper business practices occur in the future.

Allen K. Trobaugh; Midland, Tex.; FXE–1848; Crude oil

Allen K. Trobaugh filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of the exception relief which the Federal Energy Administration previously granted to Trobaugh, and would permit him to sell certain quantities of the crude oil produced from the No. 1 well of the Bailey Lease at upper tier ceiling prices. On October 31, 1977,

the DOE issued a Proposed Decision and Order in which it determined that the exception request be granted.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy has issued Proposed Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The proposed exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases.

Company	Case No.	Plant	Location	Amount of price increase dollars per gallon
Cities Service Co	FEE-4754	Ambrose	Kay County, Okla	.0160
	FEE-4755	Camrick	Beaver County, Okla	.0094
	FEE-4756	Corpus Bay	San Patricio County, Tex.	(1)
	FEE-4757	Diamond "M"	Scurry County, Tex	(1)
	FEE-4758	Elmwood	Beaver County, Okla	.0168
	FEE-4759	Fairway	Henderson County, Tex.	(1)
	FEE-4760	Indian Basin	Eddy County, N. Mex	.0059
	FEE-4761	Murdock	Texas County, Okla	.0063
	FEE-4762	Roberts Ranch	Midland County, Tex	.0051
	FEE-4763	West Seminole	Gaines County, Tex	.017
	FEE-4764	Wilburton	Morton County, Okla	(1)2
Doric Petroleum, Inc	DXE-0047	Hennessey	Kingfisher County, Okla.	.023
	DXE-0048	Newcastle	Grady County, Okla	.0228
H. W. Bass & Sons, Inc	FXE-4807	Walnut Bend	Grayson County, Tex	.0326
Hewit & Dougherty	DXE-0055	Roche	Refugio County, Tex	.02954
Standard Oil Co. (Indiana)	FEE-4765	Cotton Valley	Webster Parish, La	.0324
	FEE-4766	Patterson	St. Mary's Parish, La	.0177
	FEE-4767	South Saripta	Boosier Parish, La	.0444
	FEE-4768	Toca	St. Bernard Parish, La	.0065
	FEE-4769	Vermilion	Vermilion Parish, La	.0194
	FEE-4812	Elk Basin	Park County, Wyo	.0100
	FXE-4813	Elmwood	Beaver County, Okla	(1)
	FXE-4814	Monahans	Winkler County, Tex	.0171
Texaco, Inc	FEE-4827	Como	Hopkins County, Tex	.0121
	FEE-4828	Enville	Love County, Okla	.0154
	FEE-4829	Indian Basin	Eddy County, N. Mex	.0227
	FEE-4830	South Lake Arthur	Jefferson Davis Parish, La.	.0167
	FEE-4831	TXL	Ector County, Tex	.0123
Texas Pacific Oil Co., Inc	FXE-4808	Adena	Morgan County, Colo	.0779
	FXE-4809	Enville	Love County, Okla	(1)
	FXE-4810	Hamlin	Fisher County, Tex	.0370
	FXE-4811	South Fullerton	Andrews County, Tex	.0230

[1] Denied.

[FR Doc.77-32919 Filed 11-14-77;8:45 am]

[6740-02]

[Docket Nos. CI72-440 et al.]

CERTIFICATES, ABANDONMENT OF SERVICE, AND PETITIONS TO AMEND CERTIFICATES [1]

Applications

NOVEMBER 8, 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.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, 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 aban-

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

donment 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 1000 ft [2]	Pressure base
CI72-440..... C7-29-77	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Panhandle Eastern Pipe Line Co., Adams County, Colo.	[1] $0.94 [2 3] $1.46	15.025
CI72-714..... D9-26-77	Texaco, Inc., P.O. Box 52332, Houston, Tex. 77052.	Sea Robin Pipeline Co., East Cameron Area Block 224, Offshore, La.	(a)	.....
CI73-46..... C9-6-77	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., Larcher Gas Co., No. 2 Well, San Juan County, N. Mex.	[2] $1.47	15.025
CI73-53..... D7-15-77	Chevron U.S.A., Inc. (formerly The California Co., a Division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112.	Florida Gas Transmission Co., Flomation Field, Escambia County, Ala.	(4)	.....
CI74-528..... C10-4-77	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	El Paso Natural Gas Co., certain acreage of Sand Hills Field, Crane County, Tex.	(3)	14.65
CI75-38..... C8-10-77	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	El Paso Natural Gas Co., residue gas attributable to Drinkard Formation gas-well gas processed in the Eunice Gas Processing Plant operated by Warren Petroleum Co. in Lea County, N. Mex.	[3] 162.2182¢	14.73
CI75-202..... C8-22-77	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	El Paso Natural Gas Co., San Hills Field, Crane County, Tex.	(3) (5)	14.65
CI75-222..... C10-17-77	Pioneer Production Corp. (nonoperator), P.O. Box 2542, Amarillo, Tex. 79105.	El Paso Natural Gas Co., Woldcamp formation in the Elizando Federal "A" No. 5 well in sec. 34, T21S. R27E, Eddy County, N. Mex.	(3)	14.65
CI75-605..... C10-14-77	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Government "S" No. 1 Well, Wolfcamp formation section 3-20S-28E, Eddy County, N. Mex.	[3 6] 107.0374¢	14.65
CI75-647..... C10-7-77	Arkla Exploration Co., P.O. Box 21734, Shreveport, La. 71151.	Arkansas Louisiana Gas Co., Jenkins No. 1-27 Well, Holland No. 1-24 Well, Holland No. 2-23 Well, and Kesner No. 1-22 Well, Sebastian County, Ark.	(3) (7)	14.65
CI75-773..... D 7/11/77	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79105.	Arkansas-Louisiana Gas Co., South Pine Hollow Field T4N-R12W, Pittsburg County, Okla.	(b)	.....
CI76-215..... E 9/12/77	Kewanee Oil Co., P.O. Box 2239, Tulsa, Okla. 74101.	Northern Natural Gas Co., Mocane Field, Beaver County, Okla.	(3)	14.65
CI76-239..... F 9/12/77	Kewanee Oil Co. (successor to Kewanee Industries, Inc.), P.O. Box 2239, Tulsa, Okla. 74101.	Kansas-Nebraska Natural Gas Co., Inc., South Dombey Field, Beaver County, Okla.	(3)	14.73
CI76-253..... C 9/12/77	CIG Exploration, Inc., Five Greenway Plaza East, Houston, Tex. 77046.	Colorado Interstate Gas Co., Madden Deep Field, Fremont County, Wyo.	[3 9] $1.4884	14.65
CI76-296..... F 9/12/77	Kewanee Oil Co. (successor to Kewanee Industries, Inc.), P.O. Box 2239, Tulsa, Okla. 74101.	Kansas-Nebraska Natural Gas Co., Inc., Zook Field, Pawnee County, Kans.	(3)	14.73
CI76-334..... C 9/19/77	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Co., Federal "J" No. 1 Well, Weston County, Wyo., Small "B" No. 1 Well, Cooke Federal No. 3-35 Well, and Keeline "B" No. 1 Well in Campbell County, Wyo.	(3 10)	15.025
CI76-537..... D 9/19/77	Fred Whitaker, et al., P.O. Box 129, Carthage, Tex. 75633.	Texas Gas Transmission Corp., Davidson Well No. 2, Gas Unit, Carthage Field, Panola County, Tex.	(11)	.....
CI76-705..... C 9/14/77	MRT Exploration Co., 9900 Clayton Rd., St. Louis, Mo. 63124.	Mississippi River Transmission Corp., Ruth Ledbetter No. 1 Unit, Mills Ranch (Arbuckle) Field, Wheeler County, Tex.	(3)	14.65
CI76-727..... C 10/11/77	Chevron U.S.A., Inc., P.O. Box 599, Denver, Colo. 80201.	Mississippi River Transmission Corp., Ledbetter No. 1, Mills Ranch (Arbuckle) Field, Wheeler County, Tex.	(3)	14.65
CI76-791..... C 8/1/77	Ashland Oil, Inc., P.O. Box 1503, Houston, Tex. 77001.	Colorado Interstate Gas Co., sections 23, 26, and 34, all in T27S-R40W, Stanton County, Kans.	(3)	14.65
CI77-43..... C 6/23/77	Diamond Shamrock Corp., P.O. Box 631, Amarillo, Tex. 79173.	Arkansas Louisiana Gas Co., Pocola Field: A-1 Fry; at or above base of Morrow Formation; LeFlore County, Okla.	[3] $1.45	14.65
CI77-65..... C 9/9/77	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	Mountain Fuel Supply Co., Wilson Ranch Area, Lincoln County, Wyo.	(3)	15.025
CI77-110..... C 6/6/77	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Co., Hartzog Draw Field, Campbell County, Wyo.	[3] $158.3515	14.65
CI77-110..... D 8/23/77	Cities Service Oil Co.....	Panhandle Eastern Pipe Line Co., Hartzog Draw Field, Campbell County, Wyo.	(c)	.....

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 1000 ft ³	Pressure base
CI77-114..... C 7/25/77	Texas Pacific Oil Co., Inc., 1700 One Main Pl., Dallas, Tex. 75250.	El Paso Natural Gas Co., Texas Pacific-operated State "A" A/C-1 No. 114 Well, Jalmat (Yates-Seven Rivers) Field, Lea County, N. Mex.	[1] $1.46	14.73
CI77-121..... C 8/12/77	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	El Paso Natural Gas Co., Crooked Creek Morrow Field and Undesignated Atoka Field, Eddy County, N. Mex.	[2] 163.2548¢	14.73
CI77-138..... C 8/1/77	Pan Eastern Exploration Co., P.O. Box 1642, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., certain acreage in Beaver County, Okla.	[3] 116.9262¢	14.65

[1] Clyde E. Williams, Well No. 1.
[2] Champlin No. 24, Amoco Well No. 1.
[3] Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.
[4] Deleting therefrom all of the acreage covered by Lease 83635—U.S.D.I.E.S.—6571, all of Lease 83412—Escambia County, Ala., and that portion of Lease 77199—International Paper Co. (Sou. Kraft Division) et al. No. 7 that lies within sec. 4, 9, and 15, T-1-N, R-8-E, Escambia County, Ala.; and by deleting therefrom authorization for the sale of gas by Chevron U.S.A., Inc., to Florida Gas Transmission Co. from such acreage.
[5] Applicant filed to include Sun's 6.25 percent working interest in J. B. Tubb No. F-14 well.
[6] Applicant filed to add one (1) well to basic contract.
[7] Applicant filed to add four (4) new wells to contract.
[8] Applicant proposes to continue the sale of natural gas in accordance with the authority granted to Kewanee Industries by the Commission in Docket No. CI76-215.
[9] Applicant and purchaser are affiliated.
[10] Applicant filed to add four (4) quarter-sections. Commitment is limited to the stratigraphic interval occurring between the surface and the base of the Muddy Formation or the Dakota Formation.
[11] Well equipment, including casing and tubing, sold and transferred to M. W. Martin. Well has not been plugged and abandoned.
a Depleted and wells plugged and abandoned.
b No interstate market available.
c Released 200 acres in Campbell and Johnson Counties, Wyo.

[FR Doc.77-32874 Filed 1-9-77;3:09 pm]

[3128-01]

HIGH ENERGY PHYSICS ADVISORY PANEL

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the High Energy Physics Advisory Panel (HEPAP) will meet December 5-6, 1977, beginning at 9 a.m. each day, at the Smithsonian Institute, National Museum of History and Technology, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C. The meeting will be held in the Reception Suite.

The purpose of the Panel is to provide advice and guidance on a continuing basis with respect to the high energy physics research program.

The agenda for the meeting is as follows:

1. The budget status of the High Energy Physics Program.
2. Major topics for consideration during the next meeting of the International Committee on Future Accelerators.
3. The status of new facilities at the National Laboratories.
4. An analysis of the draft report of the Manpower Subpanel.
5. Initial equipment requirements for major new experiments.

The meeting is open to the public. The Chairman of the Panel is empowered to conduct the meeting in a manner that will, in his judgment, facilitate the orderly conduct of business.

Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management, 202-566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on November 9, 1977.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc.77-32982 Filed 11-14-77;8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 812-4]

CALIFORNIA-NEVADA

Joint Marine Sanitation Device Standard for Lake Tahoe

On August 11, 1977, notice was published that the States of California and Nevada jointly had petitioned the Administrator, U.S. Environmental Protection Agency, to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Lake Tahoe, a portion of which is in each State. The petition was filed pursuant to Section 312(f)(3) of Pub. L. 92-500.

Section 312(f)(3) states:

After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply.

The information submitted to me by the State of California certified that four pumpout facilities are available to service vessels in the California waters of Lake Tahoe. These are the Tahoe Boatworks in Tahoe City, which serves approximately 50 boats per summer and takes four to five minutes to pump out sewage from the average boat; Sunnyside Resort in Tahoe City, which serves approximately 60 boats per summer and takes five minutes to pump out the average boat; Obexer's Resort in Homewood, which serves 8 to 10 boats per summer and takes two to three minutes to pump out the average boat; and the Tahoe Keys Marina in South Lake Tahoe, which serves 30 to 40 boats per summer and takes five minutes to pump out the average boat. The first three pumpout facilities discharge their wastes to the municipal sewerage system of the Tahoe City Public Utility District; the last facility discharges its wastes to the municipal sewerage system of the South Lake Tahoe Public Utility District.

The State of California also certified that sewage from both the Tahoe City and South Lake Tahoe Public Utility Districts receive the equivalent of at least secondary treatment. The petition stated that both Tahoe Boatworks and Sunnyside Resort are open from 8 a.m. to 5 p.m. during the summer, and various hours during the winter; Obexer's Resort and Tahoe Keys Marina are open from 8 a.m. to 6 p.m. during the summer, and closed during the winter. All of the listed marinas can pump sewage from the largest recreational vessel that can be launched on Lake Tahoe at a public facility.

The information submitted to me by the State of Nevada certified that one sewage pumpout facility is available to service vessels on the Nevada side of Lake Tahoe. This is a State owned and operated facility at Sand Harbor that is available for use 24 hours a day, 365 days a year. The petition stated that there has been no overcrowding at the Sand Harbor facility and that pumpout time varies between one and ten minutes. The pumpout facility is located immediately adjacent to the boat launching and recovery ramp and, during maximum lake elevation, the deepest draft vessels operating on Lake Tahoe can use the pumpout facility.

The State of Nevada further certified that sewage collected at Sand Harbor is discharged into a 1,500-gallon holding tank; the wastes from the holding tank

are transported by truck to an approved sanitary landfill in Carson City.

A single comment was received by the Agency. The comment was directed toward the reasons for the States' petitions rather than toward the petition's merits.

Following an examination of the petition and supporting information, and a consideration of the single comment received pursuant to the August 11 FEDERAL REGISTER notice, I have determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Lake Tahoe. This determination is made pursuant to section 312(f)(3) of Pub. L. 92-500.

Dated: November 8, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-33022 Filed 11-14-77;8:45 am]

[6560-01]

[IRLG 1:001; FRL-816-5]

INTERAGENCY REGULATORY LIAISON GROUP; TESTING STANDARDS AND GUIDELINES WORK GROUP

Meeting

Pursuant to provisions of the Interagency Agreement (42 FR 54856, 11 October, 1977) which established the Interagency Regulatory Liaison Group (IRLG), notice is hereby given that the Testing and Standards Guidelines Work Group of the IRLG will hold a public meeting on December 14, 1977. The meeting will be held in room 3305 (Mall) of the U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. The meeting will begin at 10 a.m. and conclude at 12 noon.

Purpose of Meeting: The Testing Standards and Guidelines Work Group will present information about activities, goals and procedures for developing common standards and guidelines for the conduct of testing acceptable to the agencies which are parties to the agreement. The Work Group will invite questions and comments from the public.

Background: The heads of the U.S. Consumer Product Safety Commission, the U.S. Environmental Protection Agency, the Food and Drug Administration, and the Occupational Safety and Health Administration agreed to work together as the IRLG to reform the regulatory process and to improve protection of workers, public health and the environment. To implement this agreement, the IRLG established a Testing Standards and Guidelines Work Group to develop common standards and guidelines for the four agencies to use in assessing existing and new testing regulations for interagency consistency and compatibility.

Correspondence should be addressed to the Work Group Chairman, Dr. James R. Beall, WH-557, Office of Toxic Substances, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Dated: November 10, 1977.

JAMES R. BEALL,
Chairman, Interagency Liaison Work Group on Testing Guidelines and Standards.

[FR Doc.77-33025 Filed 11-14-77;8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: October 14, 1977.

Released: October 21, 1977.

Notice is hereby given, pursuant to § 1.573(d) of the Commission's rules, that on December 5, 1977, the FM broadcast applications listed in the attached Appendix below will be considered as ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on December 2, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on December 2, 1977. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix below by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.573(d) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending FM broadcast applications, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Acting Secretary.

BPH-10560 WMDD-FM Fajardo, P.R., Pan Caribbean Broadcasting Corp. Has: 96.5 mHz; Channel No. 243B. ERP: 6.8 kW; HAAT: 300 ft. (Lic). Req: 96.5 mHz; Channel No. 243B. ERP: 50 kW; HAAT: 965 ft.

BPH-10562 WRBR South Bend, Ind., Booth American Co. Has: 103.9 mHz; Channel No. 280A. ERP: 3 kW; HAAT: 155 ft. (Lic). Req: 103.9 mHz; Channel No. 280A. ERP: 3 kW; HAAT: 300 ft.

BPH-10566 (new), Blountstown, Fla., Calhoun Broadcasting Corp. Req: 102.3 mMz; Channel No. 272A. ERP: 3 kW; HAAT: 146 ft.

BPH-10628 (new), Chickasaw, Ala., Phillips Radio, Inc. Req: 98.3 mHz; Channel No. 252A. ERP: 1.70 kW; HAAT: 410 ft.

BPH-10629 KACW Paris, Tex., KPLT, Inc. Has: 99.3 mHz; Channel No. 257A. ERP: 3 kW; HAAT: 175 ft. (Lic). Req: 99.3 mHz; Channel No. 257A. ERP: 3 kW; HAAT: 300 ft.

BPH-10630 (new), Liberal, Kans., The Seward County B/CTING Co., Inc. Req: 105.5 mHz; Channel No. 288A. ERP: 3 kW; HAAT: 186 ft.

BPH-10631 (new), Monterey, Calif., Cypress Communications Inc. Req: 92.7 mHz; Channel No. 224A. ERP: .64 kW; HAAT: 585 ft.

BPH-10632 (new), Keauhou, Hawaii, Communico Honi Corp. Req: 92.1 mHz; Channel No. 221A. ERP: 3 kW; HAAT: 100 ft. (allocated to Kealakekua, Hawaii).

BPH-10635 KHSJ-FM Hemet, Calif., KHSJ Inc., KHSJ-FM. Has: 105.5 mHz; Channel No. 288A. ERP: .700 kW; HAAT: −265 ft. (Lic). Req: 105.5 mHz; Channel No. 288A. ERP: 3 kW; HAAT: −244 ft.

BPH-10636 (new), Mitchell, S. Dak., Korn Palace Broadcasting. Req: 107.3 mHz; Channel No. 297C. ERP: 100 kW; HAAT: 450.5 ft.

BPH-10637 KQQQ Pullman, Wash., Radio Palouse, Inc. Has: 104.9 mHz; Channel No. 285A. ERP: 1.7 kW; HAAT: 57 ft. (Lic). Req: 104.9 mHz; Channel No. 285A. ERP: 3 kW; HAAT: 273 ft.

BPH-10642 KJFF Jefferson City, Mo., KLIK Radio 950 Inc. Has: 106.9 mHz; Channel No. 295C. ERP: 100 kW; HAAT: 215 ft. (Lic). Req: 106.9 mHz; Channel No. 295C. ERP: 100 kW; HAAT: 603 ft.

BPH-10643 WLWS Hamilton, Ohio, WLW Radio of Hamilton, Inc. Has: 96.5 mHz; Channel No. 243B. ERP: 50 kW; HAAT: 430 ft. (Lic). Req: 96.5 mHz; Channel No. 243B. ERP: 14.5 kW; HAAT: 819 ft.

BPH-10644 (new), Corpus Christi, Tex., Big C Broadcasting Corp. Req: 99.1 mHz; Channel No. 256C. ERP: 100kW; HAAT: 932 ft.

BPH-10645 (new), Trenton, Mo., Luehro Broadcasting Co. Req: 92.1 mHz; Channel No. 221A. ERP: 1.74 kW; HAAT: 380.4 ft.

BPH-10646 (new), Cortez, Colo., Sound 74, Inc. Req: 97.9 mHz; Channel No. 250C. ERP: 100 kW; HAAT: 1306 ft.

BPH-10647 (new), Carthage, Ill., Tri State Broadcasting Co. Req: 92.1 mHz; Channel No. 221A. ERP: 3 kW; HAAT: 300 ft.

BPH-10649 (new), Corpus Christi, Tex., A. V. Bamford. Req: 99.1 mHz; Channel No. 256C. ERP: 100 kW; HAAT: 894 ft.

BPH-10652 (new), Victoria, Tex., McDougal Broadcasting Co. Req: 107.9 mHz; Channel No. 300C. ERP: 57.9 kW; HAAT: 360 ft.

BPH-10654 (new), Corpus Chriti, Tex., Radio KCCT, Inc. Req: 99.1 mHz; Channel No. 256C. ERP: 100kW; HAAT: 752 ft.

BPH-10663 WIYD-FM Palatka, Fla., Hall Broadcasting Co. Has: 99.9 mHz; Channel No. 260C. ERP: 100 kW; HAAT: 180 ft. (Lic). Req: 99.9 mHz; Channel No. 260C. ERP: 100 kW; HAAT: 951 ft.

BPED-2405 (new), New Orleans, La., New Orleans Baptist Theological Sem. Req: 89.1 mHz; Channel No. 206D. TPO: .01 kW.

BPED-406 (new), Atherton, Calif., Menlo Atherton High School. Req: 88.9 mHz; Channel No. 205D. TPO: .01 kW.

BPED-2407 (new), Grand Junction, Colo., Pear Park Baptist Schools. Req: 88.5 mHz; Channel No. 203A. ERP: .439 kW; HAAT: −431 ft.

BPED-2409 (new), Nevada City, Calif., The American Victorian Museum. Req: 89.5 mHz; Channel No. 208D. ERP: .018 kW; HAAT: 980 ft.

BPED-2428 (new), Bangor, Maine, Bangor Christian Schools. Req: 88.5 mHz; Channel No. 203B. ERP: 15.8 kW; HAAT: 785 ft.
BPED-2443 (new), Norfolk, Va., Norfolk State College. Req: 91.1 mHz; Channel No. 216A. ERP: .956 kW; HAAT: 117 ft.
BPED-2455 (new), Santa Rosa, Calif., Christian Life Center of Santa Rosa. Req: 91.9 mHz; Channel No. 220B. ERP: 0.25 kW; HAAT: 1,058 ft.
BPED-2457 (new), Neola, Utah, unrecognized Uintah Ute. Indians Inc. Req: 88.1 mHz; Channel No. 201D. TPO: .01 kW.
BPED-2461 (new), Mobile, Ala., Spring Hill College County of Mobile. Req: 90.5 mHz; Channel No. 213D. TPO: .01 kW.
BPED-2463 (new), Gallatin, Tenn., Volunteer State Community College. Req: 88.3 mHz; Channel No. 202A. ERP: .04 kW; HAAT: 6 ft.
BPED-2477 (new), Plattsburgh, N.Y., State University of New York. Req: 91.1 mHz; Channel No. 216D. TPO: .01 kW.
BPED-2519 (new), Sacramento, Calif., San Juan Unified School District. Req: 91.5 mHz; Channel No. 218D. TPO: .01 kW.
BPED-2544 WCXL Dayton, Ohio, Broadcast Workshop, Inc. Has: 88.7 mHz; Channel No. 204D. TPO: .01 kW (Lic) (Kettering, Ohio). Req: 89.1 mHz; Channel No. 206D. TPO: .01 kW (Dayton, Ohio).

[FR Doc.77-32980 Filed 11-14-77;8:45 am]

[6712-01]

[Docket No. 21420; File No. BMPH-15051; FCC 77-729]

HAROLD A. JAHNKE

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

Adopted: October 19, 1977.

Released: November 11, 1977.

1. The Commission has under consideration: (a) The above-captioned application for additional time to complete construction of new FM station KQHJ, Hampton, Iowa; (b) action of the Chief, Broadcast Bureau of June 16, 1977 dismissing the extension application and cancelling the construction permit (BPH-8963); and (c) a letter dated June 20, 1977, from Harold A. Jahnke requesting reinstatement of the construction permit and a hearing with respect to the extension application.

2. The construction permit for this new Class A FM station was issued on March 9, 1976, with a required date of completion of construction on March 9, 1977. Thereafter, on February 17, 1977 the permittee filed the present request for extension of construction time, in which he refers to "litigation" pertaining to a condition placed upon his construction permit with respect to reimbursement of Radio, Incorporated, licensee of station KCHA-FM, Charles City, Iowa. The reimbursement is for reasonable expenses, on a *pro rata* basis, incident to a change in channel by station KCHA-FM which made possible the assignment of FM channel 285 at Hampton, as well as FM channel 277 at Pella, Iowa.[1]

3. By staff letter dated March 16, 1977, the applicant was notified that it did not appear that he had exercised due diligence in proceeding with construction, and that ancillary "litigation" pertaining to a condition on the construction permit with respect to reimbursement to station KCHA-FM is not sufficient reason to justify an extension of construction time. Therefore, the applicant was advised that further action on the extension application was being deferred through April 29, 1977, pending submission of additional facts that would justify favorable consideration.

4. The Broadcast Bureau did not receive a reply to that letter. On June 16, 1977, the Chief, Broadcast Bureau, pursuant to delegated authority, dismissed the extension application and cancelled the outstanding construction permit. In that action, the Bureau concluded that the applicant had not shown that he had been diligent in proceeding with construction or had been prevented from completing construction by causes not under his control, within the meaning of Section 319 of the Communications Act of 1934, as amended. Inasmuch as we found the applicant financially qualified to build the proposed FM broadcast facility, operate for one year and meet a reimbursement requirement, the pendency of any dispute pertaining to the reimbursement requirement would not preclude the applicant from constructing the FM facility. Therefore, the reasons offered by the applicant constituted a private business judgment which is not sufficient justification for postponing the institution of a new FM service to Hampton. However, the applicant was advised that if he should desire a hearing on this application, he may request reinstatement to be submitted no later than 30 days from the date of that letter.

5. By letter dated June 20, 1977, the applicant requested reinstatement and a hearing. In addition, the applicant stated that he did, in fact, respond to the staff letter of March 16, 1977. The staff requested a copy of the response to its March 16, 1977 letter. The applicant forwarded a copy of an amendment dated April 26, 1977. With respect to the construction of authorized facilities, the applicant stated that a two-story bank building which would have housed the studio and transmitter was destroyed by fire. In April of 1976, construction was commenced on a one-story replacement building for banking needs only. The applicant alleges that he was not notified until February 10, 1977, that space would not be available for the proposed radio station. In addition to the acquisition of an unspecified used console, the applicant states that in April of 1976, he commenced negotiations with a Jampro Antenna Company for purchase of the used KCHA-FM antenna at its trade-in value. During this time, the applicant was also negotiating with station KCHA-FM for purchase of the same Jampro Antenna at a somewhat higher price.[2] In any event, with respect to negotiations with KCHA-FM, the applicant stated in a letter dated April 3, 1976, to the station KCHA-FM Washington legal counsel as follows:

> Unless the present antenna is one which can be adjusted so as to feed the horizontal components only, it would not meet my present engineering proposal. If there were sufficient incentive in terms of price, I might consider acquisition of the unit. However, since its employment would require some modification of my construction permit, I am not enthusiastic about it in view of the possibility of encountering another paper blitz.

Since the applicant did not inform station KCHA-FM of its parallel negotiations with the Jampro Antenna Co., station KCHA-FM shipped its used antenna to the Jampro Antenna Co. as a trade-in on the new KCHA-FM antenna. Consequently, the applicant states that he was not able to make an "on-site inspection" and the negotiations with the Jampro Antenna Co. did not come to fruition. Approximately one year later, in the week of April 26, 1977, the applicant states that he forwarded a deposit for an unspecified used antenna and transmitter.

6. In the present situation, we are of the opinion that a ten-month period between the commencement of construction of the new bank building and the applicant's alleged first knowledge that bank space would be unavailable does not appear to reflect diligence on the part of applicant in proceeding with construction. Similarly, we are also of the opinion that the applicant has not shown the degree of diligence expected of a permittee in ordering equipment. Even though the applicant was found financially qualified to build and operate as proposed in its outstanding construction permit, we do not discourage attempts to effectuate cost savings by acquiring alternative used equipment. However, the applicant's efforts in this regard, occurring in April of 1976, do not appear to constitute a

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[1] The Memorandum Opinion and Order granting the Hampton and Pella applications established guidelines under which the benefiting parties were to reimburse KCHA-FM; *And further provided*, That any dispute arising thereunder be referred to the Commission. FCC 76-221. Currently pending is a pleading by Jahnke challenging the reimbursement requirement which will be dealt with separately.

[2] It should be noted that the proceeds realized from the sale of the antenna, in effect, reduces the amount of money which the reimbursing parties would be ultimately liable.

showing of diligence. In this instance, the applicant did not forward a deposit for the used antenna and transmitter until more than one year after the grant of the construction permit. It is unlikely that the antenna and transmitter ordered are the types specified in the construction permit and these changes may necessitate a formal application to modify the construction permit. After careful consideration of the present extension application and amendment, we are unable, at this juncture, to make this required statutory finding of diligence which would justify setting aside the Bureau action of June 16, 1977. In view of the unresolved issue of diligence and the fact that the applicant has requested a hearing with respect to the Bureau action of June 16, 1977, we are designating the application for oral argument.

7. As of this date, the applicant and Radio, Inc. have not agreed on reimbursement for expenses incident to the change in channel by Station KCHA–FM. While good faith negotiations between the parties is the preferable solution, it appears these parties may require our intervention to resolve some of the matters in dispute. However, in view of the present uncertain status of the KQHJ construction permit, resolution, at this juncture, would be inappropriate. In any event, as indicated above and in previous correspondence to the applicant, the matter of reimbursement is ancillary and does not relieve the applicant of its obligation to go forward with the construction of authorized facilities.

8. *Accordingly, it is ordered,* That the above-captioned application is reinstated and designated for oral asgument before the Review Board in Washington, D.C., at a time and place to be specified in subsequent Order, on the following issue:

To determine whether sufficient reasons exist in connection with the application for extension of completion date, which constitute a showing that failure to complete construction was due to causes not under the control of the permittee, or constitute a showing of other matters sufficient to warrant further extension within the meaning of Section 319(b) of the Communications Act of 1934, as amended, and § 1.534(a) of the Commission's rules.

9. *It is further ordered,* That to avail himself of the opportunity to be heard, the applicant, in person, or by attorney, shall, within ten (10) days of the mailing of this Memorandum Opinion and Order, filed with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for oral argument and present arguments on the issue specified in this Memorandum Opinion and Order.

FEDERAL COMMUNICATIONS COMMISSION,[*]

WILLIAM J. TRICARICO,
Acting Secretary.

[FR Doc.77-32976 Filed 11-14-77;8:45 am]

[*] Chairman Ferris not participating.

[6712–01]

[Docket No. 21268; File No. BPH–6521; FCC 77–730]

RADIO BLUE RIDGE, INC. AND RADIO HARRISONBURG, INC.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

Adopted: October 19, 1977.

Released: November 11, 1977.

1. The Commission has before it: (i) The above-captioned applications of Radio Blue Ridge, Inc. [RBRI] and Radio Harrisonburg, Inc. [RHI]; (ii) a "Request for Clarification and Acceptance" of the application of RHI and a "Petition to Deny"[1] the application of RBRI, filed by RHI; and, (iii) related pleadings and correspondence.

2. Since RHI would compete with the proposed station for audience and advertising revenues in the Harrisonburg area, we find that RHI has standing as a party in interest within the meaning of Section 309(d) of the Communications Act of 1934, as amended. "F.C.C. v. Sanders Brothers Radio Station," 309 U.S. 470 (1940).

3. Section 73.37(e)(2)(iii) of the Commission's rules provides that an application for nighttime facilities by an authorized daytime standard broadcast station may be accepted for filing if it would provide the community designated in the application with a first or second nighttime aural transmission service and there is no FM channel available for use in the community. Since there was an FM channel available for use in the community at the time RHI filed its application, RHI's application is not acceptable for filing pursuant to § 73.37.[2]

4. In its "Request", "Petition", and correspondence, RHI argues that rejection of its application solely on the grounds that an FM channel was available for use in Harrisonburg would undercut the duty imposed by Section 307 (b) of the Act to make a "fair, efficient, and equitable distribution" of radio service. In support of this argument, it is stated that the only proposal which can be fashioned to use the channel is a stunted, inefficient one, wasteful of a Class B channel's potential, and that the channel cannot be used as proposed without interfering with the operations of the Naval Radio Research Station (NRRS), Sugar Grove, West Virginia, and the National Radio Astronomy Observatory (NRAO), Green Bank, West Virginia. In addition, it is argued that as a result of topography and the presence of the government installations, the Harrisonburg area is underserved, and § 73.37 should be waived to allow Harrisonburg to have its broadcast facilities maximized to the greatest degree possible.

5. The 307(b) aspects of assigning channel 282 to Harrisonburg were considered in the rulemaking proceeding which resulted in the assignment of the channel. "Report and Order" (Docket 18259), 14 FCC 2d 814, 14 RR 2d 1578 (1968). The channel remains assigned to Harrisonburg, and RHI has brought nothing new to our attention to persuade us that the rulemaking determination was incorrect. Concerning the allegation that RBRI's proposal would interfere with the operations of the NRRS and NRAO, suffice it to say that § 73.215(a) of the Commission's rules requires only coordination with the NRRS and NRAO, that this coordination has taken place, and that, by letter of January 28, 1977, it was indicated that neither the NRRS nor the NRAO had any objections to the RBRI proposal. Finally, with respect to RHI's waiver request, we note that there are presently six stations licensed to Harrisonburg, with two of those stations providing nighttime service, and that RHI's claim that Harrisonburg is inadequately served is unsupported by any factual data. Consequently, we are unable to conclude on the basis of the information presented to us that a waiver of Section 73.37(e)(2) is warranted at this time. See "Bangor Broadcasting Corp.", 44 FCC 2d 531, 29 RR 2d 118 (1973); "Gordon A. Rogers," FCC 73–473, released May 8, 1973, 27 RR 2d 668 (1973). Notwithstanding this determination, we will retain RHI's application, since there is a significant question as to whether RBRI's directional antenna can perform as proposed.

6. Our review of the material before us indicates that RBRI's proposal does not comply with the requirements of § 73.316 of our rules. Specifically, while § 73.316 states that directional antennas with a ratio of maximum to minimum radiation in the horizontal plane of more than 15 decibels will not be permitted, RBRI proposes a directional antenna with a ratio of approximately 50 decibels. This means that while 20.65 kilowatts is proposed in the main lobe, as little as 207 milliwatts is proposed in the null. In light of the uniqueness of the proposal and the engineering data before us, we must conclude that a substantial question exists as to whether RBRI's directional antenna can perform as proposed and, therefore, a hearing is required. However, were RBRI to demonstrate that it could construct, adjust, operate, and maintain its antenna in such

[1] The "Request" and "Petition" do not comply with the requirements of § 1.580 of our rules in that they were filed after the "cutoff" date of the RBRI application. However, considering the nature of the arguments presented, the pleadings will be treated as informal requests and/or informal objections pursuant to §§ 1.41 and 1.587 of our rules.

[2] RBRI's "cut-off" date was October 1, 1975. Since the application of RHI was tendered for filing on October 1, 1975, there was an FM allocation available for which RHI could have applied. However, had RHI filed after RBRI's "cut-off" date, RBRI's application would have been treated as an existing station pursuant to Note 8 to § 73.37, and this station, taking into account the nighttime service provided by commonly-owned stations WSVA and WQPO(FM), would have provided the second nighttime aural transmission service for Harrisonburg. See 47 CFR 73.37, Note 7 (1977).

a fashion as to provide a stable broadcast pattern and comply with other appropriate engineering requirements, a waiver of § 73.316 might be appropriate.[3] Since approval by the NRRS and NRAO was apparently premised on the assumption that RBRI's directional antenna could perform as claimed, we are making them parties to this proceeding.

7. As we have not previously had occasion to examine in detail an antenna proposing this much suppression, we find it necessary to provide the Administrative Law Judge with wide latitude in investigating all relevant facets of the proposed system and its operation. The following considerations, though, will guide the Judge's investigation. First, there must be a determination as to whether a directional antenna with a suppression of approximately 50 decibels can be constructed.[4] Second, assuming that such an antenna can be constructed, the suppression must be proven. Normally, measurements are made at the factory; in this case, however, considering the high suppression ratio, it may be best to require that the measurements be made after the antenna is installed so that the full effects on the surrounding area may be taken into account. It is also necessary to determine whether methods exist by which a suppression of 50 dB can be proven.[5] Third, as a suppression ratio this high may be difficult to maintain, even if it can be achieved, there should be an investigation of whether maintenance is possible.[6] Fourth, since the 15dB restriction was originally adopted to insure that multipath problems would be minimal by providing that the signal from the null would be stronger than any reflected signals, there must be an examination of potential multipath problems. Finally, assuming that all of the above questions are answered in RBRI's favor, it must be determined whether a waiver of the 15 dB requirement is warranted.

8. Except as indicated by the issue specified below, the applicant is qualified to construct and operate as proposed.

9. *Accordingly, it is ordered,* That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the application of Radio Blue Ridge, Inc. is designated for hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine with respect to the application of Radio Blue Ridge, Inc.:

(a) Whether the proposed antenna system can be constructed, operated, adjusted, and maintained as proposed; and, if so,

(b) Whether the proposed transmitter site is satisfactory with regard to any conditions which may exist in the vicinity of the antenna system which would preclude an adequate proof of performance to determine that adjustment and maintenance has actually occurred; and, if so,

(c) Whether sufficient reasons are present to warrant a waiver of § 73.316 of the rules.

(2) To determine, in light of the evidence adduced pursuant to the foregoing issue, whether a grant of the application of Radio Blue Ridge, Inc. would serve the public interest.

10. *It is further ordered,* That, Radio Blue Ridge, Inc., is afforded thirty (30) days in which to submit an amendment, if it so desires, specifying a directional antenna system with a lower suppression ratio.

11. *It is further ordered,* That, the "Request for Clarification" and the "Petition to Deny" filed by Radio Harrisonburg, Inc. are denied, and the application of Radio Harrisonburg, Inc. is retained on file pending disposition of the application of Radio Blue Ridge, Inc.

12. *It is further ordered,* That, Radio Harrisonburg, Inc., the Naval Radio Research Station, Sugar Grove, West Virginia, and the National Radio Astronomy Observatory, Green Bank, West Virginia, are made parties to the proceeding.

13. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicant and parties respondent herein, pursuant to § 1.221(c) of the Commission's rules, 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 the hearing and present evidence on the issues specified in this Order.

14. *It is further ordered,* That, the applicant herein 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 manner prescribed in such rule, and shall advise the Commission of publication of such notice as required by § 1.594 of the rules.

FEDERAL COMMUNICATIONS COMMISSION,[1]
WILLIAM J. TRICARICO,
Acting Secretary.

[FR Doc.77-32977 Filed 11-14-77;8:45 am]

[3] RBRI's original proposal involved a maximum radiated power of 15 kilowatts rather than the 20.65 kilowatts now proposed. RBRI has not submitted proper patterns for the 20.65 kilowatt proposal as required by § 73.316(d). The engineering studies of the 20.65 kilowatt proposal have used ratios of the values on the 15 kilowatt patterns. However, it will be necessary for RBRI to submit the proper patterns.

[4] See generally, "Cosmopolitan Enterprises, Inc.," FCC 77R-18, 39 RR 2d 1241 [Rev. Bd., 1977]; "Home Service Broadcasting Corp.," 57 FCC 2d 1129, 36 RR (1976); "Frank M. Cowles," FCC 70-84, 21 FCC 2d 165 (1970).

[5] By amendment of December 20, 1976, RBRI relocated its proposed antenna site to a point 400 feet southeast of the previous site. Since the amendment moved the proposed transmitter site to a point behind a ridge which may effectively shield the NRRS and the NRAO from much of RBRI's proposed radiation, a suppression ratio of 50 dB may no longer be required. Consequently, in light of this amendment and in light of the broad issue which we are specifying, we believe it appropriate to afford RBRI thirty (30) days in which to submit an amendment specifying a lower suppression ratio. In the event that RBRI does submit an amendment specifying a suppression ratio lower than 50 dB, but above 15 dB, the presiding Administrative Law Judge may modify the existing issues to correspond to the new suppression ratio.

[6] The routine conditions that would appear on a construction permit granted to RBRI are given below. However, as noted above, measurements in the field rather than at the factory may be required. Also, there may be other portions of the routine conditions that would not, in the event of a grant, be appropriate. Thus, these conditions are offered only as a starting point:

Neither the horizontally nor vertically polarized component shall exceed 20.65 kW at any azimuth and each component shall be restricted to the following values at the azimuths specified:

207 mW at 273 °T
220 mW at 297 °T
207 mW at 320 °T

In addition, neither radiation component shall increase at a rate exceeding 0.2 dB per degree from the azimuths of restricted radiation specified above nor exceed a maximum-to-minimum ratio of 15 dB. The RMS of the vertically polarized radiation pattern shall not exceed that of the horizontally polarized radiation pattern.

Before Program Tests are Authorized, permittee shall submit the results of a complete proof-of-performance to establish the horizontal plane radiation patterns for both the horizontally and vertically polarized radiation components. This proof-of-performance may be accomplished using the complete full size antenna, or individual bays therefrom, mounted on a supporting structure of identical dimensions and configuration as the proposed structure, including all braces, ladders, conduits, coaxial lines and other appurtenances; or using a carefully manufactured scale model of the entire antenna, or individual bays therefrom, mounted on an equally scaled model of the proposed supporting structure, including all appurtenances. Engineering exhibits should include a description of the antenna testing facilities and equipment employed, including appropriate photographs or sketches and a description of the testing procedures, including scale factor, measurements, frequency and equipment calibration.

Before Program Tests are Authorized, permittee shall submit an affidavit from a licensed surveyor to establish that the directional antenna has been oriented at the proper azimuth.

[1] Chairman Ferris not participating.

[6712-01]

TELEVISION BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Adopted: November 9, 1977.

Released: November 10, 1977.

Notice is hereby given, pursuant to Section 1.572(c) of the Commission's Rules, the television broadcast application listed below will be considered as ready and available for processing on December 15, 1977. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cut-off application of The Reginald A. Fessenden Educational Fund, Inc., File No. BPCT-4790, no other applications

which involve conflict with this application may be filed.

The attention of any party in interest desiring to file a petition to deny any listed application pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

BPCT-4893 (new) San Jose, Calif., National Group Television, Inc., Channel 48, ERP: Vis.: 450 kW, HAAT: 2614 ft.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Acting Secretary.

[FR Doc.77-32979 Filed 11-14-77;8:45 am]

[6712-01]

TV BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: November 7, 1977

Released: November 9, 1977

Notice is hereby given, pursuant to Section 1.572(c) of the Commission's Rules, that on December 28, 1977, the TV broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to Section 1.227(b)(1) and Section 1.591(b) of the Commission's Rules, an application in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on December 27, 1977 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on December 27, 1977.

The attention of any party in interest desiring to file pleadings concerning any pending TV broadcast application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Acting Secretary.

BPCT-5019 (new), Kansas City, Mo., Bufford Television of Missouri, Inc., Channel 62, ERP: Vis.: 1320kW, HAAT: 650 ft.

BPCT-5072 (new), Albany, Ga., Southeast Broadcasting Co., Inc., Channel 31, ERP: Vis.: 2630kW, HAAT: 1190 ft.

BPCT-5073 (new), Rosenberg, Tex., Pueblo Broadcasting Corp., Channel 45, ERP: Vis.: 1350 kW, HAAT: 550 ft.

BPCT-5074 (new), Albany, Ga., Southwest Broadcasting, Inc., Channel 19, ERP: Vis.: 640 kW, HAAT: 975 ft.

BPCT-5075 (new), Leesburg, Fla., Sharp Communications, Inc., Channel 55, ERP: Vis.: 221 kW, HAAT: 316 ft.

BPCT-5077 (new), Milwaukee, Wis., Wisconsin Voice of Chirstian Youth, Inc., Channel 30, ERP: Vis.: 762 kW, HAAT: 531 ft.

BPCT-5078 (KTEW), Tulsa, Okla., Scripps-Howard Broadcasting Co., Channel 2, Change HAAT to 1857, Change transmitter site.

BPCT-5079 (new), Gadsden, Ala., Gadsden Television Inc., Channel 44, ERP: Vis.: 757 kW, HAAT: 1007 ft.

BPCT-5087 (WNCT), Greenville, N.C., Roy H. Park Broadcasting, Inc., Channel 9, Transmitter site and HAAT to 1958 ft.

BPCT-5089 (new), Waco, Tex., Central Texas Broadcasting Co., LTD., Channel 25, ERP: Vis.: 5000 Kw, HAAT: 1828 ft.

BPCT-5098 (new), Amarillo, Tex., Gary L. Acker T/A Amarillo Family, Television, Channel 14, ERP; Vis.: 113 kW, HAAT: 812 ft.

BMPCT-7686 (KLOC-TV), Modesto, Calif., KLOC Broadcasting Co., Inc., Channel 19, Change ERP to 5000 Kw, Change Transmitter site.

BMPCT-7719 (KGOF), Anaheim, Calif., Golden Orange Broadcasting, Inc., Channel 56, Change Transmitter site.

[FR Doc.77-32978 Filed 11-14-77;8:45 am]

[6715-01]

FEDERAL ELECTION COMMISSION

[Notice 1977-53]

OPINION AND REGULATION INDEX

A new cumulative Index to advisory Opinions and Opinions of Counsel (discontinued in April, 1976) issued by the Federal Election Commission is now available for purchase in the Public Records Division of the Commission. The updated index includes a subject index and U.S. Code Section Index covering opinions issued from the establishment of the Federal Election Commission in April, 1975 through August, 1977, as well as an F.E.C. Regulation index covering only 1977 opinions.

Purchase price of the index is $5.30 to cover duplication costs, payable in advance. Checks should be made payable to: United States Treasurer. Person to contact: Mrs. Michael Heisey, Branch Chief, Public Records Division, Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463. Telephone: 202-523-4181. Periodic supplements will be made available to persons purchasing the main index.

Dated: November 9, 1977.

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

[FR Doc.77-32922 Filed 11-14-77;8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1856]

ALL FORWARDING, INC.

Order of Revocation

By letter dated September 29, 1977, Mr. Richard H. Davis, Jr., President, All Forwarding, Inc., P.O. Box 66278, A.M.F. O'Hara, Ill. 60666, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1856 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before October 27, 1977.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

All Forwarding, Inc., has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01 (c) dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1856 issued to All Forwarding, Inc. be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1856 be and is hereby revoked effective October 27, 1977.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon All Forwarding, Inc.

LEROY F. FULLER,
Director, Bureau of Certification & Licensing.

[FR Doc.77-32999 Filed 11-14-77;8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

ADMIRE BANCSHARES, INC.

Formation of Bank Holding Company

Admire Bancshares, Inc., Admire, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less directors' qualifying shares) of the voting shares of The Admire State Bank, Admire, Kans. 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 Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 5, 1977.

Board of Governors of the Federal Reserve System, November 8, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-32973 Filed 11-14-77;8:45 am]

[6210-01]

FEDERAL OPEN MARKET COMMITTEE

Longer Run Ranges for Monetary Aggregates

On October 18, 1977, the Federal Open Market Committee adopted the follow-

ing ranges for rates of growth in monetary aggregates for the period from the third quarter of 1977 to the third quarter of 1978: M–1, 4 to 6½ percent; M–2, 6½ to 9 percent; and M–3, 8 to 10½ percent.

By order of the Federal Open Market Committee, November 9, 1977.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.77-32972 Filed 11-14-77;8:45 am]

[6210–01]

REPUBLIC OF TEXAS CORP.

Acquisition of Bank

Republic of Texas Corp., Dallas, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 pecent (less directors' qualifying shares) of the voting shares of the successor by merger to First National Bank of Duncanville, Duncanville, Tex. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D. C. 20551, to be received not later than December 6, 1977.

Board of Governors of the Federal Reserve System, November 8, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-32974 Filed 11-14-77;8:45 am]

[4110–02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

COMMUNITY EDUCATION ADVISORY COUNCIL

Meeting

AGENCY: Office of Education, HEW, Community Education Advisory Council.

ACTION: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Community Education Advisory Council. It also describes the functions of the Council. Notice of these meetings is required under section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92–634. This document is intended to notify the general public of the opportunity to attend.

DATES: Meeting, November 30 and December 1, 1977.

ADDRESS: Casablanca Room, Aladdin Hotel, 3667 Las Vegas Boulevard South, Las Vegas, Nev.

FOR FURTHER INFORMATION CONTACT:

Paul Tremper, Office of Education, Department of Health, Education, and Welfare, Room 5622—ROB3, Seventh and D Streets SW., Washington, D.C. 20202; telephone: 202–245–0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory Council is authorized under Pub. L. 93–380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools.

All sessions of this meeting will be open to the public.

The meeting on November 30 will begin at 8:30 a.m. This meeting will recess at 10 a.m. giving the Council an opportunity to attend the First General Session of the National Community Education Association Convention. The meeting will reconvene at 1 p.m. and end at 5 p.m. On December 1, the meeting will begin at 8:30 a.m. and end at 4 p.m.

The Community Education Advisory Council meeting will be held simultaneously with the 12th Annual Convention of the National Community Education Association. The Council members will be attending various sessions sponsored by the National Community Education Association.

Beginning at 8:30 a.m. on December 1, the Council will hold hearings on the future programmatic directions of the Federal Community Education Program. Topics to be addressed during this hearing are: (1) How can the Community Education Advisory Council assist in the development of community education throughout the country during Fiscal Year 1978; (2) how can the U.S. Office of Education, Community Education Program assist in the development of community education throughout the country during Fiscal Year 1978; and (3) what should be the role of the Federal Government in community education during the next five years? The public is invited to address the Council on the above mentioned topics at this time. Anyone wishing to be placed on the agenda to participate in these hearings may do so by addressing their request to: Marty Methee, Community Education Program, U.S. Office of Education, Room 5622–ROB 3, Seventh and D Streets SW., Washington, D.C. 20202, or by calling 202–245–0691. It is requested that contact be made not later than Noon on November 28. Because of time constraints, individual testimonies will be limited to 10 minutes.

The Council will also review during this meeting cooperative efforts in the area of juvenile delinquency and further examine components of community education which could be relevant to the prevention of juvenile delinquency.

The proposed agenda includes:

(1) Overview of the 12th Annual Convention of the National Community Education Association;

(2) Hearings on Future Programmatic Directions of the Federal Community Education Program;

(3) Update on legislative matters;

(4) Assessment of evaluation study to date;

(5) Update on cooperative efforts in the area of juvenile delinquency;

(6) Special reports;

(7) Schedule of future meetings;

(8) Evaluation Plans for Fiscal Year 1978;

(9) Other administrative matters and related business.

Records shall be kept of all Council proceedings and shall be available for public inspection in Room 5622, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C. 20202.

Signed at Washington, D.C., on November 10, 1977.

PAUL TREMPER,
Acting Director, Community Education Program.

[FR Doc.77-32928 Filed 11-14-77;8:45 am]

[4110–02]

NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Public Hearings

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule of forthcoming public hearings of the National Advisory Council on Bilingual Education. It also outlines the procedures to be observed during the public hearing. Notice of these meetings 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: December 12, 1977 Public Hearings 9:30 a.m.–4:30 p.m. December 13. 1977 Public Hearings 9:30 a.m.–3:00 p.m.

ADDRESS: John McCormack Federal Building, "Central Post Office Building"; Post Office Square; room 208; Boston, Mass 02203.

FOR FURTHER INFORMATION CONTACT:

Dr. Gloria V. Becerra, Program Delegate. Office of Bilingual Education, Reporter's Building, room 421, Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, 202–447–9227 or Mr. Omer Picard, National Advisory Council on Bilingual Education, 282 East Main, Madawaska, Maine 04756, 207–728–3875.

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

December 12–13, 1977: Consonant with the Council's charge to provide advice

on matters relating to the administration of the Bilingual Education Act, testimony will be heard on the following topics:

(1) Proposed Legislative Changes for Pub. L. 93-380; and

(2) Serving Diverse Language Groups.

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 to 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 an oral synopsis of their written testimony. Witnesses who do not provide such a testimony will be heard after all who have written testimony are heard;

(5) Witnesses shall provide fifteen copies of their written testimony;

(6) Witnesses who have testified at previous hearings will be heard after all others;

(7) Witnesses may address the Council in either English or in their native language. The written testimony must be submitted in English;

(8) All testimony shall be taped recorded;

(9) Exceptions to the aforementioned procedures shall be at the discretion of the Chairman of the Public Hearings Committee.

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 7th 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 November 10, 1977.

GLORIA V. BECERRA,
Program Delegate, NACBE,
Office of Bilingual Education.

[FR Doc.77-32981 Filed 11-14-77;8:45 am]

[4110-03]

Food and Drug Administration

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) (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. Ophthalmic Panel	Dec. 2 and 3, 9 a.m.; Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. on Dec. 2; Holiday Inn, Chevy Chase, Md. on Dec. 3.	Open public hearing Dec. 2, 9 a.m. to 10 a.m.; open committee discussion Dec. 2, 10 a.m. to 4:30 p.m.; Dec. 3, 9 a.m. to 4:30 p.m.; John T. McElroy (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 contact person before November 28, 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 pursuant 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 and 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
2. Miscellaneous Internal Drug Products Panel.	Dec. 2, 3, and 4, 9 a.m.; Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. on Dec. 2; Holiday Inn, Chevy Chase, Md. on Dec. 3 and 4.	Open public hearing Dec. 2, 9 a.m., to 10 a.m.; open committee discussion Dec. 2, 10 a.m. to 4:30 p.m., Dec. 3 and 4, 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 contact person before November 28, 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 pursuant 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 and 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. Dental Device Classification Panel.	Dec. 5, 9 a.m., Room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing 9 a.m. to 10:30 a.m.; open committee discussion 10:30 a.m. to 1 p.m.; open public hearing 1 p.m. to 1:30 p.m.; open committee discussion 1:30 p.m. to 4 p.m.; D. G. Singleton, D.D.S., (HFK-460), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7536.

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 the classification of carbon-teflon augmentation devices, X-ray collimators, film cassettes, X-ray films, radiographic film processors, and paper saliva absorbers 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 20, 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 presentations. There will be a presentation of studies concerning Proplast™ by Vitek, Inc.

There will be a presentation by Thomas Fise of the American Dental Trade Association concerning exemption of controls for devices classified in general controls.

Open committee discussion. There will be a discussion by the dental panel members of the suggested classification recommendations of the Bureau of Radiological Health of X-ray collimator, film cassette, X-ray film and radiographic film processor. A logic scheme completion and classification determination are to follow. Discussion of the panel classification report.

Committee name	Date, time, and place	Type of meeting and contact person
4. Obstetrical and Gynecological Device Classification Panel.	Dec. 5, 9 a.m., Room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing/open committee discussion 9 a.m to 4 p.m.; Lillian Yin, Ph. D., (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7555.

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/open committee discussion. Interested parties are encouraged to present information pertinent to the uniform IUD labeling 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 25, 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.

Committee name	Date, time, and place	Type of meeting and contact person
5. Subcommittee of the Endocrinology and Metabolism Advisory Committee.	Dec. 7, 9 a.m., Conference Room K, 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.; 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 endocrine and metabolic disorders.

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 the feasibility of defining a patient population for the use of clofibrate.

Committee name	Date, time, and place	Type of meeting and contact person
6. Radiological Device Classification Panel.	Dec. 9, 9 a.m., Room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing/open committee discussion 9 a.m to 4 p.m., Lillian Yin, Ph. D. (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7555.

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/open committee discussion. Interested parties are encouraged to comment on the Radiological Device Classification Panel Report and to present information pertinent to photofluorographic systems and barium sulfate, used as a contrast medium in roentgenography of the digestive system, 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 December 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 presentations.

Committee name	Date, time, and place	Type of meeting and contact person
7. Miscellaneous External Drug Products Panel.	Dec. 11 and 12, 9 a.m.; Holiday Inn, Bethesda, Md. on Dec. 11; Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. on Dec. 12.	Open public hearing Dec. 12, 9 a.m. to 10 a.m.; open committee discussion Dec. 11, 9 a.m. to 4:30 p.m.; Dec. 12, 9 a.m. to 4:30 p.m.; Michael D. Kennedy, (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 hearings. 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 contact person before December 7, 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 pursuant 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 and 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
8. Topical Analgesic Panel	Dec. 13, 14, and 15, 9 a.m., Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Dec. 13, 9 a.m. to 10 a.m.; open committee discussion Dec. 13, 10 a.m. to 4:30 p.m., Dec. 14 and 15, 9 a.m. to 4:30 p.m.; Lee Geismar (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 hearings. 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 contact person before December 8, 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 pursuant 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 and 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
9. Dermatology Advisory Committee.	Dec. 15, 9 a.m., Conference Room A, 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 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 the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of dermatology.

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 guidelines for topical corticosteroids and discussion of photochemotherapy in psoriasis.

Committee name	Date, time, and place	Type of meeting and contact person
10. Contraceptive and Other Vaginal Drug Products Panel.	Dec. 15 and 16, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Dec. 15, 9 a.m. to 10 a.m.; open committee discussion Dec. 15, 10 a.m. to 4:30 p.m.; Dec. 16, 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 contact person before December 12, 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 pursuant 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 and 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
11. Surgical Drugs Advisory Committee.	Dec. 15 and 16, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open committee discussion Dec. 15, 9 a.m., to 4 p.m.; open public hearing Dec. 16, 9 a.m. to 10 a.m.; open committee discussion Dec. 16, 10 a.m. to 1 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 conerning safety and effectiveness of marketed and investigational prescription drugs for use in surgery.

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 safety, effectiveness, and labeling review of Fibrinolysin and Desoxyribonuclease, combined (Bovine), powder for solution, ointment, and ointment with Chloramphenicol. These products, marketed by Parke, Davis & Co. as Elase[M] vials, Elase[M] ointment, and Elase-Chloromycetin[M] ointment will be reviewed under the criteria of 21 CFR 601.25 (d) and (e).

This review is being undertaken by the Surgical Drugs Advisory Committee

of the Bureau of Drugs at the request of the Panel on Review of Blood and Blood Derivatives of the Bureau of Biologics. It has been determined that the knowledge and expertise of the members of the Surgical Drugs Advisory Committee are more appropriate for the review of clinical safety, effectivenes and labeling of these products. The results of this review will be submitted to the Commissioner of Food and Drugs through the Panel on Review of Blood and Blood Derivatives and the Director of the Bureau of Biologics for appropriate response.

Presentations by Parke, Davis & Co. and the FDA staff on IND–2702, Siloxane injection (medical-grade injectable silicone). Presentation of proposed clinical protocol by the sponsor, Dow Corning Corp. and the FDA staff.

Committee name	Date, time, and place	Type of meeting and contact person
12. Antiperspirant Panel b....	Dec. 19 and 20, 9 a.m., Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Dec. 19, 9 a.m., to 10 a.m.; open committee discussion Dec. 19, 10 a.m. to 4:30 p.m.; Dec. 20, 9 a.m. to 4:30 p.m.; Lee Geismar (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 contact person before December 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 pursuant 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 and voting upon and modifying the content of summary minutes and categorization of ingredients and claims.

FDA public advisory committee meeting may have as many as four separable portions: (1) An open public hearing, (2) an open committee 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 rserved 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 a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate 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: November 7, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.32812 Filed 11–14–77;8:45 am]

[4110–03]

ANTI-INFECTIVE AGENTS ADVISORY COMMITTEE

Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Anti-Infective Agents Advisory Committee by the Secretary, Department of Health, Education, and Welfare.

DATE: Authority for this committee will expire on February 28, 1978, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFS–20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–2765.

Dated: November 7, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77–32809 Filed 11–14–77;8:45 am]

[4110–03]

CERTAIN BARBITURATE-ANALGESIC COMBINATION DRUGS FOR ORAL USE

Drugs for Human Use; Efficacy Study Implementation; Followup Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces that a certain barbiturate-analgesic combination drug product has been evaluated as effective for the symptom complex of tension (or muscle contraction) headache, and sets forth the conditions for marketing the drug.

DATE: Supplements to NDA's are due by January 16, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 64, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements (identify with NDA number): Division of Neuropharmacological Drug Products (HFD–120), Room 10B–40, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 64; Docket No. FDC–D–574 (now Docket No. 76N–0397)) published in the FEDERAL REGISTER of October 12, 1973 (38 FR 28312), the Commissioner of Food and Drugs proposed to withdraw approval of the new drug application for Algoson Tablets, a barbiturate-analgesic combination drug product. The notice stated that the product

was regarded as lacking substantial evidence of effectiveness for its labeled indication for use to relieve pain. Although no hearing request was submitted for Algoson Tablets, hearing requests were submitted in response to the notice for four related drug products. This notice announces that, after a review of all available data, the following related drug product has been approved for a certain indication. Other related drug products for which hearings were requested will be the subject of a subsequent FEDERAL REGISTER notice.

NDA 17-534; Fiorinal Tablets and Capsules containing butalbital (50 mg), aspirin (200 mg), phenacetin (130 mg), and caffeine (40 mg); Sandoz Pharmaceuticals, P.O. Box 11, Hanover, N.J. 07936.

The notice that follows sets forth the conditions for marketing such products. Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drugs applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder of the new drug application specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical to the drug product named above. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical to a drug product named in this notice by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration (FDA) has considered all available evidence and concludes that the combination drug containing butalbital (50 milligrams), aspirin (200 milligrams), phenacetin (130 milligrams), and caffeine (40 milligrams) is effective for the symptom complex of tension (or muscle contraction) headache.

The ingredients aspirin, phenacetin, and caffeine are included in the FDA Over-the-Counter (OTC) drug review project (21 CFR Part 330) and have been evaluated by the OTC Advisory Review Panel on Internal Analgesic and Antirheumatic Products. On the basis of that Panel's report and recommendations, published in the FEDERAL REGISTER on July 8, 1977 (42 FR 35345), and the agency's review of that report, the safety and effectiveness of these ingredients in prescription drug products will be reevaluated.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

2. *Form of drug.* The drug is in tablet or capsule form suitable for oral administration.

3. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For the relief of the symptom complex of tension (or muscle contraction) headache.

4. *Marketing status.* a Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provide that, on or before January 16, 1978, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1 (f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. In vitro dissolution rate studies comparing the test product with Fiorinal are required as part of the application. In vivo demonstration of bioavailability shall be required of all products which fail to achieve adequate dissolution. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: November 3, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-32924 Filed 11-14-77;8:45 am]

[4110-03]

[Docket No. 77C-0363]

COLOR ADDITIVES

Denial of Petition for Listing of Bismuth Citrate for Use in Cosmetics

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is denying the petition to list "permanently" bismuth citrate as a color additive for use in cosmetics. Published elsewhere in this issue of the FEDERAL REGISTER is a regulation terminating the provisional listing for bismuth citrate.

DATE: Objections by December 15, 1977.

ADDRESS: Objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of August 7, 1973 (38 FR 21289) stated that a petition (CAP 4C0108) for the "permanent" listing of bismuth citrate as a color additive for use in cosmetic hair dyes had been filed by Combe, Inc., 1011 Westchester Ave., White Plains, N.Y. 10604. The petition was filed pursuant to section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376).

Full written reports on a human absorption study and a subchronic short-term rabbit study with bismuth citrate have not been submitted by the regulatory deadline of August 3, 1977, that is prescribed in § 81.27 (21 CFR 81.27). Accordingly, the closing date for bismuth citrate is being terminated because of this failure by the petitioner to comply with these conditional requirements for provisional listing. This action is discussed in detail in the regulation, published elsewhere in this issue of the FEDERAL REGISTER, that terminates the provisional listing of the color additive for use in cosmetics.

The Commissioner has considered the data submitted in support of the petition and other pertinent data related to the use of bismuth citrate in cosmetic hair dyes. The Commissioner concludes that the required studies are necessary to provide adequate assurance that the use of bismuth citrate in cosmetic hair dye is safe. Because these studies are not expected to be submitted in the near future, the Commissioner is denying the petition that seeks the listing of the color additive for use in cosmetic hair dyes.

Any person who will be adversely affected by the foregoing order may at any time on or before December 15, 1977, file with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of § 71.30 (21 CFR 71.-30.) If a hearing is required, the objec-

tions shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this notice. Received objections may be seen in the above-named office, between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376)) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: November 9, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 77-32925 Filed 11-14-77;8:45 am]

[4110-03]

[Docket No. 76C-0369]

DENIAL OF PETITION FOR LISTING OF FD&C RED NO. 4 FOR USE IN MARASCHINO CHERRIES AND INGESTED DRUGS

Hearing and Prehearing Conference

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces that a formal evidentiary public hearing and a prehearing conference will be held on factual issues raised by objections to the order of the Commissioner of Food and Drugs denying a petition for the "permanent" listing of FD&C Red No. 4.

DATES: Prehearing conference on December 16, 1977 at 10 a.m.; written notice of participation must be received by December 15, 1977.

ADDRESSES: The prehearing conference and hearing will take place in the FDA Hearing Room, room 4A-35, 5600 Fishers Lane, Rockville, Md. 20857. Written notices of participation identified by the above-designated docket number should be submitted to the Hearing Clerk (HFC-20), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857 (to facilitate identification, the envelope containing the notice of participation should be clearly labeled "Red No. 4 Hearing").

FOR FURTHER INFORMATION CONTACT:

Ted Herman, Compliance Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857. 301-443-3480.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is granting a formal evidentiary public hearing on factual issues raised by objections to the notice issued by the Commissioner of Food and Drugs denying a portion of a petition for the "permanent" listing of FD&C Red No. 4. The date for the hearing will be set at the prehearing conference to be held on December 16, 1977.

The petition (CAP No. 61), notice of filing of which was published in the FEDERAL REGISTER of November 20, 1968 (33 FR 17205), sought the issuance of a regulation under section 706(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376(b)) that would approve use of ("permanently" list) that color additive in maraschino cherries, ingested drugs, and externally applied drugs and cosmetics. A regulation was published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41854), establishing 21 CFR 8.-4103, 8.7163, and 9.63 (now 21 CFR 74.-1304, 74.2304, and 82.304, respectively) that provided for the use of FD&C Red No. 4 in externally applied drugs and cosmetics. That portion of the petition pertaining to maraschino cherries and ingested drugs was denied by notice published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41867), on the grounds that evidence that FD&C Red No. 4 was safe for those uses was lacking.

The Maraschino Cherry and Glace Fruit Processors (hereinafter called the Processors), a section of the Association of Food Distributors, Inc., by letter of October 26, 1976, filed timely objections to the September 23, 1976 notice involving maraschino cherries. The Processors, who represent the major portion of those companies that manufacture maraschino cherries, have adequately demonstrated that their members will be adversely affected by the order. Their request for a hearing is granted for each of their stated objections, as follows:

1. The Processors object to the Commissioner's finding that FD&C Red No. 4 has not been shown to be safe for use in food and ingested drugs.

2. The Processors object to the Commissioner's finding that any issue of carcinogenicity cannot be resolved by the existing testing.

3. The Processors object to the Commissioner's finding that a no-effect level has not been established for FD&C Red No. 4.

These objections question the Commissioner's determination that the data before him do not establish to a reasonable certainty that the proposed uses of FD&C Red No. 4 will be safe.

By letter of October 19, 1976, the National Cherry Growers and Industries Foundation, Inc., filed objections to and a request for a hearing on the regulation terminating the provisional listing and certification of FD&C Red No. 4 as used in maraschino cherries and ingested drugs (41 FR 41852). By such provisional listing, the color had been approved for use in those products since 1965 on an interim basis pending scientific investigation required for "permanent" listing in accordance with section 706(b) of the act. Because the Commissioner subsequently concluded that testing completed since 1965 did not clear the color additive, provisional listing was terminated and permanent listing denied for these uses. The regulation terminating provisional listing was issued under provisions of section 203 of the Color Additive Amendments (Title II, Pub. L. 86-618, 74 Stat. 404-407 (21 U.S.C. 376 note)), which does not require public notice and opportunity for objection. However, the granting of a hearing to the Processors will also provide the National Cherry Growers and Industries Foundation, Inc., an opportunity to be a participant in the hearing on the denial of permanent listing and to be there to present evidence of the safety of FD&C Red No. 4.

Additionally, a large number of letters have been received in response to FDA action on FD&C Red No. 4. These letters have come from companies, individuals, and associations involved in growing cherries or subsequent production of maraschino cherries. Although in the form of objections, these letters generally have not requested a hearing. The Commissioner has, however, concluded that the granting of a hearing on the issues raised by the Processors will provide these other companies, individuals, and associations an opportunity to present evidence of the safety of FD&C Red No. 4.

The Commissioner concludes that the objectors have met the basic requirements for the holding of a formal evidentiary public hearing: (1) they have demonstrated that they are adversely affected by the denial of the petition, and (2) they have listed issues of fact that present a substantial difference of scientific opinion requiring a hearing for resolution.

Therefore, it is ordered, that a formal evidentiary public hearing pursuant to 21 CFR Part 12 be held on the following issues related to the safety of FD&C Red No. 4:

1. Whether available data permit the establishment of a no-effect level for the ingestion of FD&C Red No. 4;

2. Whether the existing data are sufficient to permit conclusions to a reasonable certainty concerning the carcinogenicity of FD&C Red No. 4;

3. Whether existing reproduction studies are sufficient to prove to a reasonable certainty that FD&C Red No. 4 causes no harmful reproductive effects.

The presiding Administrative Law Judge will be Daniel J. Davidson. The hearing will convene on a date to be set at the prehearing conference. The parties to the hearing will be the Bureau of Foods of the Food and Drug Administration, the Maraschino Cherry and Glace Fruit Processors, and the National Cherry Growers and Industries Foundation, Inc.

The contents of the portions of the administrative record that the Bureau of Foods deems relevant at this time include the following:

1. The color additive petition.

2. Scientific literature concerning the hearing issues listed above and subsidiary issues.

3. Data on the toxicity of FD&C Red No. 4 that are in the possession of the Bureau of Foods and are not part of the petition.

These relevant portions of the administrative record, including an itemized list of the pertinent documents, are on display in the office of the Hearing Clerk, Food and Drug Administration, and additional copies need not be submitted by other parties or participants.

Participants other than the Bureau of Foods shall submit written data, information, and views pursuant to 21 CFR 12.85 by January 16, 1978.

The hearing will be open to the public. Any participant may appear in person, by or with counsel, or with other qualified representatives, and may be heard with respect to matters relevant to the issues under consideration.

Dated: November 9, 1977.

JOSEPH P. HILO,
Associate Commissioner for Compliance.

[FR Doc.77-32926 Filed 11-14-77;8:45 am]

[4110-03]

[Docket No. 77F-0312]

NALCO CHEMICAL CO.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Nalco Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the use of hexamethylenediaminetetra (methylene phosphonic acid) and its salts for use as a boiler water additive in the prepartion of steam that will contact food.

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 6A3219) has been filed by Nalco Chemical Co., 2901 Butterfield Rd., Oak Brook, IL 60521, proposing that the food additive regulations be amended to provide for the use of hexamethylenediaminetetra (methylene phosphonic acid) and its salts as a boiler water additive in the preparation of steam that will contact food.

The environmental impact analysis report and other relevant material 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, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 2, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-32927 Filed 11-14-77;8:45 am]

[4110-03]

PANEL ON REVIEW OF BLOOD AND BLOOD DERIVATIVES

Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act of October 6, 1973 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Panel on Review of Blood and Blood Derivatives by the Secretary, Department of Health, Education, and Welfare.

DATE: Authority for this committee will expire on February 28, 1978, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: November 7, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-32810 Filed 11-14-77;8:45 am]

[4110-03]

RADIOPHARMACEUTICAL ADVISORY COMMITTEE

Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Radiopharmaceutical Advisory Committee by the Secretary, Department of Health, Education, and Welfare.

DATE: Authority for this committee will expire on February 28, 1978, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: November 7, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-32811 Filed 11-14-77;8:45 am]

[4110-03]

[Docket No. 77N-0225]

VITARINE CO., INC.; PHENDIMETRAZINE TARTRATE 105-MILLIGRAM TIME RELEASE CAPSULES

Refusal To Approve New Drug Application

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice announces that the Director of the Bureau of Drugs refuses to approve an abbreviated new drug application (ANDA) for Phendimetrazine Tartrate 105-Milligram Time Release Capsules (ANDA 83-736) submitted by The Vitarine Co., Inc., 227-15 North Conduit Ave., Springfield Gardens, NY 11413 ("Vitarine"). An opportunity for hearing was offered on the issue of the approvability of the application, and Vitarine did not request a hearing.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: On May 7, 1973, Vitarine submitted an ANDA (assigned number 83-736) for the following product: Phendimetrazine Tartrate 105-Milligram Time Release Capsules.

After being informed by FDA that an ANDA is not acceptable for the product, the firm requested, on February 28, 1977, that the application be filed over protect. On August 9, 1977 (42 FR 40248), the Director of the Bureau of Drugs issued a notice of opportunity for hearing on his proposal to refuse approval of the ANDA. By failing to file a written appearance of election as provided by said notice, Vitarine elected not to avail itself of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82), finds that (1) the application does not contain any reports of investigations or adequate tests, by all methods reasonably applicable, to show whether or not the product is safe for use under

the conditions prescribed, recommended, or suggested in the proposed labeling thereof; (2) upon the basis of the information submitted as part of the application, FDA has insufficient information to determine whether the drug is safe for use under such conditions; and (3) evaluated on the basis of the information submitted as part of the application and other public information before FDA with respect to the drug, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under such conditions of use.

Therefore, pursuant to the foregoing findings, approval of abbreviated new drug application 83-736 for Phendimetrazine Tartrate 105-Milligram Time Release Capsules is refused.

Dated: November 1, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-32923 Filed 11-14-77;8:45 am]

[4110-03]

[Docket No. 77N-0085]

SACCHARIN AND ITS SALTS

Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice of public hearing.

SUMMARY: The Commissioner of Food and Drugs announces that if the Saccharin Study and Labeling Act (SSLA) becomes Law, the Food and Drug Administration will hold a public hearing within 7 to 10 days. The hearing is to receive written or oral views about the tentative guidelines to implement section 4 of the SSLA, which would require the label and labeling of food containing saccharin that is introduced or delivered for introduction into interstate commerce on or after 90 days after the SSLA becomes effective to bear a warning statement. The tentative guidelines for implementation of section 4 are published elsewhere in this issue of the FEDERAL REGISTER.

DATE: The public hearing will be held 7 to 10 days after the Saccharin Study and Labeling Act becomes law.

FOR FURTHER INFORMATION CONTACT:

Ted Herman, Compliance Regulation Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: On November 3 and 4, 1977, the House of Representatives and the United States Senate, respectively, passed the Saccharin Study and Labeling Act, S-1750. Section 4 of the SSLA would require that the label and labeling of food containing saccharin that is introduced or delivered for introduction into interstate commerce on or after 90 days after the SSLA becomes law bear the following warning:

USE OF THIS PRODUCT MAY BE HAZARDOUS TO YOUR HEALTH. THIS PRODUCT CONTAINS SACCHARIN WHICH HAS BEEN DETERMINED TO CAUSE CANCER IN LABORATORY ANIMALS

If the SSLA becomes law, a food that fails to bear the warning statement on the label and labeling would be misbranded under new section 403(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(o)).

The requirement for this warning is self-executing; that is, no rule making is necessary to implement it (Joint Explanatory Statement of the Committee of Conference, Cong. Rec. H12182, daily ed., November 3, 1977). Nevertheless, the Commissioner intends to issue guidelines to assist manufacturers in complying with the requirement. Tentative guidelines are published elsewhere in this issue of the FEDERAL REGISTER.

To minimize problems in complying with the statutory label warning requirement and the guidelines, the Commissioner has decided to hold a public hearing to discuss these matters. Interested members of the public may appear at the hearing and present data and views, orally or in writing, about matters related to the label warning. Comments concerning the text of the warning will not be entertained. After the hearing, the Commissioner will promptly issue final guidelines for publication in the FEDERAL REGISTER.

As indicated, the SSLA would provide that the label and labeling of food introduced or delivered for introduction into interstate commerce on or after 90 days after the bill becomes law must bear the warning. The Commissioner wishes to provide manufacturers as much time as possible to comply with the requirement with the benefit of FDA's guidelines. Accordingly, the public hearing will be held 7 to 10 days after the bill becomes law. The hearing will be held in Washington, D.C.

The date, time, and location of the hearing will be announced by press release promptly after the bill becomes law. Interested persons are advised to be alert for that press release. The details about the hearing may also be ascertained by calling Ted Herman, Compliance Regulation Policy Staff, at 301-443-3480, after the bill becomes law.

The Commissioner has dispensed with the requirement that any formal notices of participation in the hearing be filed. Persons who desire to comment on the warning requirement and the tentative guidelines need only appear at the designated time and place for the hearing, where a sign-up sheet will be available.

Individuals and organizations with common interests are urged to consolidate or coordinate their presentations. The presiding officer will be Dr. Howard Roberts, Acting Director of the FDA Bureau of Foods. Dr. Roberts will be accompanied by other FDA officials. The presiding officer may allocate the time available for the hearing among persons who desire to participate, as necessary. Written comments will be received on the day of the hearing.

The hearing will be open to the public. Any interested person who appears at the hearing may be heard with respect to matters relevant to the issues under consideration.

Dated: November 11, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

NOVEMBER 11, 1977.

[FR Doc.77-33059 Filed 11-11-77;11:30 am]

[4110-03]

[Docket No. 77N-0085]

SACCHARIN AND ITS SALTS

Tentative Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice; statement of tentative guidelines.

SUMMARY: The Commissioner of Food and Drugs announces tentative guidelines to assist manufacturers of foods containing saccharin to comply with section 4 of the Saccharin Study and Labeling Act (SSLA), S. 1750, in the event that the Act becomes law. That section would require that the label and labeling of food containing saccharin introduced or delivered for introduction into interstate commerce on or after 90 days after the SSLA becomes law bear a warning statement. Published elsewhere in this issue of the FEDERAL REGISTER is a notice announcing the Commissioner's intention to hold a public hearing to discuss the warning requirement and the tentative guidelines.

FOR FURTHER INFORMATION CONTACT:

Mr. Caesar Roy, Bureau of Foods (HFF-310), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1567.

SUPPLEMENTARY INFORMATION: The Saccharin Study and Labeling Act, S. 1750, was passed by the House of Representatives and the United States Senate on November 3 and 4, respectively. Section 4 of the SSLA would require that the label and labeling of food containing saccharin that is introduced or delivered into interstate commerce on or after 90 days after the bill becomes law bear the following warning: USE OF THIS PRODUCT MAY BE HAZARDOUS TO YOUR HEALTH. THIS PRODUCT CONTAINS SACCHARIN WHICH HAS BEEN DETERMINED TO CAUSE CANCER IN LABORATORY ANIMALS.

Under the SSLA, if the labal or labeling of food containing saccharin fails to bear that warning the food would be deemed to be misbranded under new

Section 403(o) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 343(o))

The SSLA would require that the warning be located in a conspicuous place on [the] label and labeling as proximate as possible to the name of [the] food and shall appear in conspicuous and legible type in contrast by topography, layout, and color with other printed matter on [the] label or labeling.

Section 4 of the SSLA is self-executing; that is, no regulations are required to implement the warning requirement (Joint Explanatory Statement of the Committee of Conference, Cong. Rec. H12182, daily ed., November 3, 1977). The Commissioner recognizes, however, that manufacturers are likely to need guidance in complying with the warning requirement. The tentative guidelines described below are intended to apprise manufacturers of the preliminary conclusions of the Commissioner about the manner in which section 4 of the SSLA should be implemented. These tentative guidelines will be discussed at a public hearing to be held 7 to 10 days after the SSLA becomes law. Final guidelines will be issued as promptly as possible after the hearing. The final guidelines will be published in the FEDERAL REGISTER.

The Commissioner emphasizes that the guidelines are only tentative and may be modified after the public hearing.

GUIDELINES FOR COMPLIANCE WITH SECTION 4 OF THE SACCHARIN STUDY AND LABELING ACT

1. The label and labeling of food containing saccharin, including saccharin products sold in packages for use as sugar substitutes, introduced or delivered for introduction into interstate commerce on or after 90 days after the Saccharin Study and Labeling Act becomes law must bear the following warning:

USE OF THIS PRODUCT MAY BE HAZARDOUS TO YOUR HEALTH. THIS PRODUCT CONTAINS SACCHARIN WHICH HAS BEEN DETERMINED TO CAUSE CANCER IN LABORATORY ANIMALS

2. Saccharin packed in bulk form for subsequent use in manufacturing food need not bear the warning statement. All food containing saccharin which is intended for distribution in interstate commerce and all food that contains saccharin which has moved in interstate commerce, and is in consumer packages must bear the warning statement.

3. The warning must appear in a conspicuous place in the label and labeling. Except as explicitly provided elsewhere in these guidelines, the warning shall appear on the principal display panel and each alternate principal display panel of the food label and labeling.

4. The warning statement shall be placed on parallel lines immediately above or below the statement of identity for the food, except as explicitly provided elsewhere in these guidelines.

5. The SSLA requires that the warning statement be in conspicuous and legible type in contrast by typography, layout, and color with other printed matter on the label or labeling. A warning statement that contrasts with other printed matters on the label or labeling by typography, layout, or color will be acceptable.

6. The warning may be made conspicuous by placing it in a box formed by bold lines, by using colors that contrast with those used for background and other label statements, or by similar means.

7. The warning statement shall be in easily legible boldface print or type in letters not less than one-half of the height of the largest type appearing in the statement of identity for the food. In no case shall the warning statement be printed in letters less than $\frac{1}{16}$ of an inch.

8. Food containing saccharin that bears labels purchased before the effective date of the SSLA shall bear the warning statement affixed to at least one principal display panel for each package by a durable stick-on label that prominently and conspicuously bears the warning in type size no less than $\frac{1}{16}$ of an inch.

9. Labels purchased before the effective date of the SSLA are exempt from the placement requirements stated in paragraphs 3 and 4 of these guidelines, provided that the warning is affixed to at least one principal display panel as close as possible to the identity statement of the food.

10. Reusable lithographed bottles and bottles that do not bear paper, plastic foam jackets, or foil labels that were blown, formed, or molded before the effective date of the SSLA need not bear the warning statement on the surface of the bottle if the warning is printed on a hang-tag affixed to the bottle neck. The warning statement must be printed on the hang-tag in accordance with the provisions of these guidelines that apply to warnings printed directly on the label.

11. Food packaged in multiunit retail packages, e.g., soft drink cartons, plastic wrappers surrounding cans of soft drinks or chewing gum, must bear the warning statement on each principal display panel and in accordance with the provisions of these guidelines that apply to warnings printed directly on the label of individual packages. Individual packages in a multiunit retail package need not bear the warning statement if the multiunit package bears the warning in accordance with these guidelines.

12. These guidelines apply to all food containing saccharin introduced or delivered for introduction on or after 90 days after the SSLA becomes law. Food containing saccharin that is delivered for introduction into interstate commerce before the 90th day after the SSLA becomes law, but is not introduced into interstate commerce until the 90th day, or thereafter, must bear the warning statement. Food containing saccharin that is introduced into interstate commerce before the 90th day and food held for sale after shipment in interstate commerce before the 90th day are not required to bear the warning statement.

13. These tentative guidelines are subject to change.

The Commissioner urges manufacturers to begin placing the warning statement on the label or labeling of food containing saccharin as soon as possible, "to minimize controversy as to the application of the [warning] requirements." (Joint Explanatory Statement of the Committee of Conference, Cong. Rec. H12182, daily ed., November 3, 1977.)

Dated: Nov. 11, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77-33060 Filed 11-11-77;11:30 am]

[4110-03]

INTERAGENCY REGULATORY LIAISON GROUP TESTING STANDARDS AND GUIDELINES WORK GROUP

Meeting

CROSS REFERENCE: For the text of a notice announcing a meeting of the Interagency Regulatory Liaison Group, Testing and Standards Guidelines Work Group, on December 14, 1977, see FR Doc. 77-33025, which appears under the Environmental Protection Agency in the Notices section of this issue. For the correct page number, refer to the listing for the Environmental Protection Agency in the table of contents at the beginning of this issue.

[4110-08]

National Institutes of Health

BIOASSAY OF CAPTAN FOR POSSIBLE CARCINOGENICITY

Availability of Report

Captan has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade captain for possible carcinogenicity was conducted by administering the test material in feed to Osborne-Mendel rats and B6C3F1 mice.

Groups of 50 rats of each sex were administered one of two doses of captan for 80 weeks, then observed for 33 or 34 weeks. The time-weighted average doses for both sexes of rats were 2,525 or 6,050 ppm. Matched controls consisted of groups of 10 untreated rats of each sex; pooled controls, used for statistical evaluation, consisted of the matched controls combined with 75 untreated male and 75 untreated female rats from similar bioassays of six other test chemicals. All surviving rats were killed at 113–114 weeks.

Groups of 50 mice of each sex were administered the test material at one of two doses, either 8,000 or 16,000 ppm, for 80 weeks, then observed for 11 weeks. Matched controls consisted of groups of 10 untreated mice of each sex; pooled controls, used for statistical evaluation, consisted of the matched controls combined with 80 untreated male and 80 untreated female mice from similar bio-

assays of six other test chemicals. All surviving mice were killed at 90–91 weeks.

The mean body weights of both low- and high-dose rats and high-dose mice were lower than those of the matched controls throughout most of the study. Mortality rates did not show statistically significant dose-related trends in either sex of either species.

In rats, a positive dose-related trend and a difference between incidences of tumors in high-dose and pooled-control groups were found in females when the data for adrenal cortical adenoma were combined with those for adrenal cortical carcinoma (pooled controls 0/64, low-dose 2/50, high-dose 3/47, $P=0.047$). There was also a positive dose-related trend for the incidence of C-cell adenoma of the thyroid in female rats (pooled controls 1/66, low-dose 1/49, high-dose 4/44, $P=0.035$). These endocrine tumors in female rats are believed to have been spontaneous, and not related to treatment.

In mice, the incidences of polypoid carcinoma (adenocarcinoma in adenomatous polyp) of the duodenum were statistically significant using tests for a positive dose-related trend both in male mice (pooled controls 0/68, low-dose 1/43, high-dose 3/46, $P=0.033$) and in female mice (pooled controls 0/68, low-dose 0/49, high-dose 3/48, $P=0.022$. When the incidences of adenomatous polyp, NOS (not otherwise specified), were combined with those of polypoid carcinoma for statistical analysis, the tests for male mice indicated a substantial increase in significance (pooled controls 0/68, low-dose 3/43, high-dose 5/46, $P=0.008$).

It is concluded that under the conditions of this bioassay, tumors in the duodenum of B6C3F1 mice were associated with treatment with captan, but there was no convincing evidence that the tumors observed in Osborne-Mendel rats were related to treatment.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: November 2, 1977.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc.77-32278 Filed 11-14-77;8:45 am]

[4110-08]

ETHICS ADVISORY BOARD

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Ethics Advisory Board on November 18 and 19, 1977, in Washington, D.C. Such notice was published in the FEDERAL REGISTER on October 18, 1977 (42 FR 55652). When this meeting is rescheduled the date and place will be announced.

Dated: November 10, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.77-33056 Filed 11-14-77;8:45 am]

[4110-12]

Office of the Secretary

ADVISORY COMMITTEE ON NATIONAL HEALTH INSURANCE ISSUES

Meeting

Notice of the establishment of the Advisory Committee on National Health Insurance Issues was published in the April 21, 1977 FEDERAL REGISTER (Vol. 42, No. 77, Pages 20675 and 20676).

Pursuant to the Pub. L. 92-463, notice is hereby given of one meeting of the Advisory Committee to be held on Friday, December 2, 1977, and another on Saturday, December 3, 1977.

The December 2 meeting will be held from 9:00 a.m. to 12:30 p.m. and from 1:00 p.m. to 5:00 p.m. The December 3 meeting will be held from 9:00 a.m. to 1:00 p.m. Both meetings are to be held in the Hubert H. Humphrey Building Auditorium at 200 Independence Avenue, S.W., Washington, D.C.

The purpose of the meetings is to discuss issues related to the development of a National Health Insurance proposal.

These meetings are open to the public.

Further information on these meetings may be obtained from Dr. James J. Mongan in Washington, D.C. on 202-245-6275.

Dated: November 9, 1977.

JAMES J. MONGAN,
Deputy Assistant Secretary for Health/NHI.

[FR Doc.77-32938 Filed 11-14-77;8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-77-817]

TASK FORCE ON TENANT PARTICIPATION IN THE MANAGEMENT OF LOW-INCOME PUBLIC HOUSING

Meeting

AGENCY: Department of Housing and Urban Development (HUD)

ACTION: Notice is given announcing the second meeting date of the Task Force.

SUMMARY: The Secretary is announcing the second meeting and agenda for the Task Force on Tenant Participation in the Management of Low-Income Public Housing. Meetings are scheduled for November 29 and 30 and the agenda for the meetings is stated.

DATE OF SECOND MEETING: The second meeting of the Task Force is scheduled to be held over a two-day period beginning on November 29, 1977, at 10 a.m., in room 9202, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C.

ADDRESS: James F. Anderson, Acting Director, Project Management Division, Office of Assisted Housing Management, room 6248, or Joseph Smith, Director, Consumer Liaison Division, Office of Consumer Affairs, room 4212, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

James F. Anderson, 202-755-6429; Joseph Smith, 202-755-5360; Donald McLain, 202-755-5333.

SUPPLEMENTARY INFORMATION: Meetings of the Task Force on Tenant Participation in the Management of Low-Income Public Housing have been scheduled for the dates and time indicated above. The first meeting of the Task Force was held over a two-day period which began on November 7, 1977.

The agenda for the November 29 meeting includes the following: 1. Opening address; 2. Review of the Minutes of previous meeting; 3. Continuation of major topics of the Task Force; 4. Approaches to Tenant Participation; 5. Closing remarks.

The meeting of the Task Force will be open to the public.

Issued at Washington, D.C., November 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development.

[FR Doc.77-33162 Filed 11-14-77;9:37 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: USDA Forest Service, S.E. Forest Experiment Station, Clemson, S.C. 29631.

The purpose of the permit application is to request approval for continuance of research program to determine habitat requirements of Red-cockaded woodpecker (*Dendrocopos borealis*) in North and South Carolina. Research goals include determination of vegetative composition and structure at colony sites, home ranges of woodpecker clains, characteristics of vegetative communities used for foraging, and clan productivity in different habitats. Mist nets would be used to capture woodpeckers for banding. The results of the study are to be used to develop habitat management guidelines for preservation of this species.

Document and other information submitted with this application are available

to the public during normal business hours in room 534, 1717 H St. NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1198. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before December 15, 1977. Please refer to the file number when submitting comments.

Dated: November 10, 1977.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Permit Officer, United States Fish and Wildlife Service.

[FR Doc.77-32993 Filed 11-14-77;8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Theresa L. Bucher, Biology Department, University of California, Los Angeles, Hilgard Avenue, Los Angeles, Calif. 90024.

The purpose of the application is to import for scientific research at the University of California at Los Angeles blood samples from live and tissue samples from dead *Psittacine* birds presently held in captivity or found dead in the wild. Samples will be imported from various Central and South American countries and Carribean Islands.

Document and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H St. NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-999. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before December 15, 1977. Please refer to the file number when submitting comments.

Dated: November 10, 1977.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Office, United States Fish and Wildlife Service.

[FR Doc.77-32994 Filed 11-14-77;8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Carden-Johnson Clyde Bros. Circus, P.O. Box 570, Edmond, Okla. 73034.

This application for an Endangered Species Permit authorizing the purchase of 18 month old female tigers (*Panthera tigris*) from Henry Vias Zoological Gardens, Madison, Wis., for the purpose of propagation and exhibition. Humane care and maintenance during and after shipping is assured.

Document and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H St. NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1515. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before December 15, 1977. Please refer to the file number when submitting comments.

Dated: November 10, 1977.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Office, United States Fish and Wildlife Service.

[FR Doc.77-32995 Filed 11-14-77;8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: David McMillan, Rt. 1 Orr Road, Allentown, N.J. 08501.

This application is for a captive self-sustaining population (CSSP) permit for bengal tigers (*Panthera tigris*) authorizing the interstate selling and buying of this species with other holders of CSSP permits.

Document and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H St. NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1161. Interested persons may comment on this application by submitting written data, views, or arguments to the Direcor at the above address on or before December 15, 1977. Please refer to the file number when submitting comments.

Dated: November 10, 1977.

FRED L. BULWAHNN,
Acting Chief, Permit Branch,
FEDERAL WILDLIFE PERMIT OFFICE.

[FR Doc.77-32996 Filed 11-14-77;8:45 am]

[4310-70]

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 November 4, 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 November 25, 1977.

WILLIAM J. MURTAGH,
Keeper of the National Register.

CALIFORNIA

Los Angeles County

Glendora, *Glendora Bougainvillea*, Bennett and Minnesota Aves.

COLORADO

Denver County

Denver, *Sugar Building*, 1530 16th St.

Hinsdale County

Lake City, *Lake City Historic District*, CO 149.

Jefferson County

Golden vicinity, *Mount Falcon*, S of Golden near jct. of CO 8 and CO 74.

Otero County

La Junta, *Plaza de Tiempo La Junta*, roughly bounded by 1st. and 5th Sts., San Juan and Raton Aves.

Pueblo County

Pueblo, *Baxter House*, 325 W. 15th St.

DELAWARE

New Castle County

Middletown, *St. Joseph's Church*, 15 W. Cochran St.

Middletown Vicinity, (The) Maples, NW of Middeltown on Bunker Hill Rd.

Middletown vicinity, *Rumsey Farm*, W of Middletown on DE 4.

Sussex County

Atlanta vicinity, *Melson House*, N of Atlanta on SR 30.

Bethany Beach vicinity, *Wilgus Site*, NW of Bethany Beach.

Seaford, *Seaford Station Complex*, Nanticoke River at Delaware Railroad Bridge.

GEORGIA

Crawford County

Roberta vicinity, *Creek Agency Reserve*, SW of Roberta on GA 128.

Muscogee County

Columbus, *Spencer, William Henry, House*, 745 4th Ave.

Whitfield County

Dalton, *Western and Atlantic Depot*, Depot St.

IDAHO

Ada County

Boise, *Christian Church*, 9th and Franklin Sts.

Boise, *Elks Temple*, 310 Jefferson St.

Boise, *West Warm Springs Historic District*, Warm Springs Ave., Main, 1st, 2nd, and Idaho Sts.

Adams County

New Meadows, *Pacific and Idaho Northern Railroad Depot*, U.S. 95

KENTUCKY

Adair County

Columbia, *Field, John, House*, 111 E. Fortune St.

Boone County

Francisville vicinity, *Moore, John, House*, 6 mi. NW of Francisville on SR 8.

Bourbon County

Paris vicinity, *Escondida*, S of Paris on SR 4.
Paris vicinity, *Loudoun Hall (Grimes House)*, S of Paris off KY 956.

Boyle County

Danville, *Weisiger-Dimmitt House*, 202 N. 2nd St.

Carroll County

Ghent, *Ghent-Vevay Ferry*, U.S. 42.

Clark County

Winchester vicinity, *Springhill (Hubbard Taylor House)*, N of Winchester on Colby Rd.

Franklin County

Alton vicinity, *Paxton, Thomas, House*, E of Alton on Little Benson Creek.

Henry County

New Castle, *Smith, Thomas, House*, 524 Cross Main St.

Jefferson County

Louisville, *Brown Hotel, Building, and Theatre*, 675 River City Mall.
Louisville, *Fifth Ward School*, 743 S. 5th St.
Louisville, *Hikes Family Houses*, 4118 Taylorsville Rd., 2806 Meadow Dr., and 3026 Hikes La.
Louisville, *Howard-Gettys House*, 1226 Bates Court.
Louisville, *Ursuline Academy and Convent*, 800 E. Chestnut St.

Scott County

Georgetown vicinity, *Dockyard Historic District*, Newtown and Crumbaugh Pikes, E of Georgetown.

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Spanish Town*, bounded by State Capitol Dr., 5th, 9th, and North Sts.

Orleans Parish

New Orleans, *Algiers Point*, bounded by the Mississippi River, Slidel St., and Atlantic Ave.

MAINE

Androscoggin County

Lewiston, *Lewiston Public Library*, Park and Pine Sts.
Lewiston, *Trinity Episcopal Church*, Bates and Spruce Sts.

Cumberland County

Falmouth vicinity, *Halls' Tavern*, W of Falmouth at 377 Gray Rd.
Portland, *Brown, J.B., Memorial Block*, Congress and Casco Sts.

Hancock County

Bar Harbor, *Redwood*, Barberry La. Deer Isle, *Haskell, Squire Ignatius, House*, ME 172A.
Southwest Harbor, *Claremont Hotel*, Claremont Rd.

Kennebec County

Waterville, *Universalist-Unitarian Church*, Silver and Elm Sts.

Lincoln County

South Bristol vicinity, *Sproul Homestead*, N of South Bristol on ME 129.

Oxford County

Bethel, *Broad Street Historic District*, Broad St. and the Common.

Sagadahoc County

Bath vicinity, *Clarke and Lake Company Archeological Site*, E of Bath.
Bath vicinity, *Woolwich Town House*, NE of Bath at Old State and Dana Mills Rd.

Washington County

Dennysville, *Lincoln House*, U.S. 1.

York County

Saco, *Seavey, A. B., House*, 90 Temple St.
South Berwick, *Berwick Academy*, Academy St.

MISSOURI

Cedar County

Stockton vicinity, *Montgomery Archeological Site*, NE of Stockton.

Jackson County

Kansas City, *Old Town Historic District*, roughly bounded by Independence Ave., 2nd St., Delaware and Walnut Sts. (both sides).
Kansas City, *Quality Hill*, roughly bounded by Broadway, 10th, 14th, and Jefferson Sts. (both sides).

NEBRASKA

Sarpy County

Bellevue vicinity, *Blacksmith Shop*, S of Bellevue on Grant Pass Rd. on Offutt AFB.

NEW JERSEY

Essex County

Bloomfield, *Bloomfield Green Historic District*, bounded by Belleville Ave., Montgomery, Spruce, State, Liberty, and Franklin Sts.

Ocean County

Beachwood vicinity, *Double Trouble*, S of Beachwood off Garden State Pkwy.

Passiac County

Paterson, *Public School No. 2*, Mill and Passaic Sts.

OKLAHOMA

Carter County

Poolville vicinity, *Brady Cabin*, W of Poolville.

Oklahoma County

Oklahoma City, *Hales, W. T., House*, 1521 N. Hudson Ave.
Oklahoma City, *Union Depot*, 300 SW 7th St.

Tulsa County

Tulsa, *Boston Avenue Methodist Church*, Boston Ave. and 13th St.

SOUTH CAROLINA

Greenville County

Greenville, *Hampton-Pinckney Historic District*, Hampton Ave. and Pinckney St. between Butler Ave. and Lloyd St.

Sumter County

Sumter, *White, Elizabeth, House*, 421 N. Main St.

TEXAS

Clay County

Henrietta, *Clay County Courthouse and Jail*, 100 N. Bridge St. and Ikard St.

Donley County

Clarendon, *Donley County Courthouse and Jail*, Public Square.

Red River County

Clarksville, *Red River County Courthouse*, Public Square.

UTAH

Weber County

Ogden, *Lower 25th Street Historic District*, 25th St. between Wall and Grant Aves.

WISCONSIN

Green County

Monroe, *Green County Courthouse*, Courthouse Square.

Juneau County

New Lisbon vicinity, *New Lisbon Mound Group*, SE of New Lisbon.

Price County

Fifield, *Fifield Town Hall*, Pine St. and Flambeau Ave.

Trempealeau County

Galesville vicinity, *Arnold, Capt. Alexander A., Farm*, N of Galesville off U.S. 53.

[FR Doc.77-32684 Filed 11-14-77;8:45 am]

[4310-10]

Office of Hearings and Appeals

[Docket No. M 78-10]

DUNKARD MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Dunkard Mining Company, Box 8, Dilliner, Pa., 15327, has filed a petition to modify the application of 30 CFR 75.1710-1, cabs and canopies, to its Dunkard Mine, located in Greene County, Pa.

The substance of Petitioner's statement is as follows:

1. The Dunkard Mine is producing in the Sewickley Seam which has, according to Petitioner's experiences and the core drill results in this area, an average thickness of 55 inches.

2. However, after opening up the 3d West Panel, the thickness was reducing unexpectedly down to 40 inches in some places. Additional difficulties are created by rolling top and bottom conditions.

3. Since its face equipment is not designed for those conditions, Petitioner feels that the operators are in severe danger operating the machinery with canopies.

4. To cut either bottom or top in order to increase height cannot be a satisfactory solution because the inherent ash contents in Petitioner's product is already very high so that Petitioner has difficulties competing on the market.

5. Petitioner therefore requests a waiver concerning the requirements under 75.-1710-1 of the Federal Coal Mine Health and Safety Act, until Petitioner gets back into normal height. In addition, the roof conditions in this particular area are good.

REQUEST FOR HEARING AND COMMENTS

Persons interested in this petition may request a hearing on the petition or

furnish comments on or before December 15, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

NOVEMBER 8, 1977.

[FR Doc.77-32986 Filed 11-14-77;8:45 am]

[4310-10]

[Docket No. M 77-262]

PEERLESS EAGLE COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1979), Peerless Eagle Coal Co., Summersville, W. Va. 26651, has filed a petition to modify the application of 30 CFR 75.1105, housing of underground transformer stations, etc., to its Mine 2-A, located in Nicholas County, W. Va.

The substance of Petitioner's statement is as follows:

1. Petitioner's Mine 2-A has a set of transformers located directly across from the 1st west belt head. There are also three pumps located as shown on the attached plats.[1]

2. The transformers and pumps are ventilated directly by intake air. Only a very small portion of the air passing through the entries where the pumps and transformers are located would reach any working areas.

3. Petitioner proposes to ventilate said transformers and three pumps in the manner described above rather than causing the air ventilating the transformers and three pumps to be directly coursed into the return airway. In addition to this ventilating plan, Petitioner will provide the transformers and three pumps to be protected by automatic heat sensors which will activate two 20 pound dry type chemical fire suppression devices, located in the fireproof structures. One 20 pound dry type chemical fire suppression device is to be located at the pump locations. The automatic fire suppression devices will satisfy the requirements of section 75.1107 of the regulations.

4. Additionally, the following safeguards will be employed:

(a) Motors will be provided with overload and short-circuit protection as required in safety standard 30 CFR 75.518.

(b) A metal door will be provided for the enclosure, hinged on the top, and a chain or similar linkage will be connected to a thermal heat link located over the motor that would open on a not more than 155 degrees F and close door.

(c) A switch will be provided and interconnected into the electrical system so that when the metal door closed the power circuit would be de-energized at the beginning of branch circuit.

(d) Fire fighting equipment required by safety standard 30 CFR 75.1100-2(e) will be provided.

5. Petitioner states that the proposed method of ventilating said pumps and transformers, together with the additional fire protection installed thereon, would at all times guarantee no less than the same measure of protection afforded mine personnel in the affected mine than would be provided by application of the mandatory standard. The addition of the extraordinary fire suppression system in this pump station would, in fact, improve the safety measures provided in Petitioner's mine beyond that required by the mandatory standard.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments by December 15, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

NOVEMBER 8, 1977.

[FR Doc.77-32987 Filed 11-14-77;8:45 am]

[4310-10]

[Docket No. M-78-9]

UNITED CASTLE COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), United Castle Coal Co., Rt. 1, Box 523, Norton, Va. 24273, has filed a petition to modify the application of 30 CFR 75.1710-1, cabs and canopies, to its No. 1 Mine, located in Wise County, Va.

The substance of Petitioner's statement is as follows:

1. Petitioner operates an underground bituminous coal mine in the Dorchester Seam of Coal, which varies in height from a minimum of 32 inches to a maximum of approximately 80 inches with an average seam height of 54 to 56 inches.

2. Petitioner operated one section, and utilizes the following face equipment and associated section haulage equipment of the height shown: (1) Lee-Norse 265 continuous miner; (2) 5-L Galis shuttle cars; (1) TD-2-30; (1) S&S scoop; (1) 100M S&S battery motor; (1) Elkhorn scoop.

3. All of the above-mentioned equipment is equipped with canopies except the S&S and Elkhorn scoop and the 100M S&S battery motor.

4. The installation of canopies on Petitioner's equipment, as required by the mandatory safety standard under consideration, will result in the diminution of safety to Petitioner's equipment operators and other employees by the creation of new hazards greater than those which may, but might not, be eliminated by the installation of canopies.

5. Compliance with the standard will reduce safety that would otherwise be afforded miners in Petitioner's mine for the following reasons:

(a) Since the coal seam in which Petitioner operates goes down to 28 inches in seam height, along the haulway in which the mantrip is pulled by the Elkhorn and S&S scoop, and where supplies are being hauled, and because of the 6-inch clearance required by the Commonwealth of Virginia, it is impossible to install a canopy on the above-mentioned scoops.

increased height of the face and haul-

(b) Because of low seam height, the age equipment will increase the likelihood that the canopy equipped machines will be jammed against the roof. The hazards from roof contact are increased because, in Petitioner's mine, the seam height varies and there are dips, rolls and other seam variations, all of which will increase the danger that the equipment will be lodged against the roof.

(c) Another hazard which will result from installation of canopies on Petitioner's equipment is that, because of the increased equipment height, roof bolts will be dislodged or sheared off during operation of such equipment, thereby creating a greater risk of roof falls and injuries to employees than would exist otherwise. Use of canopied equipment will seriously impair the roof control plan in effect at Petitioner's mine.

(d) The installation of canopies will reduce the operator's vision. Furthermore, the experience of other employees in the use of canopied equipment is that the operator has a tendency to "lean" outside the canopy. This exposes him to the hazard of brushing against roof supports and coal ribs. The design of canopies in coal seams of low height will inevitably require that the operator lean out of the canopy in order to see.

(e) The canopy requires the operator to work in a cramped and awkward position. If the canopy is to extend not only over the operator but also over the controls of the machinery, then the vision of the operator is reduced to a great extent, again creating a hazard more dangerous to miners than the danger sought to be eliminated by installation of canopies.

(f) In the event of a roof fall or fire, the operators' chance of escaping from a canopied machine would generally be less than if there were no canopy.

(g) The Federal Coal Mine Health and Safety Act of 1969 recognizes that the installation of canopies will promote safety only in low seams of coal .

[1] The attached plats are available for inspection at the address listed in the last paragraph of this petition.

6. It is noted that the Act contemplates the use of canopies only where the height of the coalbed is such that installation of canopies will increase the safety of the equipment operators. The language of the Act shows that Congress realized that the height of the seam determines whether use of canopies promotes or reduces safety. Congress did not intend that installation of canopies be an inflexible and invariable requirement, but only that canopies be utilized where the height of the seam is such that their use promotes rather than diminishes safety. The regulation which Petitioner seeks to modify fails to give effect to the Congressional intent that canopies not be required in low coal seams, but modified this intent by requiring canopied equipment in all mines, regardless of seam height. The modification of the mandatory safety standard sought by Petitioner will give effect to Congressional intent that canopied equipment be used only if it promotes safety.

7. It will be observed that both Act and the regulation state that the purpose of installation of canopies is to protect the operator of canopied equipment "from roof falls and from rib and face rolls." The issuance of federal regulations prescribing safety measures normally creates in affected personnel belief that compliance promotes their personal safety. It would be unfortunate for operators of canopied equipment to be induced to believe that the installation of canopies will promote their personal safety, when, in fact, the personal safety of the equipment operator in low coal seams will thereby be reduced. A low coal seam would include coal of the height in which the Petitioner operates the mine included in this proceeding. Furthermore, the Virginia Regulations require that canopies be "beveled" in the direction of travel to lessen the likelihood of dislodging or loosening roof bolts. The effect is that a metal visor is required which slopes downward in the direction of travel, thereby further reducing the operator's vision.

8. Therefore, the Petitioner requests that the standard set forth in 30 CFR 75.1710–1 be modified so that the Petitioner will not be required to install canopies on the following equipment: (1) S&S scoop, (2) Elkhorn scoop, and (3) 100M S&S battery motor, since the installation of canopies would diminish the safety of the operators of the equipment and because of the fact that this equipment is continuously used in the haulage of men and supplies in and out of the coal mine. Any increase in safety resulting from such installation will be less than the new hazards created by such installation. Therefore, compliance with the mandatory safety standards here under consideration does not result in increased safety, but in its reduction.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments by December 15, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

NOVEMBER 8, 1977.

[FR Doc.77-32988 Filed 11-14-77;8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Office of the Attorney General

ACTION TO ENJOIN DISCHARGE OF WATER POLLUTANTS

Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 10029, notice is hereby given that on or about November 7, 1977, a proposed consent decree in *United States* v. *The Bemis Co. (Claremont Mill)*, was lodged with the District Court for the District of New Hampshire. The proposed decree would require the payment of a civil penalty and the tie-in of the Claremont Mill to the Claremont, N.H. municipal treatment plant.

The Department of Justice will receive for 30 days from the date of publication of this notice written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *The Bemis Co. (Claremont Mill)*, D.J. Ref. 90-5-1-1-682.

The proposed consent decree may be examined at the office of the United States Attorney, Federal Building, Concord, N.H. 03301, at the Region I Office of the Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Mass. 02203, and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, room 2625, Department of Justice, Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Assistant Attorney General,
Land and Natural Resources Division.

[FR Doc.77-32937 Filed 11-14-77;8:45 am]

[4410-01]

Antitrust Division

UNITED STATES v. FEDERATED DEPARTMENT STORES, INC., d/b/a I. MAGNIN & CO., AND SAKS & COMPANY, d/b/a SAKS FIFTH AVENUE

Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(b)-(h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Northern District of California in Civil No. 76-858 RHS, *United States* v. *Federated Department Stores, Inc., d/b/a I. Magnin & Co., and Saks & Company, d/b/a Saks Fifth Avenue.* The complaint in this case alleges that the defendant retail stores conspired to fix, raise, maintain and stabilize the price of women's clothing in Northern California in violation of Section 1 of the Sherman Act.

The proposed judgment prohibits the I. Magnin & Co. division of defendant Federated Department Stores, Inc. from having any agreement or understanding to fix prices or markups for women's clothing. It also enjoins I. Magnin & Co. from communicating to or receiving from another retailer retail price or markup information. The judgment further forbids I. Magnin & Co. from communicating to any third person another retailer's intention not to adhere to a manufacturer's suggested or other retail price or markup for women's clothing. Saks & Company is being dismissed from the civil case with the agreement of the government because it had earlier agreed to a judgment in a government civil case filed in the Southern District of New York, *United States* v. *Saks & Company, et al.*, Civil Action No. 74-4391, which provides substantially the same relief as provided in the proposed consent judgment.

Public comment is invited on or before January 9, 1978. These comments and the Department of Justice's responses thereto will be published in the FEDERAL REGISTER and filed with the court. Comments should be directed to Anthony E. Desmond, Chief, San Francisco Field Office, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, Calif. 94102.

Dated: November 7, 1977.

CHARLES F. B. MCALEER,
Assistant Chief, Judgments and Judgments Enforcement Section.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff v. *Federated Department Stores, Inc., d/b/a I. Magnin & Co.; and Saks & Company, d/b/a Saks Fifth Avenue*, Defendants.

Civil No. 76-858 RHS.

Filed: November 3, 1977.

STIPULATION

It is stipulated by and between the undersigned parties, plaintiff United States of America, and defendant Federated Department Stores, Inc., doing business as I. Magnin & Co., by their respective attorneys, that:

1. The parties consent that a final judgment in the form hereto attached may be filed and entered by the Court upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16) and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent which it may do

at any time before the entry of the proposed final judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff and defendant in this or any other proceeding.

Dated: November 3, 1977.

John H. Shenefield, *Assistant Attorney General;* William E. Swope, Charles F. B. McAleer, Anthony E. Desmond, David W. Raub, Glenda R. Jermanovich, Elizabeth B. Wurzburg, *Attorneys, Department of Justice.*

For the defendant,
Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036, 202-872-6750; by Jerome I. Chapman, *Attorney for Defendant.*

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff v. *Federated Department Stores, Inc., d/b/a I. Magnin & Co.; and Saks & Company, d/b/a Saks Fifth Avenue*, Defendants.

Civil No. 76-858 RHS.
Filed: November 3, 1977.

ENTERED

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on April 28, 1976, and Defendant Federated Department Stores, Inc., doing business as I. Magnin & Co., having appeared by its attorneys, and the Plaintiff and the Defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or an admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and upon the consent of the parties hereto, it is hereby *ordered, adjudged* and *decreed* as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a claim upon which relief may be granted against the Defendant under Section I of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "Person" means any individual, corporation, partnership, firm, association, or other business or legal entity.

(B) "Women's clothing" means dresses, suits, coats, separates, sportswear, and other items of outerwear intended to be worn by women, but excluding shoes, furs, millinery, and accessories.

(C) "Markup" means the difference between the cost price of an item and its retail price.

(D) "Operation" means a division or component portion of Federated Department Stores, Inc. which sells women's clothing at retail.

III

The provisions of this Final Judgment shall apply solely:

(A) To each of the following operations of Defendant:

(1) The I. Magnin & Co. division of the Defendant; or

(2) Any operation of the Defendant in any form (including but not limited to subsidiary, branch or division) which shall at any time succeed to the business of the I. Magnin & Co. division, whether by transfer of stock or assets, reorganization or otherwise; and

(3) Any operation of the Defendant which engages in the business of selling women's clothing under a trade name incorporating the words "I. Magnin" or any variation thereof.

(B) To each officer, director, agent, employee, subsidiary, successor, or assign of each operation specified in Part III(A) above;

(C) To all other persons in active concert or participation with any of those specified in Part III(A) or III(B) above who receive actual notice of this Final Judgment by personal service or otherwise.

IV

The Defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets used in any operation specified in Part III(A) above, that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the Court, and serve upon the Plaintiff, its consent to be bound by this Final Judgment.

V

(A) The Defendant is enjoined and restrained from entering into, adhering to, maintaining, furthering, or enforcing, directly or indirectly, any agreement, understanding, plan, or program with any other person to raise, fix, stabilize, or maintain prices, markups, or other terms or conditions at which women's clothing is offered for sale at retail.

(B) The Defendant is enjoined and restrained from acting, either unilaterally or in concert with any other person, directly or indirectly, to induce, coerce, or attempt to influence any other retailer to adhere to any manufacturer's suggested or other retail prices or markups for any women's clothing offered for sale at retail.

VI

(A) The Defendant is enjoined and restrained from communicating directly or indirectly to any other retailer of women's clothing information concerning:

(1) The actual or proposed prices, price changes, markups, or markup changes of any women's clothing Defendant offers or proposes to offer for sale at retail;

(2) The actual or proposed prices, price changes, markups, or markup changes of any women's clothing offered or proposed to be offered for sale at retail by any person other than the Defendant;

(3) Any third person's refusal to adhere to or intention not to adhere to any manufacturer's suggested or other retail prices or markups for any women's clothing offered or proposed to be offered for sale at retail;

(4) Any third person's refusal to change or intention not to change its prices or markups for any women's clothing offered or proposed to be offered for sale at retail.

(B) The Defendant is enjoined and restrained from:

(1) Soliciting or accepting from any person any list of actual or proposed prices or markups pertaining to any women's clothing where the Defendant knows or has reason to believe that the list was promulgated by any retailer other than the Defendant;

(2) Offering to any person any list of actual or proposed prices or markups pertaining to any women's clothing for the purpose of dissemination to any retailer other than Defendant.

(C) Any written list of actual or proposed prices or markups pertaining to women's clothing which is promulagted and offered to any manufacturer of women's clothing by any operation specified in Part III(A) above shall contain the following legend at the top of each page thereof: "Confidential—Not for distribution to any retailer outside of Federated Department Stores, Inc."

(D) Nothing in this Final Judgment shall apply to any communiactions from the Defendant to the general public concerning prices or markups, nor, except as provided in Part VII below, to any communications or transactions concerning prices, markups, or any other subject solely between or among any employees of Federated Department Stores, Inc.

VII

The Defendant is ordered and directed to:

(A) Distribute a copy of this Final Judgment to each of its Directors and, for a period of ten (10) years from the date of entry of this Final Judgment, take affirmative steps (including, but not limited to, distribution of this Final Judgment, written directives setting forth corporate compliance policies and meetings to review the terms and obligations of this Judgment) to advise each of its officers, merchandise managers, buyers, assistant buyers, store managers, and other employees having managerial or supervisory responsibility for the purchasing or pricing of women's clothing offered for sale at retail (i) by any operation specified in Part III(A) above and (ii) by the Bullock's Northern California division of the Defendant or any operation that succeeds to the business thereof, of their obligations under this Final Judgment and of the criminal penalties for engaging in conduct prohibited in Parts V and VI of this Final Judgment.

(B) Within sixty (60) days after receipt from the attorney for the Plaintiff, following the entry of this Final Judgment, of a written listing of the names and mailing addresses of persons offering women's clothing for sale at retail in Northern California, distribute a conformed copy of this Final Judgment to each person so listed.

(C) For a period of ten (10) years from the date of entry of this Final Judgment, on each anniversary date thereof, file with this Court and mail to the Plaintiff an affidavit of the person responsible for the performance of the Defendant's obligations under Subsection (A) of this Part VII setting forth all steps that Defendant has taken during the preceding year to discharge such obligations.

(D) Within ninety (90) days after receipt of the written listing provided for in Subsection (B) of this Part VII, file with this Court and mail to the Plaintiff an affidavit setting forth the manner of compliance with that Subsection.

VIII

(A) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, the Defendant shall permit duly authorized representatives of the Department of Justice, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendant at its principal office, subject to any legally recognized privilege:

(1) Access, during the regular business hours of Defendant, who may have counsel present, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the Defendant which relate to any matters contained in this Final Judgment;

(2) Subject to the reasonable convenience of the Defendant, and without restraint or

interference from it, to interview any officers or employees of Defendant, who may have counsel present, regarding any matters contained in this Final Judgment.

(B) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, the Defendant shall submit such reports in writing, under oath if so requested, with respect to any matters contained in this Final Judgment as may from time to time be requested in writing by the Attorney General or the Assistant Attorney General in charge of the Antitrust Division.

(C) No information obtained by the means provided in this Part VIII shall be divulged by a representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If at any time information or documents are furnished by Defendant to Plaintiff, and Defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by Plaintiff to Defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the Defendant is not a party.

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction of or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

X

Entry of this Final Judgment is in the public interest.

Dated:

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Federated Department Stores, Inc., d.b.a. I. Magnin & Co., and Saks & Co., d.b.a. Saks Fifth Avenue*, Defendants.

Civil No. 76-858 RHS.

Filed: November 3, 1977.

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16 (b)), the United States hereby submits this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

NATURE AND PURPOSE OF THE PROCEEDING

On April 28, 1976, a federal grand jury returned a single count indictment charging Federated Department Stores, Inc. and Saks & Co. with conspiring to raise, fix, maintain, and stabilize prices charged by defendants for women's clothing in Northern California in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). Each of the defendants pleaded nolo contendere and was fined $50,000. On the same day the indictment was returned, the Department of Justice also filed a civil complaint against the same two defendants under Section 4 of the Sherman Act (15 U.S.C. § 4) seeking to enjoin future conduct of the type resulting in the above-mentioned indictment.

Entry by the Court of this proposed consent decree applicable to defendant Federated, together with entry of an order dismissing defendant Saks, discussed in Section IV below, will terminate this action. The Court will retain jurisdiction over this matter for such further proceedings as may be required to interpret, modify or enforce the proposed judgment, or to punish violations thereof.

II

DESCRIPTION OF PRACTICES INVOLVED IN THE ALLEGED VIOLATION

The defendants engage in the sale of women's clothing to retail customers in the Northern California area. At trial in this case, the Government would have contended that, beginning as early as 1963 and continuing as late as April 1974, the defendants held meetings and telephone conversations between them to discuss prospective markups and retail prices for the sale of women's clothing to their customers, exchanged markup charts to be used by each of them in establishing their retail prices for women's clothing, and adhered to the agreed-upon markups and retail prices. The defendants also disseminated copies of the agreed-upon markup charts to other women's clothing retailers in Northern California.

Total sales of women's clothing by defendants in Northern California in 1973 approximated $35 million. In its complaint, the Government contended: (1) that the defendants' activities fixed and stabilized the prices of women's clothing at artificial, non-competitive levels; (2) that customers of defendants were deprived of free and open competition in the sales of women's clothing; and (3) that competition among defendants in the sales of women's clothing was restrained.

III

EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The United States and defendant Federated have agreed in a stipulation that the consent judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The consent judgment provides that there has been no admission by either party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of this judgment is conditioned upon a determination by the Court that the proposed judgment is in the public interest.

A. PROHIBITED CONDUCT

The proposed consent judgment prohibits the anticompetitive practices alleged in the complaint. The prohibitory sections of the judgment apply only to the I. Magnin operations of Federated and to any successor to the actual I. Magnin business, whether in its present form as a division of Federated or in any other form of organization.

The defendant is perpetually enjoined from entering into any form of agreement with any other person to raise, fix, stabilize, or maintain prices or markups or other terms or conditions at which women's clothing is offered for retail sale. The defendant is also prohibited from acting, either unilaterally or in concert with anyone else, to influence or attempt to influence any other retailer to adhere to any manufacturer's suggested or other retail price or markup for women's clothing.

The terms of paragraph VI A of the judgment further forbid defendant from communicating to any other retailer of women's clothing information concerning prices, price changes, markups, or markup changes of any women's clothing offered for retail sale by defendant or by any other person. The defendant may not communicate to any other retailer about any third person's refusal to adhere to any manufacturer's suggested or other retail price or markup for women's clothing or any third person's refusal to change or intention not to change his prices or markups for women's clothing to be sold at retail.

The consent judgment further prohibits the defendant from soliciting or accepting from any person any list of actual or proposed prices or markups pertaining to women's clothing where the defendant knows or has reason to believe that the list was promulgated by any retailer other than defendant. Defendant may not offer to any other person any list of actual or proposed prices or markups for women's clothing for the purpose of dissemination to any retailer other than defendant.

Should the defendant offer a list of actual or proposed prices or markups to any manufacturer of women's clothing, such list must contain a statement on the top of each page reading, "Confidential—not for distribution to any retailer outside of Federated Department Stores, Inc."

The consent decree does not prohibit communication from the defendant to the general public concerning prices or markups nor does it prevent any communication or transactions concerning prices, markups, or any other subject solely between employees at Federated Department Stores, Inc. Therefore, employees of the various divisions within Federated, such as I. Magnin, Bullock's, etc., would not be prohibited from discussing prices or markups with each other.

B. THE MANDATORY PROVISIONS

The defendant is ordered by the consent judgment to distribute a copy of the final judgment to each of its directors, and for ten years from the date of the entry of the judgment, to take affirmative steps to advise each of the officers and various other employees with managerial or supervisory responsibility in connection with women's clothing of their obligations under the final judgment and the criminal penalties for engaging in the prohibited conduct. This compliance program requirement applies to the Bullock's Northern California division of the defendant as well as its I. Magnin & Co. division.

The Government will send to the defendant a written list of the names and mailing addresses of persons offering women's clothing for sale at retail in Northern California. Defendant is required by the consent judgment within 60 days of receipt of that list to distribute a conformed copy of the final judgment to each person named thereon.

Defendant must file with the Court, each year for ten years, an affidavit by the persons responsibe for the performance of defendant's compliance obligations setting forth all steps the defendant has taken during the preceding year to discharge such obligations.

Within 90 days after receipt of the list prepared by the Government, defendant must file with the Court and mail to the Government an affidavit setting forth the manner of compliance with the section requiring sending copies of the final judgment to all retailers listed by the Government.

IV

ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT

Saks & Co. is being dismissed as a defendant from this case with the agreement of the Government. During the pendency of this litigation, the Government obtained a consent judgment against several women's clothing retailers, including Saks & Co., in a case previously filed in the Southern District of New York, *United States* v. *Saks & Co., et al.*, Civil No. 74–4391. The New York complaint alleged a broader range of illegal activities than does the present complaint. The New York judgment enjoins a range of conduct broader in scope than any injunction likely to result from the present action. Because of the nationwide applicability of the New York judgment, repetition by Saks of the type of conduct alleged in this Northern California action would be punishable by contempt proceedings in the Southern District of New York. Therefore, inclusion of Saks in a judgment in this action would be redundant. One requirement which is present in the instant judgment, and not present in the New York judgment, is the mandatory mailing of copies of this judgment to other retailers. Since Federated will be required to mail such copies, the educational purpose intended by that term of the judgment will be served without the presence of Saks as a party to the judgment.

The Government considered the possibility of including Bullock's Northern California in every term of the proposed consent judgment. The evidence on the participation of Bullock's North in the conspiracy was limited to the use of a markup list which was the product of agreement between I. Magnin personnel and Saks. However, defendant Federated claimed that the agreed-upon markup chart was used at Bullock's Northern California only for purposes of compliance with Federal price control regulations and that personnel at Bullock's Northern California were unaware of the circumstances surrounding the development of that markup chart. The Government believes that the evidence of participation by persons at Bullock's Northern California in the conspiracy is inconclusive, and thus, even following a general verdict at trial in the Government's favor, the Court might not be willing to include Bullock's Northern California in its final judgment. The issue was resolved by compromise; Bullock's North is subject to the educational provisions of Section VII of the proposed judgment but not to the prohibited conduct Sections IV, V, and VI.

The Government also considered the possibility of a full trial on the merits as an alternative to the proposed consent judgment. A trial would involve substantial expense as well as a commitment of staff, which otherwise could be devoted to other enforcement activities. Injunctive relief would be delayed and there is not a strong possibility that, after a trial on the merits, the Government could obtain more stringent relief than that proposed here.

V

REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiff who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal or equitable remedies that they would have had were the proposed consent judgment not entered. However, pursuant to Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), this judgment may not be used as *prima facie* evidence in private litigation.

VI

PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

The proposed consent judgment is subject to a stipulation by and between the United States and the consenting defendant which provides that the United States may withdraw its consent to the proposed judgment at any time until the Court has found that entry of the proposed judgment is in the public interest. By its terms, the proposed consent judgment provides for the Court's retention of jurisdiction of this action in order, among other reasons, to permit either of the parties thereto apply to the Court for such orders as may be necessary or appropriate for the modification of the Final Judgment.

As provided by Section 2(b) of the Antitrust Procedures and Penalties Act, any persons wishing to comment on the proposed consent judgment may, for the sixty (60) day period prior to the effective date of the Judgment, submit written comments to:

Anthony E. Desmond, Chief, San Francisco Field Office, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, Calif. 94102.

The comments, and the responses thereto, will be filed with the Court and published in the FEDERAL REGISTER. The Department of Justice will evaluate all such comments and determine whether there is any reason for withdrawal of its consent to the judgment.

VII

DETERMINATIVE DOCUMENTS

Since there are no materials or documents which were determinative in formulating a proposal for the consent judgment, none are being filed by the plaintiff pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act.

DAVID W. RAUB,
GLENDA R. JERMANOVICH,
Attorneys, Department of Justice.

[FR Doc.77–32940 Filed 11–14–77;8:45 am]

[4510–28]

DEPARTMENT OF LABOR

Office of the Secretary

[TA–W–2090]

AILEEN, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–2090: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 24, 1977 in response to a worker petition received on May 23, 1977 which was filed on behalf of workers and former workers producing ladies' and girls' knitwear at Aileen, Inc.'s McKenney, Va. Sewing Plant. During the course of the investigation, it was determined that Aileen, Inc. produces women's, misses' and children's sportswear, which includes blouses and shirts, slacks, sweaters and skirts.

The notice of investigation was published in the FEDERAL REGISTER on June 3, 1977 (42 FR 28633). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Aileen, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commisssion, the American Textile Manfacturers Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average total company employment of hourly workers (maintenance, clerical and production) declined 3 percent from 1974 to 1975 and declined 11 percent from 1975 to 1976. Average employment declined 28 percent in the five month period from January through May 1977 compared to the same period in 1976.

The average number of workers at the McKenney Sewing plant increased 10 percent from 1974 to 1975 and then declined 3 percent from 1975 to 1976. Employment declined 19 percent in the four month period from January through April 1977, compared to the same period in 1976. Most workers were laid off by April 30, 1977, when the plant closed.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Aileen operates on a fiscal year ending October 31. Company sales (in

value) increased 5 percent from FY 1974 to FY 1975 and then declined 8 percent from FY 1975 to FY 1976. Sales declined 22 percent in the six month period ending April 1977 compared to the same period ending April 1976.

Total company production (in quantity) for all plants combined increased 2 percent from FY 1974 to FY 1975 and then declined 10 percent from FY 1975 to FY 1976. Production declined 30 percent in the six month period ending April 1977 compared to the same period ending April 1976.

The McKenney Sewing plant closed on April 30, 1977.

INCREASED IMPORTS

Imports of women's, misses, and children's blouses and shirts in absolute terms, increased in each year from 1972 through 1976. Imports increased 16 percent from 1975 to 1976 and decreased 14 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 70.4 percent and 41.3 percent, respectively, in 1975 to 76.0 percent and 43.2 percent, respectively in 1976.

Imports of women's, misses' and children's slacks and shorts decreased in absolute terms, from 1972 to 1973, and from 1973 to 1974 and increased from 1974 to 1975. Imports increased 10 percent from 1975 to 1976 and decreased 4 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 33.0 percent and 24.8 percent, respectively, in 1975 to 39.0 and 28.0 percent, respectively, in 1976.

Imports of women's, misses' and children's sweaters decreased in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and from 1974 to 1975. Imports increased 7 percent from 1975 to 1976 and decreased 33 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 115.1 percent and 53.5 percent, respectively, in 1975 to 122.3 and 55.0 percent, respectively, in 1976.

Imports of women's, misses' and children's skirts decreased in absolute terms from 1972 to 1973 and from 1973 to 1974, and increased from 1974 to 1975. Imports increased 54 percent from 1975 to 1976 and decreased 61 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 10.6 percent and 9.6 percent, respectively, in 1975 to to 12.2 percent and 10.9 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

Aileen, Inc. experienced declining sales in 1976 and 1977. Decisions were made to close three of the Virginia plants and and the Victoria Cutting, McKenney Sewing, and Altavista Sewing plants were closed in April and May 1977. Original plans to close the South Hill Sewing plant were discarded, in anticipation of growth in years ahead. Consolidation and domestic transfers occurred, while the plant closures resulted in a significant reduction in company wide employment.

Customers who decreased purchases from Aileen indicated that they increased purchases of women's and children's sportswear from imported sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's and children's sportswear produced at Aileen, Inc. contributed importantly to the decline in sales or production and to the total or partial separations of the workers at the McKenney, Va. Sewing plant of Aileen, Inc. In accordance with the provisions of the Act, I make the following certification:

All workers at Aileen, Inc., McKenney, Va. Sewing plant who became totally or partially separated from employment on or after May 18, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-33019 Filed 11-14-77;8:45 am]

[4510-28]

[TA-W-2065]

LORI COAT CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2065: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 11, 1977, in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing girls' overcoats at the Lori Coat Co., Philadelphia, Pa.

The notice of Investigation was published in the FEDERAL REGISTER on May 24, 1977 (42 FR 26481). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Lori Coat Co., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or producion.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers at the Lori Coat Co. decreased 23 percent from 1974 to 1975 and remained unchanged from 1975 to 1976. Plant employment increased steadily from the fourth quarter of 1975 through the third quarter of 1976 and decreased after that. In January–May 1977 employment was 58 percent lower than in January–May 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Dollar sales of girls' overcoats produced by the Lori Coat Co. declined 14 percent from 1974 to 1975 and increased three percent from 1975 to 1976. Sales rose steadily from the first through the third quarters of 1976 and declined after that. In January–May 1977 dollar sales were 50 percent lower than in January–May 1976.

INCREASED IMPORTS

Imports of girls' overcoats, like those produced at Lori Coat, are included in the basket category for women's, misses' and children's coats and jackets. Industry analysts, however, are unable to separate the specific import data on girls' overcoats from the aggregate import data for the entire category.

Imports of women's, misses' and children's coats and jackets made of textile materials increased from 1972 to 1973, declined from 1973 to 1974, and rose annually from 1974 through 1976. Imports increased from 1,517 thousand dozen in 1975 to 2,252 thousand dozen in 1976 and rose from 506 thousand dozen in the first quarter of 1976 to 590 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production rose from 35.4 percent in 1975 to 52.2 percent in 1976.

CONTRIBUTED IMPORTANTLY

The Lori Coat Co. is an independent apparel contractor, producing girls' overcoats on a commissioned basis for cloth-

ing jobbers. A survey of Lori Coat's customers indicated that customer sales of girls' coats had been adversely affected by lower-priced imported coats. Import competition caused one of Lori Coat's major customers temporarily to go out of business in the fourth quarter of 1976. The resulting loss of contract work from this customer caused sales and employment at Lori Coat to decline in the last quarter of 1976 and in the first five months of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the girls' overcoats produced at Lori Coat Co., Philadelphia, Pa. contributed importantly to the decline in sales and to the total or partial separations of workers at such plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at the Lori Coat Co., Philadelphia, Pa., who became totally or partially separated from employment on or after September 18, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of October 1977.

HERBERT N. BLACKMAN,
Deputy Under Secretary for International Affairs.

[FR Doc.77-33020 Filed 11-14-77;8:45 am]

[4510-28]

MALLEABLE CAST-IRON PIPE AND TUBE FITTINGS

Investigation Report; Import Relief Provisions

On September 29, 1977, the International Trade Commission determined that increased imports of "Malleable Cast-Iron Pipe and Tube Fittings" are not a substantial cause of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (42 FR 54471).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. Th purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on "Malleable Cast-Iron Pipe and Tube Fittings." The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has received five petitions for certification of eligibility to apply for adjustment assistance from workers engaged in the manufacture of malleable cast-iron pipe and tube fittings. A positive determination was made in two cases, a negative decision in two cases, and the fifth case was terminated since the workers were covered by one of the two certified cases.

2. The survey of the domestic manufacturers of malleable cast-iron pipe and tube fittings revealed that industry employment has remained relatively stable since 1975, and has actually increased in the first half of 1977. Continued improvement in employment in this industry is expected during the remainder of 1977.

3. As of June 1977, unemployment rates in the counties having plants involved in the manufacture of malleable cast-iron pipe and tube fittings are all below the nationally unadjusted unemployment rate of 7.0 percent. Should any workers be laid off reemployment prospects appear favorable.

4. The Comprehensive Employment and Training Act (CETA) program may not be able to meet the needs of any displaced workers as, on balance, the actual levels of enrollment exceed the projected levels in several of the affected counties. However, the Employment and Training Administration through the State Employment Services has the authority to purchase additional training when CETA funds are not available.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, phone 202-523-7665.

Signed at Washington, D.C. this 9th day of November 1977.

HOWARD D. SAMUEL,
Deputy Under Secretary International Affairs.

[FR Doc.77-33018 Filed 11-14-77;8:45 am]

[4510-28]

[TA-W-2127]

TRAM/DIAMOND CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2127: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 7, 1977 in response to a worker petition received on June 6, 1977 which was filed on behalf of workers and former workers producing citizens band radios (base station units) at Tram/Diamond Corp., Winnisquam, N.H. The petition was expanded to include workers at Tram/Diamond Corp., Laconia, N.H., who were engaged in employment related to the production of base station units.

The Notice of Investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 38936). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tram/Diamond Corp., its customers, the Electronics Industries Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Workers at Tram/Diamond's New Hampshire plants (Winnisquam and Laconia) were not separately identifiable.

The average number of workers increased 117 percent from 1975 to 1976 and increased 66 percent in the first half of 1977 compared to the same period in 1976. Employment declined 4 percent in the first quarter of 1977 and 10 percent in the second quarter of 1977, compared to the respective previous quarters. A major layoff occurred in June 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total company sales of CB base station units at Tram/Diamond increased 138 percent, in value, from 1975 to 1976.

Production of base station units at the Winnisquam, N.H. plant declined 22 percent from January to February 1977, increased 10 percent from February to March 1977, declined 5 percent from March to April 1977, declined 9 percent from April to May 1977 and declined 10 percent from May to June 1977. The number of CB base station units produced was 33 percent lower in the month of June 1977 compared to the month of January 1977.

INCREASED IMPORTS

Imports of CB base station units increased in absolute terms, in each year from 1972 through 1976. Imports increased 99 percent from 1975 to 1976 and declined 6 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 331.7 percent and 16.8 percent, respectively, in 1975 to 615.5 percent and 86.0 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

In January 1977, Tram/Diamond began operations in Mexico to produce CB base station units. Additional capacity, above that provided by the Winnisquam plant, was needed. While production began to decline slightly in Winnisquam after January, production increases were occurring in Mexico.

Production of base station units at the Mexico plant increased 208 percent from January to February 1977, increased 70 percent from February to March 1977, increased 33 percent from March to April 1977, increased 32 percent from April to May 1977 and declined 69 percent from May to June 1977.

In the first half of 1977, 34 percent of the base station units being produced by Tram/Diamond were being produced in Mexico. In the month of May 1977, Mexican production actually surpassed Winnisquam production; the number of base stations produced in Mexico during that month was 12 percent higher than the number produced at Winnisquam.

Customers of Tram/Diamond who were survey indicated that their orders for the D-201 base station units were increasingly supplied from Tram/Diamond's Mexican plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with CB base station units produced at Tram/Diamond Corp. contributed importantly to the total or partial separations of the workers at Tram/Diamond Corp., Winnisquam and Laconia, N.H. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of CB base station units at Tram/Diamond Corp., Winnisquam and Laconia, N.H. plants who became totally or partially separated from employment on or after January 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of September 1977.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc.77-33021 Filed 11-14-77;8:45 am]

[4510-28]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 25, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 25, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 1st day of November 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Alliance Weaving (workers)	New Bedford, Mass.	Oct. 27, 1977	Oct. 21, 1977	TA-W-2,544	Weaving unfinished synethetic gray goods.
Bauer Canadian Skate, Inc. (workers)	Bangor, Maine	do	do	TA-W-2,545	Hockey and figure skates and vulcanized field boots.
Cranwood Trucking Co., Inc. (Truck Drivers Local Union).	Cleveland, Ohio	do	Oct. 11, 1977	TA-W-2,546	Trucking of coke from Bethlehem Steel Corp., Lackawanna, N.Y., to Mid Continental Coal & Coke, Inc.
Lesnow Manufacturing Co., Inc. (ACTWU)	Easthampton, Mass.	do	Oct. 20, 1977	TA-W-2,547	Men's clothing.
Public Shirt Corp. (ACTWU)	Hazelton, Pa.	Oct. 20, 1977	Oct. 12, 1977	TA-W-2,548	Men's shirts.
Do.	Myerstown, Pa.	do	do	TA-W-2,549	Do.
Wesley Textile Co. (workers)	New Bedford, Mass.	do	Oct. 21, 1977	TA-W-2,550	Woven gray goods.
Wide Awake Shirt Co. (ACTWU)	Reading, Pa.	do	Oct. 12, 1977	TA-W-2,551	Men's shirts.
Do.	Pottstown, Pa.	do	do	TA-W-2,552	Do.

[FR Doc.77-32785 Filed 11-14-77; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of

Trade Adjustment Assistance, at the address shown below, not later than November 25, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 25, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 31st day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Belzinger Industries (workers)	Taunton, Mass	Oct. 27, 1977	Oct. 25, 1977	TA-W-2,524	Rubber soles and rubber heels.
Bethlehem Steel Corp. (workers)	East Boston, Mass	Oct. 26, 1977	Oct. 21, 1977	TA-W-2,525	The repairing of ships.
Brown Shoe Co. (workers)	Steelville, Mo	Oct. 4, 1977	Sept. 26, 1977	TA-W-2,526	Counters and insoles for men, women and children's shoes.
Cheney Brothers, Inc. (workers)	Manchester, Conn	Oct. 19, 1977	Oct. 3, 1977	TA-W-2,527	Velvet cloth and upholstery fabrics.
Elm Shank & Heel Co. (workers)	Lynn, Mass	Oct. 25, 1977	Oct. 18, 1977	TA-W-2,528	Fiber and steel shoe shanks.
Fenton Shoe Co. (workers)	Cambridge, Mass	do	Oct. 19, 1977	TA-W-2,529	Women's shoes.
General Instrument Corp., F. W. Sickles Division (workers).	Chicopee, Mass	Oct. 26, 1977	do	TA-W-2,530	UHF and VHF tuners, deflection yokes and horizontal output flyback transformers.
Hanna Barbera Productions (IATSE)	Hollywood, Calif	Oct. 19, 1977	Oct. 10, 1977	TA-W-2,531	Animated cartoons.
Horton & Hubbard Manufacturing Co. (workers).	Nashua, N.H	Oct. 13, 1977	Oct. 3, 1977	TA-W-2,532	Stereo speaker cabinets.
Medalist of Sikeston (workers)	Sikeston, Mo	Oct. 25, 1977	Oct. 19, 1977	TA-W-2,533	Grass catchers, athletic equipment, and caps.
F/V Jennifer & Aaron (workers)	Provincetown, Mass	do	Oct. 20, 1977	TA-W-2,534	Catching and selling of fish.
Magnavox Corp., Selmer Division (UAW)	Elkhart, Ind	Oct. 26, 1977	Oct. 17, 1977	TA-W-2,535	Flutes and clarinets.
F/V Michael Ann (workers)	Provincetown, Mass	Oct. 25, 1977	Oct. 19, 1977	TA-W-2,536	Catching and selling of fish.
Moore Shank Co. (workers)	Lynn, Mass	do	Oct. 18, 1977	TA-W-2,537	Fiber and steel shoe shanks.
Pant Craft Co. (workers)	Boston, Mass	Oct. 11, 1977	Oct. 11, 1977	TA-W-2,538	Boys' pants and girls' slacks.
John Pomer (workers)	Wilkes Barre, Pa	Oct. 26, 1977	Oct. 24, 1977	TA-W-2,539	Men's apparel.
Riverside Mfg. Co. (workers)	New Bedford, Mass	do	Oct. 21, 1977	TA-W-2,540	Men's, women's, and young men's outerwear.
Sharon Tube Co. (USWA)	Sharon, Pa	Oct. 19, 1977	Sept. 23, 1977	TA-W-2,541	Carbon steel tubing and pipes.
U.S. Steel Corp., Youngstown McDonald Works (USWA).	Youngstown, Ohio	Oct. 20, 1977	Oct. 10, 1977	TA-W-2,542	All steel products.
Do	McDonald, Ohio	do	do	TA-W-2,543	Do.

[FR Doc.77-32786 Filed 11-14-77;8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90-13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 25, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 25, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
AMBAC Industries, Inc., Am. Bosch Division (International Union of Electrical, Radio, and Machine Workers).	Springfield, Mass	Oct. 25, 1977	Oct. 18, 1977	TA-W-2,511	Fuel injection pumps for diesel engines.
Bell & Howell Communications Co. (workers).	Burlington, Mass	do	do	TA-W-2,512	Communication equipment, surveillance equipment, and decoders.
Daisy Footwear, Inc. (workers)	Paterson, N.J	do	Oct. 12, 1977	TA-W-2,513	Canvas footwear.
Dictaphone Corp. (Dictaphone Employees Federal Labor Union).	Bridgeport, Conn	Oct. 26, 1977	Oct. 17, 1977	TA-W-2,514	Recording machines including all systems equipment belt dictating machine.
Dove Processing Co., Inc. (workers)	Hawthorne, N.J	Oct. 25, 1977	Oct. 20, 1977	TA-W-2,515	Textile printing on materials.
Emenee Manufacturing Corp. (ACTWU)	New York, N.Y	Oct. 14, 1977	Oct. 6, 1977	TA-W-2,516	Ladies' shirts and blouses.
Great Lakes Steel (United Steelworkers of America).	Ecorse, Mich	Oct. 25, 1977	Oct. 19, 1977	TA-W-2,517	Hot rolled, cold rolled, and plate steel.

APPENDIX—Continued

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Rani Merona Corp. (workers)	Lowell, Mass	Oct. 25, 1977	Oct. 20, 1977	TA-W-2,518	Sneakers.
Timex Corp. (workers)	Abilene, Tex	do	Oct. 19, 1977	TA-W-2,519	Assembly of watches.
U.S. Steel Corp., Electrical Cable Division, (United Steelworkers of America.)	Worcester, Mass	do	Oct. 21, 1977	TA-W-2,520	Electrical cables, oil well flats, SO cables, power feeder cables, resin extruded cables, X-ray cables, paper and lead cables.
F. M. Weaver Co. (United Steelworkers of America).	Lansdale, Pa	do	Oct. 1, 1977	TA-W-2-521	Fabricated structural steel.
Welded Tube Co. of America (United Electrical Radio and Machine Workers of America).	Philadelphia, Pa	do	Oct. 17, 1977	TA-W-2,522	Square and rectangular cold formed welded structural steel tubing.
Wells-Gardner Electronics Corp. (International Brotherhood of Electrical Workers).	Chicago, Ill	do	do	TA-W-2,523	Color and black and white T.V.'s and stereos.

[FR Doc.77-32787 Filed 11-14-77;8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix of this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 25, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 25, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 26th day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Anthracite Shirt Co. (ACTWU)	Shamokin, Pa	Oct. 14, 1977	Oct. 6, 1977	TA-W-2,504	Ladies' shirts and blouses.
Armco Steel Corp., Zanesville plant (Zanesville Armco Independent Organization, Inc.).	Zanesville, Ohio	Oct. 18, 1977	do	TA-W-2,505	Electrical sheet and strip steel (silicon).
Hilo Iron Works (ILWU)	Hilo, Hawaii	Oct. 7, 1977	Oct. 3, 1977	TA-W-2,506	Fabricating, welding and installing equipment for agricultural use for sugar plantations.
Isaacson Steel Co. (International Association of Bridge, Structural and Ornamental Iron Workers).	Seattle, Wash	Oct. 17, 1977	Oct. 13, 1977	TA-W-2,507	Steel fabrication.
Mallory Controls Co. (workers)	Frankfort, Ind	Oct. 18, 1977	Oct. 10, 1977	TA-W-2,508	Electronic components for T.V.'s and radios.
Union Carbide Corp., Linde Division (workers).	Struthers, Ohio	do	Oct. 14, 1977	TA-W-2,509	Oxygen for the steel making process.
West Point Pepperell, Mexia Mill (workers).	Mexia, Tex	do	do	TA-W-2,510	Woven cloth called Abrasive Drill.

[4510-28]

[TA-W-999T]

AMERICAN MOTORS CORP.

Investigation Regarding Termination of Certification of Eligibiliy To Apply for Worker Adjustment Assistance

Following a Department of Labor investigation under Section 222 of the Trade Act of 1974 ("the Act") and in accordance with Section 223 of the Act, on October 28, 1976 the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of the American Motors Corp., Kenosha, Wis. plant engaged in employment related to the assembly of American Motors subcompact, compact or intermediate size cars. The notice of certification was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48801).

Pursuant to Section 223(d) of the Act and 29 CFR 90.17(a), the Director of the Office of Trade Adjustment Assistance has instituted an investigation to determine whether the total or partial separations of the certified workers of the American Motors Corp. continue to be attributable to the conditions specified in Section 222 of the Act and 29 CFR 90.16(b).

Pursuant to 29 CFR 90.17(b) the group of workers or any other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated, provided, that such request or submission is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than 25 November 1977.

The record of the certification (TA-W-999T), containing non-confidential information is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd Street and Constitution Ave. NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 21st day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-32895 Filed 11-14-77;8:45 am]

[4510-26]

Occupational Safety and Health Administration

INTERAGENCY REGULATORY LIAISON GROUP—TESTING STANDARDS AND GUIDELINES WORK GROUP

Meeting

CROSS REFERENCE: For the text of a notice announcing a meeting of the Interagency Regulatory Liaison Group, Testing and Standards Guidelines Work Group, on December 14, 1977, see FR Doc. 77-33025, which appears under the Environmental Protection Agency in the Notices section of this issue. For the correct page number, refer to the listing for the Environmental Protection Agency in the table of contents at the beginning of this issue.

[7555-01]

NATIONAL SCIENCE FOUNDATION

NATIONAL MAGNET LABORATORY VISITING SUBCOMMITTEE OF THE ADVISORY COMMITTEE FOR MATERIALS RESEARCH

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: National Magnet Laboratory Visiting Subcommittee of the Advisory Committee for Materials Research.

Date and time: December 15, 1977—9 a.m. to 5 p.m.; December 16, 1977—9 a.m. to 5 p.m.

Place: Francis Bitter National Magnet Laboratory, Massachusetts Institute of Technology, 170 Albany Street, Cambridge, Mass.

Type of meeting: December 15, 1977—Open: 9 a.m. to 5 p.m.; December 16, 1977—Closed: 9 a.m. to 5 p.m.

Contact person: Dr. William Bernard, Staff Associate, Materials Research Laboratory Section, Room 408, National Science Foundation, Washington, D.C. 20550; telephone 202-632-7408.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: To provide the Foundation with specific guidance as to how the National Magnet Laboratory may best serve as a national facility responsive to the needs of the scientific community.

DECEMBER 15, 1977

Agenda:

Welcome—Vice President for Research, Massachusetts Institute of Technology.

The High Magnetic Field Facility—Director, National Magnet Laboratory (NML).

Atomic Spectra in High Fields—Staff Member, Bell Telephone Laboratories.

High Field Superconductivity—Associate Director, NML.

300 kOe Hybrid Magnets—NML Staff Member.

Synthetic Analogues of Active Sites of Fe-S Proteins—Professor, Standford University.

Electron-Hole Drops in High Magnetic Fields—NML Staff Member.

Phase Diagram in Isotropic Antiferromagnets—NML Staff Member.

Tour of Facilities—Director, NML.

Magneto-Quantum Oscillations in Layered Materials—Professor, University of Virginia.

Light Scattering in Magnetic Semiconductors—NML Staff Member.

Solid State Nuclear Magnetic Resonance—NML Staff Member.

Individual Visits with NML Staff.

DECEMBER 16, 1977

CLOSED SESSION (9 A.M. TO 5 P.M.)

EVALUATION OF THE MANAGEMENT, OPERATION, AND PROGRAMS OF THE NML

Reason for closing: The program being reviewed includes information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer, pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

NOVEMBER 10, 1977.

[FR Doc.77-33000 Filed 11-14-77;8:45 am]

[7555-01]

ADVISORY PANEL FOR THE DIVISION OF POLICY RESEARCH AND ANALYSIS

Meeting

Name: Advisory Panel for the Division of Policy Research and Analysis.

Date: December 2, 1977.

Time: 9:30 a.m. to 4 p.m.

Place: National Science Foundation, Room 338, 1800 G Street NW., Washington, D.C. 20550.

Type of Meeting: Open.

Contact person: Mrs. Agnes Rhodes, Administrative Officer, Division of Policy Research and Analysis, Directorate for Scientific, Technological and International Affairs, Room 1233, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550; telephone 202-632-5990. Anyone who plans to attend should contact Mrs. Rhodes by November 25, 1977.

Summary minutes: May be obtained from the Committee Management Staff, Management Analysis Office, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of advisory panel: The purpose of the Advisory Panel is to provide advice about the program emphases and directions of the Division of Policy Research and Analysis, as well as to review proposals to that Division or awards made by that Division.

Tentative agenda: (1) Introductory remarks by the Chairman. (2) Review of last meeting and description of subsequent events: organizational changes in STIA. (3) Presentation and discussion of results of PRA client survey. (4) Work assignments and agenda for next meeting.

M. REBECCA WINKLER,
Acting Committee Management Officer.

NOVEMBER 10, 1977.

[FR Doc.77-33001 Filed 11-14-77;8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR MATHEMATICAL AND COMPUTER SCIENCES SUBCOMMITTEE FOR COMPUTER 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: Advisory Committee for Mathematical and Computer Sciences, Subcommittee for Computer Science.

Dates: December 6 and 7, 1977.

Time: 9 a.m. each day.

Place: Rooms 321 and 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Part open, December 6, 9 a.m. to 3 p.m.; December 7, 9 a.m. to 5 p.m., open; December 6, 3 p.m. to 5 p.m., closed.

Contact person: Mr. Kent Curtis, Head, Computer Science Section; telephone: 202-632-7346. Anyone planning to attend this meeting should notify Mr. Curtis no later than December 2, 1977.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Computer Science.

TUESDAY, DECEMBER 6, ROOM 338

Agenda:

9 a.m.—Introductory Remarks.

9:30 a.m.—Briefing by Dr. John R. Pasta, Division Director, Mathematical and Computer Sciences.

10:30 a.m.—Briefing by Program Directors, Computer Science Section.

12:30 p.m.—Lunch.

1:30 p.m.—Briefing by Dr. James A. Krumhansl, Assistant Director for Mathematical and Physical Sciences, and Engineering.

2:30 p.m.—Open discussion.

3 p.m.—Review and evaluation of specific research proposals—Closed.

5 p.m.—Adjourn.

WEDNESDAY, DECEMBER 7, ROOM 321

9 a.m.—Briefing by Dr. Jerome H. Fregeau, Director, Office of Audit and Oversight.

10 a.m.—Issues of Interest to the Subcommittee for Computer Science.

12:30 p.m.—Lunch.

1:30 p.m.—Briefing by Dr. Jack R. Sanderson, Assistant Director for Research Applications.

2:30 p.m.—Open discussion.

5 p.m.—Adjourn.

Reason for closing: The proposals being reviewed includes information of a proprietary or confidential nature, including technical information, financial data such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer, pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

NOVEMBER 10, 1977.

[FR Doc.77-33002 Filed 11-14-77;8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR PHYSICS

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics.

Date: December 1, 2, and 3, 1977.

Time: 9 a.m. to 5 p.m. each day.

Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Open.

Contact person: Dr. Marcel Bardon, Division Director for Physics, Room 341, National Science Foundation; telephone: 202-632-4310. Persons planning to attend should notify Mrs. Phyllis Hurley on 202-632-4310.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in physics.

Agenda:

DECEMBER 1, 1977

In-depth review of the NSF Theoretical Physics Program from a national perspective, including presentations by NSF staff and by the Subcommittee to Review Theoretical Physics.

DECEMBER 2, 1977

Discussion of FY 1978 budget allocations, presentation of information items by Division of Materials Research.

DECEMBER 3, 1977

Topics in long range planning for physics, continuation of discussions from previous two days.

M. REBECCA WINKLER,
Acting Committee Management Officer.

NOVEMBER 10, 1977.

[FR Doc.77-33003 Filed 11-14-77;8:45 am]

[7555-01]

MATERIALS RESEARCH ADVISORY COMMITTEE, AD HOC SUBCOMMITTEE FOR OVERSIGHT OF THE POLYMERS PROGRAM

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Materials Research Advisory Committee, Ad Hoc Subcommittee for Oversight of the Polymers Program.

Date and time: December 12 and 13, 1977, 8:30 a.m. to 5 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street N.W., Washington, D.C. 20550.

Type of meeting: Part Open—Open, December 12, 8:30 a.m. to 10 a.m. Closed, December 12, 10 a.m. to 5 p.m.; December 13, 8:30 a.m. to 5 p.m.

Contact person: Dr. Ronald E. Kagarise, Division Director, Materials Research Division, Room 408, National Science Foundation, Washington, D.C. 20550; telephone 202-632-7412.

Purpose of subcommittee: Oversight of the Polymers Program.

Agenda: December 12, 1977, 8:30 a.m. to 10 a.m. (Open)—Presentations by NSF Staff on NSF Support of Polymer Science. General discussion of topics of concern to the Division of Materials Research including grant duration, possible needs of the scientific community, and the Division's budget for FY 1978. December 12, 1977, 10 a.m. to 5 p.m. and December 13, 1977, 8:30 a.m. to 5 p.m. (Closed)—Review of the peer review process, including grants, and declinations with all peer review documentation.

Reason for closing: This session will deal with a review of grants and declinations in which the term will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Authority to close meeting: This determination was made by the Director, NSF, on November 7, 1977, pursuant to provisions of Section 10(d) of Pub. L. 92-463.

M. REBECCA WINKLER,
Acting Committee Management Officer.

NOVEMBER 10, 1977.

[FR Doc.77-33004 Filed 11-14-77;8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups and of the full Committee, the following preliminary schedule is being published. This preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published in the FEDERAL REGISTER on October 20, 1977, page 55953. Those meetings which are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. Information as to whether a meeting has been firmly scheduled, cancelled or rescheduled, or whether changes have been made in the agenda for the December 8-10, 1977 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202-634-1374, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., EST.

SUBCOMMITTEE AND WORKING GROUP MEETINGS

**Transportation of Radioactive Materials*, November 16, 1977, Chicago, IL. The Working Group will review the October, 1977 Draft of NUREG-0170, "Final Environmental Statement on the Transportation of Radioactive Materials by Air and Other Modes." Notice of this meeting was published in the FEDERAL REGISTER on October 31, 1977, page 56970.

**Diablo Canyon Nuclear Station, Unit No. 1*, November 29-30, 1977, San Francisco, CA. Postponed Indefinitely.

**Fluid/Hydraulic Dynamic Effects*, November 30, 1977, San Francisco, CA. The Subcommittee will discuss the status of the Mark I, Mark II, and Mark III General Electric Containment Tests, and the effects of blowdown forces on reactor vessel supports. Notice of this meeting appears elsewhere in this issue.

**D. C. Cook Nuclear Plant, Unit No. 2*, December 3, 1977, St. Joseph, MI. The Subcommittee will review the application of the Indiana and Michigan Power Company for a permit to operate Unit No. 2.

**Working Group No. 2 of the Reactor Safety Research Subcommittee*, December 6, 1977, Washington, DC. The Working Group will continue the review of research and development programs which pertain to fuel behavior and materials and metallurgy. The emphasis of this meeting will be on those aspects concerning pressurized water reactors.

**Regulatory Activities*, December 7, 1977, Washington, DC. The Subcommittee will review working papers, future Regulatory Guides and changes to existing Regulatory Guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations.

**Reactor Safety Research*, December 7, 1977, Washington, DC. The Subcommittee will continue preparation of its report on the Reactor Safety Research Program.

Seismic Activity, December 15, 1977, Washington, DC. The Subcommittee will discuss, with representatives of the NRC Staff and their consultants, problems which have been identified in the use of Appendix A, 10 CFR 100, "Seismic and Geologic Siting Criteria for Nuclear Power Plants."

**Yellow Creek Nuclear Power Plant*, December 16, 1977, Corinth, MS. The Subcommittee will meet to review the application of the Tennessee Valley Authority for a permit to construct the Yellow Creek Nuclear Power Plant.

**Emergency Core Cooling Systems, (ECCS)*, December 19, 1977, Washington, DC. The Subcommittee will discuss Standard Problem No. 7 and a variety of other topics pertaining to the activities of the Subcommittee.

**Anticipated Transients Without Scram, (ATWS)*, December 20, 1977, Washington, DC. The Subcommittee is tentatively scheduled to meet to discuss various issues pertaining to anticipated transients during reactor operations that might take place without the occurrence of reactor scram.

**Environmental*, December 21, 1977, Washington, DC. Postponed to January 25–26, 1978, Washington, DC.

**Architect-Engineer Balance of Plant*, December 21, 1977, Washington, DC. The Subcommittee will review the Stone and Webster Standard Safety Analysis Report, SWESSAR–P1, as it relates to the Babcock and Wilcox Standard Nuclear Steam Supply System, BSAR–205.

**Reactor Fuel*, December 28, 1977, Washington, DC. Postponed Indefinitely.

**Edwin I. Hatch, Unit No. 2*, December 29, 1977, Washington, DC. Postponed Indefinitely.

**Regulatory Activities*, January 4, 1978, Washington, D.C. The Subcommittee will review working papers, future Regulatory Guides and changes to existing Regulatory Guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations.

**Environmental*, January 25–26, 1978 (rescheduled from December 21, 1977), Washington, D.C. The Subcommittee will meet with representatives of the NRC Staff and various industry representatives to discuss measures to keep occupational radiation exposure at low values.

FULL ACRS MEETINGS

December 8–10, 1977:

A. *D.C. Cook Nuclear Plant, Unit No. 2—Operating License Review.

B. *ACRS Report on Reactor Safety Research.

January 5–7, 1978: Agenda to be announced.

Dated: November 11, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77–33026 Filed 11–14–77;8:45 am]

[7590–01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON FLUID/HYDRAULIC DYNAMIC EFFECTS

Meeting

The ACRS Subcommittee on Fluid/Hydraulic Dynamic Effects will hold a meeting on November 30, 1977 in San Francisco, CA to discuss the status of the Mark I, Mark II, and Mark III General Electric Containment Tests, and the effects of blowdown forces on reactor vessel supports. Location of the meeting room will be announced later.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff.

The agenda for subject meeting shall be as follows: *Wednesday, November 30, 1977, 8:30 a.m. until the conclusion of business (Open).*

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the General Electric Co., and their consultants, pertinent to this review. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92–463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Richard P. Savio, telephone 202–634–1920, between 8:15 a.m. and 5:00 p.m., EST.

Dated: November 10, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77–33027 Filed 11–14–77;8:45 am]

[7590–01]

[Docket Nos. 50–329; 50–330]

CONSUMERS POWER CO. (MIDLAND PLANT, UNITS 1 AND 2)

Order

NOVEMBER 9, 1977.

Our order of November 2, 1977, announced that oral argument would be held in this proceeding on Thursday, November 17, 1977, in Chicago, Ill., and indicated that the exact time and location would be specified later. That argument will begin at 9:30 a.m. and will be held in Courtroom 1903 of the Dirksen Building, located at 219 South Dearborn Street.

The order of presentation of argument will be as follows:

Saginaw Intervenors—60 minutes.
Consumers Power Co.—30 minutes.
NRC Staff—30 minutes.
Intervenor Dow Chemical Co.—15 minutes.

The Saginaw Intervenors may reserve a portion of their time for rebuttal.

All parties are to notify the Secretary of this Board by telephone (301–492–7662) no later than Monday, November 14, of the name of counsel who will be presenting argument.

It is so ordered.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77–33029 Filed 11–14–77;8:45 am]

[7590–01]

[Docket No. 50–358]

CINCINNATI GAS AND ELECTRIC CO., ET AL. (WILLIAM H. ZIMMER NUCLEAR POWER STATION, UNIT NO. 1)

Order Cancelling Prehearing Conference

The Atomic Safety and Licensing Board on November 4, 1977 issued an Order convening a prehearing conference on November 17, 1977 at the suggestion of parties to the proceeding. Upon consideration and later communication with many of the parties respecting the availability of data pertinent for a prehearing conference, the Board has concluded that not enough data are available to permit a prehearing conference to aid in substantially expediting of the proceeding. The Safety Evaluation Report of the Regulatory Staff is expected to be issued in the latter part of December 1977 and a Supplemental Safety Evaluation Report may not be issued until a much later time. While the Supplemental Report may involve many substantial items, the importance of which for purposes of even an initial evidentiary hearing can be determined later, the Board further concludes that an evidentiary hearing may be advantageous after the issuance of the initial safety evaluation report. The Applicants have indicated that the nuclear power facility, now under construction, will not be ready for fuel loading until October 1978.

The Atomic Safety and Licensing Board finds that good cause exists to (1) cancel the prehearing conference now scheduled for November 17, 1977, and (2) to make no designation of date for evidentiary hearing until after the issuance of the Staff Safety Evaluation Report.

Wherefore, it is ordered, in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission, that the prehearing conference in this proceeding scheduled for November 17, 1977 is cancelled and a further date for such a conference will be designated at a later time and for which an additional order will be issued.

Issued: November 10, 1977, Bethesda, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.77-33169 Filed 11-14-77;11:17 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 8, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, 202-395-4529, or from the reivewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Importers' Questionnaire—Wood Doors, single-time, wood door importers, C. Louis Kincannon, 395-3211.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Producer's Questionnaire—Wood Doors, single-time, C. Louis Kincannon, 395-3211.

Questionnaire for Producers of Seamless Gloves of Rubber or Plastics, Except Surgical and Medical, single-time, business firms, C. Louis Kincannon, 395-3211.

Questionnaire for Importers of Seamless Gloves of Rubber or Plastics Except Surgical and Medical, single-time, importers, C. Louis Kincannon, 395-3211.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Forest Service, Survey of Wood Used in Manufacturing L977, single-time, manufacturing firms and establishments, Ellett, C. A., 395-6132.

DEPARTMENT OF COMMERCE

Bureau of Census, Census Evaluation Survey; CPS Supplement for February 1978, CPS1, CPS-664, single-time, 46,000 interviewed households in February 1978 CPS, Richard Eisinger, 395-3214.

Domestic and International Business Administration, Polypropylene Resins, DIB-9006, Single-time, producers of polypropylene resins, C. Louis Kincannon, 395-3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Financial Status and Performance Report for emergency Adult Education Program for Indochina Refugees, OE-575 1 and 2, single-time, local education agencies and State education agencies, Budget Review Division, 395-4775.

Vocational Education Graduate Leadership Development Program Application, OE-597, annually, individuals seeking awards for graduate study, Laverne V. Collins, 395-3214.

National Institutes of Health, Twin Registry Interim Health Questionnaire, single-time, adults male twins, Richard Eisinger, 395-3214.

NEW FORMS

DEPARTMENT OF LABOR

Labor Management and Service Administration, Survey of Active vs. Terminated Single-Employer Pension Plans, LMSA-83T, single-time, firms with active or terminated pension plans, Strasser, A., 395-6132.

DEPARTMENT OF THE TREASURY

Departmental and Other Advance Questionnaire and Interview Guide, single-time, 8 State and 42 local government units, Economics and General Government Division, Ellett, C. A., 395-6132.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, Automotive Fuel Economy Reports, semi-annually, automobile manufacturers, Strasser, A., 395-6132.

REVISIONS

RAILROAD RETIREMENT BOARD

Application for Widow's or Widower's Insurance Annuity, AA-17, on occasion, applicants for survivor benefits under RRA, CAYWOOD, D.P., Joan Turek, 390-3443.

DEPARTMENT OF STATE (EXCL. AID AND ACTION)

Nonimmigrant Visa Application, OP.156, on occasion, individuals, Marsha Traynham, 395-3773.

GENERAL SERVICES ADMINISTRATION

Report on Procurement by Civilian Executive Agencies, SF37, semi-annually, U.S. Government, Office of Federal Procurement Policy, 395-3436.

REVISIONS

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration, Annual Supplement to Financial and Statistical Report (Cost of Wholesale Power), REA 7A, on occasion, REA electric borrowers, Ellett, C. A., 395-6132.

Agriculture Research Service, 1977-78 Nationwide Survey of Household Food, single-time, low-income screening questionnaire, Caywood, D. P., 395-3443.

DEPARTMENT OF COMMERCE

Bureau of Census, Application for Search of Census Records, BC 600, BC 649, BC 658, BC 647, BC 648, on occasion, individuals requesting age certification, Richard Eisinger, 395-3214.

DEPARTMENT OF DEFENSE

Department of the Air Force, Personal Information Questionnaire, NAVMC10064, on occasion, employers, professors, clergymen, Lowry, R. L., 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Application for Federal Assistance (Nonconstruction Programs) for Emergency School Aid Act, Title VII, PL 92-318 As Amended—Instructions and Supplementary, OE-116-1, annually, LEA's and other eligible applicants, Budget Review Division, 395-4775.

National Center for Education Statistics, Survey of Recent College Graduates, NCES2385, OE 2385-1, single-time, inst. of higher education, 1976-77 college graduates, Laverne V. Collins, 395-3214.

REVISIONS

DEPARTMENT OF LABOR

Employment Standards Administration, Report of Construction Wage Rates, WD-10, on occasion, contractors, Strasser, A., 395-6132.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, Fatal Accident Reporting System, HS 214, on occasion, State fatality file analyst, Strasser, A., 395-6132.

EXTENSIONS

SELECTIVE SERVICE SYSTEM

Certificate of Service Performed, SSS RS-7, Monthly, RSP employer, Warren Topelius, 395-6132.

DEPARTMENT OF ENERGY

Unclassified Activities in Foreign Atomic Energy Programs, CFR 110, on occasion, business firms engaging in foreign atomic energy programs, Strasser, A., 395-6132.

DEPARTMENT OF DEFENSE

Department of the Air Force, Contractors Request for Progress Payment, DD 1195, on occasion, DOD contractors, Marsha Traynham, 395-3773.

DEPARTMENT OF THE INTERIOR

Geological Survey, Coal Lease Report for quarter Ending, 9-373A, quarterly, Federal coal lessees, Ellett, C. A., 395-6132.

EXTENSIONS

Log of Prospect Bore Hole (Oil), 9-1147, on occasion, mineral permittees, lessees of Federal and Indian lands, Ellett, C. A., 395-6132.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, State Highway Sinking Fund or Bond and Interest Transactions, PR-543, annually, 50 States, District of Columbia, and Puerto Rico, Strasser, A., 395-6132.

Federal Railroad Administration, Air Brake Inspection and Test Certificate, FRAF 618048, on occasion, business firms, Strasser, A., 395-6132.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-33099 Filed 11-14-77;8:45 am]

[3110-01]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 4, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form num-

ber(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503, 202–395–4529, or from the reviewer listed.

NEW FORMS

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Pretest: Survey of Consumer Demand for Arts and Cultural Services in the South, single-time, individuals in 13 southern states, Caywood, D. P., 395–3443.

DEPARTMENT OF DEFENSE

Department of the Air Force, Community Reaction to Noise Survey, CERL, on occasion, sample of households within 20 mile radius of Army installation, Marsha Traynham, Ellett, C. A. 395–3773.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Family History Survey, single-time, parents of child with homocystinuria, Richard Eisinger, 395–3214.

DEPARTMENT OF LABOR

Labor Management and Service Administration, Plan Administrator Survey, LMSA–84T, single-time, administrators of private pension plans terminated in 1976, Strasser, A., 395–6132.

Plan Participant Survey, LMSA–85T, single-time, participant in pension plans terminating in 1975 or 1976, Strasser, A., 395–6132.

DEPARTMENT OF TRANSPORTATION

Coast Guard, Spill Cleanup Inventory, semi-annually, CG, MS, API, Independent Oil Co., Strasser, A., 395–6132.

REVISIONS

AGENCY FOR INTERNATIONAL DEVELOPMENT

Supplier's Certificate and Agreement with AID-Invoice and Contract Abstract, AID–282, on occasion, commodity suppliers, Warren Topelius, 395–6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Application for Grant for Equipment and Materials to Improve Undergraduate Instruction, OE–3600, annually, institutions of post-secondary, Laverne V. Collins, 395–3214.

DEPARTMENT OF LABOR

Labor Management and Service Administration, annual report, DOL–5500, annually, all pension plans and selected welfare plans, Strasser, A., 395–6132.

EXTENSION

DEPARTMENT OF AGRICULTURE

Farmers Home Administration, Statement of Collateral—FHA Business and Industrial Loan Program, FHA–449–2, on occasion, business and industry in towns less than 50,000, Ellett, C. A., 395–6132.

Application for Loan Guarantee—FHA Business and Industry Loan Program, FHA–449–1, on occasion, business and industry in towns less than 50,000, Ellett, Charles A., 395–6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Request for Advance Funds to Help Establish or Strengthen Reserve Funds, OE–1107, on occasion, State or private nonprofit guarantee agencies, Laverne V. Collins, 395–3214.

Social Security Administration, Statement of Employer, SSA–7011, on occasion, any employer who has wages to report for an employee, Caywood, D.P., 395–6132.

National Institutes of Health, Lipid Research Clinics Family Study, single-time, sample of LRC prevalence subjects and family members, Richard Eisinger, 395–3214.

DEPARTMENT OF HOUSING, AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Proposal for Payment of Debt, FL–3–1–J, on occasion, individuals, Housing, Veterans and Labor Division, 395–3532.

Housing Management, Report on Initial Occupancy of Low-Rent Projects, HUD–52209, monthly, local housing authorities, Housing, Veterans and Labor Division, 395–3532.

Housing Production and Mortgage Credit Collection Letter for Funds Owed to the Government, FL–3–1, on occasion, individuals, Housing, Veterans and Labor Division, 395–3532.

Community Planning and Development, Model Cities Transition Procedures Handbook, Certificate of Program Completion, HUD–4006, other see (SF–83), remaining model city grantee agencies, Laverne V. Collins, 395–3214.

Housing Production and Mortgage Credit, Wood Infestation Report, FHA–2053, on occasion, business firms, Laverne V. Collins, 395–3214.

Trade Payment Breakdown, on occasion, individuals, Housing, Veterans and Labor Division, 395–3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–33098 Filed 11–14–77;8:45 am]

[3110–01]

PRIVACY ACT OF 1974

Reports on New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period October 17 through October 28, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records.

DEPARTMENT OF AGRICULTURE

System Names: (1) Certification of Engineering Personnel; (2) Fire Qualification & Experience Records; (3) Geometronics Skills Inventory; (4) Public correspondence concerning Timber Management (about ready to drop); (5) Public Involvement Respondents on Forest Services Activities; (6) Skill Needs Inventory Program/Region 6 only; (7) Youth Conservation Corp Enrollee Payroll Records; (8) Energency Fire Mobilization Plan Director.

Report Date: October 12, 1977.

Point-of-Contact: Dr. Tommye Cooper, Director, Fort Collins Computer Center, U.S. Department of Agriculture, 3825 East Mulberry Street, Fort Collins, Colo. 80521.

Summary: The proposal will replace current computer facilities at the Fort Collins Computer Center with a new competitively procured facility to service the Forest Service, Food & Nutrition Service, Agricultural Research Service, Soil Conservation Service & Statistical Reporting Service.

DEPARTMENT OF COMMERCE

System Name: Talent and Experience File of Women's Business Experts.

Report Date: October 12, 1977.

Point-of-Contact: Ms. Carolyn Wong, Office of Organization & Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Summary: This system will be personal background and experience data on individuals communicating with the interagency task force on Women Business Owners.

DEPARTMENT OF DEFENSE

System Name: Subject and Reference Locator Files.

Report Date: October 13, 1977.

Point-of-Contact: Mr. William Cavaney, Executive Secretary, Defense Privacy Board, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314.

Summary: This proposed system "will permit the Defense Investigative Service to retain information received from systems maintained by DOD installations."

DEPARTMENT OF TRANSPORTATION

System Name: Driver Programs Data System.

Report Date: October 14, 1977.

Point-of-Contact: Mr. Joseph Young, Privacy Act Coordinator, room 5240, 400 7th Street SW., Washington, D.C. 20590.

Summary: This system will support the Safe Performance Secondary School Driver Education Curriculum Demonstration Project by surveying driving records of high school students receiving varying levels of driver training.

DEPARTMENT OF DEFENSE

System Names: (1) Absentee and Deserter Information Files; (2) Air Force Junior Reserve Office Training Corps Instructor Record.

Report Date: October 17, 1977.

Point-of-Contact: Mr. William Cavaney, Executive Secretary, Defense Privacy Board, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314.

Summary: These two systems are being altered: the first reflects the addi-

tion of reservists to the category of individuals and drops the 10 days minimum for reportable absences, the second system is being automated.

DEPARTMENT OF AGRICULTURE

System Name: Project Control and Resource Management System.

Report Date: October 19, 1977.

Point-of-Contact: Mr. Douglas S. Wood, U.S. Department of Agriculture, Washington, D.C. 20250.

Summary: This system covers present or recent former employees of the Farmers Home Administration Finance Office, and is used to assign and evaluate work performance.

FEDERAL DEPOSIT INSURANCE CORPORATION

System Name: Persons Who Borrow to Purchase or Who Collateralize Loans With Bank or Bank Holding Company Stock.

Report Date: September 30, 1977.

Point-of-Contact: Mr. Daniel Wm. Persinger, Federal Deposit Insurance Corp., 550 17th Street NW., Washington, D.C. 20429.

Summary: FDIC has withdrawn the proposal to establish this system of records because it has been "determined that it is not necessary to collect data which is individually identifiable."

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-32934 Filed 11-14-77;8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20250; 70-6074]

ALLEGHENY POWER SYSTEM, INC.

Proposal to Issue and Sell Common Stock

NOVEMBER 8, 1977.

Notice is hereby given that Allegheny Power System, Inc. ("Allegheny"), 320 Park Avenue, New York, N.Y. 10022, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7 and 12 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration for a complete statement of the proposed transaction.

Allegheny proposes to issue and sell at competitive bidding up to 3,500,000 million shares of its authorized but unissued common stock, par value $2.50 per share, for estimated cash proceeds of $74,000,000. Allegheny states that it may, by amendment to this application-declaration, seek authorization to sell its common stock through a negotiated sale to underwriters.

The proceeds of the sale of common stock, together with other funds which may become available to Allegheny, will be used to repay outstanding short term debt; it is estimated that approximately $65 million of short term debt will be outstanding at the time the common stock is issued. Such short term debt was incurred pursuant to Commission orders dated April 6, 1976 (HCAR No. 19464) and September 21, 1977 (HCAR No. 20185). Allegheny used the proceeds of such short term debt to acquire common stock of its electric utility subsidiaries, which, in turn, used such funds to finance their construction programs and to repay short term debt.

A statement of the fees and expenses to be incurred by Allegheny in connection with the proposed transaction will be filed by amendment. It is stated that the Maryland Public Service Commission has jurisdiction over the proposed transaction. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 2, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declared at the above-stated address, and proof of service (by affidavit, or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-32959 Filed 11-14-77;8:45 am]

[8010-01]

[Release No. 34-14141; File No. SR-BSPS-77-5]

BRADFORD SECURITIES PROCESSING SERVICES, INC.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 19, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF PROPOSED RULE CHANGE

TRADE COMPARISON AND REPORTING SERVICE

(a) The Corporation shall offer each participant a Trade Comparison and Reporting Service (the "Service") for transactions in all securities effected by or for that participant in accordance with this Rule. Each participant may, to the extent it so desires, use the Service, by submitting data, as provided for herein, for transactions in any or all securities effected by or for the participant and by so doing agrees to be bound by this Rule for the transaction as to which data is submitted and to pay the fees therefor as set forth in the Fee Schedule.

(b)(i) To use the Service a participant shall submit, individually by trade, the information specified by the Corporation in the forms or format specified therefor, which form or format shall include the identification of the participant, the subject security, the contra side, the quantity, the unit price, the aggregate price, the trade date and the settlement date. When a participant is the contra side to the transaction and has submitted the information specified by the Corporation to utilize this Service with respect to that transaction, the Corporation shall effect the comparison of the transactions as set forth herein. Where a non-participant is the contra side to the transaction or where a participant is the contra side and has not submitted the information specified by the Corporation to utilize the Service for that transaction, the Corporation shall take such action as it deems reasonable and appropriate to effect a comparison of the transaction for the participant. Included among such actions, the Corporation may submit the requisite data directly to the contra side in exchange for the contra side's statement of the terms of the transaction, or establish means whereby the Corporation may exchange data and effect a comparison of the transaction with the clearing agency to which the contra side has submitted the data regarding the transaction.

(ii) Participants using the Service shall submit the specified data on the day after the day of the transaction no later than 12:00 o'clock, noon, of the time in effect at the main office of the Corporation, except that participants submitting data to branch offices of the corporation shall submit data no later than the time specified by that branch office which shall not be sooner than the time such data would have to be submitted to the Corporation's main office.

(c)(i) Where a participant utilizes the Service, within 24 hours after the Corporation has received the requisite data from the participant and the contra side or the contra side's clearing agency,

the Corporation shall give each participant a time stamped report (the First Report) setting forth: (a) The terms of all transactions which compare, which shall include with respect to securities on which interest is accumulated the interest accumulated until the settlement date; (b) the terms of all transations reported by the participant and not reported by the contra side; (c) the terms of all transactions reported by the contra side and not reported by the participant; and (d) those transactions in items (b) and (c) which appear to the Corporation to be valid transactions and the reasons causing the non-comparison can be readily resolved by the parties thereto. Within 24 hours after the time of the First Report, the participant shall furnish to the Corporation the data regarding transactions in items (b), (c), and (d) on which agreement has been reached with the contra side, in such form or format as the Corporation shall specify which shall include the same information as that specified in paragraph (b)(i) hereof. Where the contra side to a trade is a non-participant or a participant which is not using the Service for that transaction, the Corporation shall lend reasonable assistance to the participant during this 24 hour period to resolve all transactions in categories (b), (c) and (d). Within 48 hours of the time of the First Report, the Corporation shall make available to a participant a report (the Second Report) which shall show all transactions which were not compared in the First Report but which subsequently have compared and the transactions previously reported in the First Report, in categories (b), (c) and (d) which still remain in such categories.

(d)(i) A participant may use the Service for transactions effected on an "as of" or delayed delivery basis if the data is furnished in accordance with paragraph (b) hereof.

(ii) A participant may delete data as to transactions which have been submitted to the Service if such deletion instruction is furnished within six hours of the time for submission of transaction data for that transaction or if such deletion instruction is for a transaction in categories (b), (c) or (d) of the First Report and such instruction is furnished within 24 hours of the time of the First Report.

(iii) Transaction data not submitted to the Service by the time specified in paragraph (b)(ii) hereof may be submitted within 24 hours of the time of the First Report, in accordance with paragraph (c) hereof, and shall be included in the Second Report.

FEE SCHEDULE

VI. *Trade Comparison and Reporting Service.* The maximum fees for this service shall be:

(a) *Basic Service Fee.* Monthly charge for participation in the System—$40.00 per month.

(b) *Box Rental.* Monthly charge for rental of a box, where the participant may pick up his output—$5.00.

(c) *Comparison with Participants.* Fee for all transactions (regular, as/of, withholds, stamped advisories—buy or sell—and balance orders—receive or deliver)—$0.25 per item.

(d) *Comparison with Non-Participants.* This charge is for services rendered to effect a comparison when the Contra Side on a trade is *not* a participant (Transaction is physically delivered direct to Contra Side or Contra Sides Clearing Agency). The charge per item within New York City is $1.00 and for other locations the fee will be negotiable as available.

1. Any out-of-pocket expenses incurred in connection with making physical delivery of the items will be passed on to the participant.

(e) *Non-Machine Readable Input.* Charge for Key Entry (regular, as/of, withholds—buy or sell)—$0.10 per item.

(f) *Machine Readable Input.* No charge.

(g) *Machine Readable Output (Tape).* Tape supplied by participant. $0.0050 per item, with a maximum charge of $200.00 per month.

(h) *Machine Readable Output (Cards).* $0.0150 per item, with a maximum charge of $600.00 per month.

(i) *Stationery.* Forms usage charged back to the participant at 100 percent (100 percent) of cost.

(j) *Additional Expense.* Any additional expenses such as printing, forms, communications, etc., will be charged to the participant at 100 percent (100 percent) of cost.

(k) *Master Book of Eligible Securities.* First copy is *free;* additional copies are billed at $10.00 per book.

(l) *Discounts.* Where the volume and/or nature of a participant's use of the Service merits it, discounts from the fee schedule may be granted.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of this new Rule is to enable the Corporation to offer to its participants a Trade Comparison and Reporting Service (the "Service") for transactions in all securities effected by the participants.

At the present time this type of service is offered by other clearing agencies only to their participants for trades in securities "cleared" by that clearing agency and, in some instances, is only available for trades between participants in that clearing agency. The Service will be offered to participants for trades in all securities effected by that participant regardless of where they are executed. This will include over-the-counter securities, debt securities and equity securities, securities which are "exempt securities" under the Securities Exchange Act of 1934 and non-exempt securities. Further, the Service will be available for transactions between participants as well as transactions between a participant and a non-participant. In the latter instance and in instances of a trade between participants which one participant does not submit to the Service, the Corporation will act on behalf of the submitting participant in endeavoring to effect a comparison. This will involve the Corporation in sending confirmation notices to the contra side in a manner consistent with the Rule's time frames and may involve use of the messengers of the Corporation, its branch offices and its correspondents to hand deliver such notices. The Corporation will also establish relationships with other clearing agencies to exchange transaction data where the contra party submits such data to another clearing agency. Finally, the Service is non-exclusive because a participant is not compelled to use the Service for all of its transactions or even for all of its transactions in certain securities. Rather, a participant may utilize the Service as it desires when it deems such utilization and the cost thereof in comparison to other comparison services advantageous.

This Rule Change is part of a program which the Corporation has adopted to develop and establish a full clearance and settlement system for all securities.

The Proposed Rule Change relates to the prompt and accurate clearance and settlement of securities transactions, fostering cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and removal of impediments to and perfection of the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions by providing participants the means through which they can compare transactions in all securities in which they have effected a transaction, regardless of with whom the transaction has been effected, and thereby more speedily reach agreement as to the exact terms of all transactions and more expeditiously effect the consummation thereof.

The Corporation does not believe that the proposed rule change will impose any burden on competition.

On or before December 20, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission. Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submisions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington,

D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 6, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 7, 1977.

[FR Doc.77-32967 Filed 11-14-77;8:45 am]

[8010-01]

[Release No. 34-14137; File No. SR-CBOE-1977-22]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on October 31, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

On October 27, 1977, the Board of Directors of the Chicago Board Options Exchange, Inc. ("CBOE") adopted the following resolution in accordance with the provisions of CBOE Rule 4.16:

The Board of Directors of the Chicago Board Options Exchange, Inc. ("CBOE"), having been advised that Southern Co., Inc. ("Southern") proposed to offer 11,000,000 shares of Southern common stock on November 1, 1977, and that the underwriters (the "underwriters") for such distribution may effect stabilizing transactions in Southern common stock, deems it advisable in the interest of maintaining a fair and orderly market in Southern common stock and otherwise deems it advisable in the public interest and for the protection of investors to prohibit opening writing transactions in any CBOE option contract for Southern common stock at a premium which is, at the time of the transaction, less than the amount by which the price at which a stabilization bid or purchase of Southern common stock is effected exceeds the exercise price of such option contract. Such prohibition shall only become effective at the time the underwriters shall have advised CBOE that they have placed or transmitted a stabilizing bid for or effected a stabilizing transaction in Southern common stock on a national securities exchange (but no earlier than 15 minutes after it has been announced on the floor of the CBOE) and shall terminate upon the termination of stabilizing transactions by the underwriters; *Provided*, That such prohibition shall not be effective unless and until the underwriters shall have given to CBOE written notice of the date on which they propose to commence distribution and their written undertaking to advise CBOE immediately upon termination of their stabilizing transactions. Such prohibition shall not apply to (1) any opening writing transaction that is and remains covered in the account on a share-for-share basis by a long position in Southern common stock or in a security (including an option contract) that is immediately exchangeable or convertible without restriction, other than the payment of money, into Southern common stock; or (2) any transaction entered into a Market-Maker in the course of contribution to the maintenance of a fair and orderly market.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSES, COMMENT RECEIVED, AND BURDENS ON COMPETITION

The purpose of the Board of Directors' action is to maintain a fair and orderly market in the securities underlying Southern option contracts and to protect the public interest.

The Board of Directors' action is based upon the provision of Section 6(b)(5) of the Act which requires that CBOE's rules "* * * protect investors and the public interest * * *."

CBOE does not intend to solicit comments on the proposed rule change.

CBOE does not believe there will be any burden upon competition as a result of the proposed rule change .

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and Rule 19b-4 thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 15, 1977 .

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 4, 1977.

[FR Doc.77-32968 Filed 11-14-77;8:45 am]

[8010-01]

[Release No. 34-14136; File No. SR-CBOE-1977-22]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on October 25, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Rule 4.16. Other Restrictions on Options Transactions and Exercises.

(No change).

* * * Interpretations and Policies.

.01 Whenever the issuer of a security underlying a call option traded on the Exchange is engaged or proposes to engage in a public underwritten distribution ("public distribution") of such underlying security or securities exchangeable for or convertible into such underlying security, and such issuer or a representative of the underwriters of such distribution ("representative") submits a written request that the Exchange impose restrictions upon opening writing transactions in such options at a "discount" (as defined below in .02 where the resulting short position will be uncovered ("uncovered opening writing transactions") during the period that such underwriters have placed a stabilization bid for or effected stabilization transaction(s) in the underlying security on a national securities exchange in accordance with the Rules under the Securities and Exchange Act of 1934, as amended, then the Board shall restrict all such opening writing transactions, other than transactions by Market-Makers acting in the course of contributing to the maintenance of a fair and orderly market, for the period commencing at the time the underwriters shall have advised the Exchange that they have placed or transmitted a stabilizing bid for or effected a stabilizing transaction in the underlying security on a securities exchange (but no earlier than 15 minutes after it has been announced on the floor of the Exchange) and terminating upon termination of the stabilizing transaction by the underwriters provided that the following conditions are met: (1) less than a majority of the securities to be publicly distributed in such distribution are being sold by existing security holders; (2) the representative agrees to notify the Exchange of those aspects of the underwriters' distribution and stabilization activities as may be requested by the Exchange; and (3) the underwriters initiate stabiliza-

tion activities in such underlying security on a national securities exchange when the price of such security is either at a "minus" or "zero minus" tick.

.02 For purposes of .01 above, an uncovered opening writing transaction in a call option will be deemed to be effected at a "discount" when the premium in such transaction is either:

(i) in the case of a distribution of the underlying security not involving the issuance of rights and in the case of a distribution of securities exchangeable for or convertible into the underlying security, less than the amount by which the underwriters' stabilization bid for the underlying security exceeds the exercise price of such option; or

(ii) in the case of a distribution being offered pursuant to rights, less than the amount by which the underwriters' stabilization bid in the underlying security at the Subscription Price exceeds the exercise price of such option.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

Over the past two years some issuers of common stocks underlying CBOE options who were about to engage in underwritten public distributions of such stocks, as well as some investment banking firms acting as their underwriters, have expressed their concern about the possible adverse impact on the orderliness of the proposed distribution of uncovered opening writing options transunderwriters' stabilization bid for the stabilization period at a "discount" premium—that is, at a premium which is less than the amount by which the underwriters' stabilization bid for the common stock exceeds the exercise price of the option. Specifically, the concern has been expressed that such options transactions could indirectly result in selling pressure being brought to bear against the stabilizing bid and thereby have the potential for increasing the risks and costs of the underwritings. These consequences could be brought about if arbitrageurs were to purchase the options at the "discount" premium, exercise the options, and then offer to sell (as long sellers) the stock against the stabilizing bid. This activity could, it is argued, pressure underwriters to drop their bids to successively lower levels or to withdraw them and allow the stock to trade downward, and therefore could have a chilling effect upon the underwriters' willingness to commit their capital to such public distributions of securities which underly CBOE options.

The CBOE believes it to be in the public interest and for the protection of investors that options transactions not impede the ability of issuers to raise capital or of underwriters to facilitate orderly distributions of the underlying securities. At the same time, the CBOE believes that any restrictions imposed on options transactions should be as narrow in scope and as short in duration as possible.

Accordingly, CBOE has responded to requests from issuers and underwriters and has imposed, on an ad hoc basis, restrictions of the type set forth in the proposed rules change. CBOE believes that the distributions involved were facilitated on an orderly basis and that the restrictions did not have an adverse effect on the options market. As a result, the Board of Directors has determined, as a matter of policy, to impose the restrictions in those underwritings in which certain specified conditions are met.

The first condition is that less than a majority of the securities being publicly distributed are being offered by existing security holders. The purpose of the proposed rules changes is to help facilitate the raising of capital by issuers. Consequently, this condition was imposed to assure that the distribution was primarily for the benefit of the issuer; at the same time the condition leaves room for participation in the offering by existing security holders (whether through so-called "piggy-back" registration rights or otherwise).

The second condition requires the underwriters to give CBOE such notice as CBOE may request. This is designed to assure that CBOE would be able to comply with the provisions of the proposed rule change by imposing the restriction promptly after the underwriters had initiated stabilizing activities—the restriction will become effective fifteen minutes after an announcement is made on the CBOE floor—and terminating the restriction as soon as stabilizing activities have ended.

The third condition is that the underwriters initiate their stabilizing activities at a "minus" or "zero minus" tick. Since this is the level at which stabilization is ordinarily commenced in order to prevent short sellers from offering into the stabilizing bid, this condition will generally be met. If the condition is not met, however, there would be no reason for a restriction on options transactions.

If the conditions are met, the Board of Directors will impose restrictions on uncovered opening writing transactions, except for transactions by Market-Makers, at a "discount" premium. Proposed Rule 4.16.02 defines the term for ordinary distributions of the underlying stock through a rights offering, and for distributions of securities exchangeable for or convertible into the underlying stock. In the event the particular characteristics of a distribution differ from those described in proposed Rule 4.16.02, the Board may act in accordance with Section 19(b)(3)(A)(i) to interpret the meaning of the term "discount" in a manner which is appropriate in view of such distribution.

It should be noted that the restrictions that would be applied under the proposed rules change would not apply to either (a) closing sale transaction, or (b) covered opening writing transactions, or (c) Market-Makers' transactions, or (d) any transactions at a premium that is not a discount. Thus, the restrictions would be applied in a narrow fashion to assure that the options market remains as efficient as possible.

The basis for the proposed rules change is Section 6(b)(5) of the Act, which provides that the rules of an exchange must be designed, among other things, to protect investors and the public interest. As noted above, the proposed rules change is designed to facilitate the orderly distribution of securities by issuers for the purpose of raising capital.

No comments have been or will be solicited, nor have comments been received, from members of CBOE or others with respect to the proposed rules change filed herewith.

It could be argued that the proposed restrictions impose a burden upon different types of options writers and sellers by preventing uncovered opening writers from competing with others at the "discount" level. However, as noted above, CBOE does not believe that any such burden upon competition would be inconsistent with the furtherance of the purposes of the Act.

On or before December 20, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 15, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 4, 1977.

[FR Doc.77-32969 Filed 11-14-77;8:45 am]

[8010-01]

[Release No. 14134; File No. SR-CBOE-77-19]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Withdrawal of Proposed Rule Change

NOVEMBER 3, 1977.

The Chicago Board Options Exchange Inc. ("CBOE"), by letter dated October

18, 1977, withdrew a proposed rule change (File No. SR–CBOE–77–19) under Rule 19b–4 which had been submitted on September 22, 1977. Notice of the proposed rule change was given in Securities Exchange Act Release No. 14029 (October 6, 1977) and the terms of substance were published in 42 FR 55152 (October 13, 1977). The withdrawn proposal would have repealed an earlier rule change submitted by the CBOE (File SR–CBOE77–6) and approved by the Commission (Securities Exchange Act Release No. 13673 (June 24, 1977)) which provides, among other things, enabling authority for the award of board broker appointments on the basis of competitive bidding and for an assessment of exchange fees upon members who utilize board broker services.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-32960 Filed 11-14-77;8:45 am]

[8010–01]

[Release No. 9997; 812-4190]

CURRENT INTEREST, INC.

Filing of Application for Exemption From Provisions

NOVEMBER 8, 1977.

Notice is hereby given that Current Interest, Inc. (the "Applicant"), 711 Polk Street, Houston, Tex. 77002, a Texas corporation registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified, management investment company, filed an application on September 12, 1977, with amendments thereto on November 1, 1977, and November 3, 1977, pursuant to Section 6(c) of the Act for an exemption from the provisions of Section 19(b) of the Act and Rule 19b–1 thereunder to allow Applicant to distribute long-term capital gains more frequently than once every twelve months. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that its investment objective is to seek as high a level of current income as is consistent with the preservation of capital and liquidity, which it seeks to achieve by investing in money market obligations maturing within two years from the date of purchase, including, but not limited to, securities issued or guaranteed by the United States Government or its agencies and instrumentalities, bank certificates of deposit, banker's acceptances, deposit-type instruments of banks and savings institutions, high-grade commercial paper and long-term corporate debt rated Aa or better by Moody's or AA or better by Standard & Poor's.

The application states that Applicant's net asset value and net income are determined as of the close of trading on the New York Stock Exchange on each day during which said exchange is open, immediately after the declaration of dividends comprising the previous period's net income. Applicant states that net income is calculated daily and is defined to consist of (i) interest earned or accrued on portfolio securities; (ii) less all actual and accrued expenses determined in accordance with generally accepted accounting principals; and (iii) plus or minus all net realized and unrealized gains and losses on portfolio assets. Applicant further states that all net income is declared as dividends daily and is reinvested in additional full and fractional shares of the Applicant at net asset value without a sales charge; that, at a shareholder's option, shares purchased through the reinvestment of dividends and distributions during the month will be redeemed at net asset value on the last business day of each month and paid to the shareholder; and that all shareholders will receive individual monthly account statements. Applicant states that it believes that many investors often purchase shares of the Applicant as an interim or short-term investment in search of a high income return consistent with the goal of preservation of capital and liquidity over short periods of time, and that it is essential to this medium of investment that shareholders receive daily the exact portion of accumulated net income accrued on their investments.

The application submits that it is the Applicant's intention to maintain, to the extent practicable, a constant net asset value; but, that in the event that net realized and unrealized losses on portfolio assets exceed the amount of net income as determined from other calculations, it will be necessary to reduce net asset value per share by the extent of such reduction.

The application states that, in general, Applicant intends to hold securities purchased until maturity, although portfolio securities may be sold prior to maturity because of short-term variations in market or business conditions, because of management's revised evaluation of a portfolio security, to meet redemptions, or to take advantage of capital gains opportunities. Applicant states that it will not purchase any instrument for the purpose of realizing a long-term capital gain, and that, in the event that long-term capital gains should be realized, such gains would be a nominal portion of the total distribution of net income of the Applicant. The application further states that, since Applicant's net income is defined to include capital gains and losses, the daily declaration of net income could at times include realized profits or losses upon sale of portfolio securities.

Applicant represents that securities held for sixty days or less are valued at amortized cost and that expenses, including the advisory fee, are accrued each day.

Section 19(b) of the Act provides, in part, that it shall be unlawful, in contravention of such rules as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, for any registered investment company to distribute long-term capital gains, as defined in the Internal Revenue Code of 1954 ("Code"), more frequently than once every twelve months.

Rule 19b–1 promulgated under the Act provides, in part, that no regulated investment company shall distribute more than one capital gain dividend, as defined in Section 852(b)(3)(C) of the Code, with respect to any one taxable year of such company.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act and rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant represents that it does not generally contemplate the realization and payment of long-term capital gain distributions; but, if circumstances result in the realization of such gains, Applicant wishes to be in a position to distribute them at approximately the time they are realized, together with its other distributions of income. Applicant submits that, if such gains, could not be distributed currently, Applicant's net asset value on each daily valuation day would be increased by the amount of such undistributed gain with no current benefit accruing to shareholders unless they elected to redeem their shares. Applicant asserts that the following are among the principal purposes of Section 19(b): (1) To prevent shareholders from confusing dividends of interest income with distribution of capital gains; (2) to relieve investment company managers from pressure to realize such gains; and (3) to mitigate improper sales practices related to the distribution of such gains. Applicant states that such dangers are not applicable to its operation in light of the following considerations: (a) such distributions are likely to be infrequent in number and limited in dollar amounts; (b) the nature of the Applicant as a vehicle for investing in money market instruments assures the absence of pressure to realize capital gains; (c) the Applicant will delineate the nature of such distributions when mailing monthly individual account statements to shareholders.

Notice is further given that any interested person may, not later than November 29, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally

or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-32961 Filed 11-14-77;8:45 am]

[8010-01]

[Release No. 9998; 812-4217]

DAILY INCOME FUND, INC.

Filing of Application for Order of Exemption

NOVEMBER 8, 1977.

Notice is hereby given that Daily Income Fund, Inc. ("Applicant"), 230 Park Avenue, New York, N.Y. 10017, registered under the Investment Company Act of 1940 (the "Act") as a diversified, open-end, management investment company, filed an application on October 31, 1977, and an amendment thereto on November 7, 1977, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant to value its assets in the manner set forth in the application, which generally would be the "amortized cost" method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market fund" designed as an investment vehicle for investors with temporary cash balances or cash reserves, and that it is designed to provide high current income to the extent consistent with preservation of capital. Reich & Tang, Inc. acts as Applicant's investment adviser.

Applicant further states that its portfolio may be invested in a variety of "money market" instruments, maturing in one year or less from the date of purchase, including obligations of or guaranteed by the United States of America, its agencies or instrumentalities, domestic banks having total assets in excess of one billion dollars and subject to regulation by the United States Government, and commercial paper rated Prime–1 by Moody's Investors Service, Inc., or A–1 by Standard & Poor's Corp. or, if not rated, issued by corporations having an outstanding unsecured debt issue currently rated Aa or Aaa by Moody's or AA or AAA by Standard & Poor's.

Applicant provides the following information regarding its investment and related policies: (1) Investments are made only in instruments having a remaining maturity of one year or less; (2) at September 30, 1977, the average dollar-weighted maturity of all instruments in the portfolio was 61 days; (3) portfolio instruments are not sold prior to maturity unless mandated by redemption requirements, changes in creditworthiness of issuers or other unforseen extraordinary circumstances; and (4) Portfolio instruments are valued by "marking to market" and net asset value per share is computed, for purposes of daily pricing, to the nearest one percent (one cent on a per share net asset value of one dollar). Applicant states that its policies evolved because two features were deemed necessary to attract investments from a wide variety of fiduciaries and other institutional investors: (1) absolute stability of principal, and (2) steady flow of investment income. According to the application, by utilizing high quality money market instruments of short maturities priced by marking to market, but to the nearest one percent, it has been possible to provide these features.

Applicant asserts that iits experience has shown that, given the nature of its policies and operations, there would be a negligible discrepancy between prices obtained by amortized cost and those obtained through market valuation, and that the directors of Applicant have determined in good faith that, in view of its characteristics, its use of the amortized cost method of valuation of portfolio securities would be appropriate and preferable to the use of other methods.

According to the application, as of September 30, 1977, Applicant had approximately $52 million in net assets. As of that same date, approximately 80 percent of Applicant's assets were held by broker-dealers and investment counselors; individuals held 3.3 percent of its assets. Applicant asserts that over 96 percent of its assets are held by sophisticated professional and institutional investors. It further asserts that, while these institutional investors are not concerned with differences which might occur between yield computed by pricing to a market, to an accuracy of one-tenth of one percent, and yield computed by using amortized cost, they are adamant that the yield not exhibit volatility which may occur through use of "market" valuation methods when computed to the nearest tenth of one percent.

As here pertinent, Section 2(a)(41) of the Act defines "value" to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities, fair value as determined in good faith by the board of directors.

Rule 22c–1 adopted under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that Rule, with estimates used where necessary or appropriate. Rule 2a–4 further provides that portfolio securities for which market quotations are readily available shall be valued at current market value, and other securities shall be valued at fair value as determined in good faith by the board of directors.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant has requested an order of the Commission pursuant to Section 6(c) of the Act exempting it from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant's assets to be valued at amortized cost, whether or not market quotations are available.

Applicant states that it request for exemption is made based upon its existing management policies, and has agreed that the order it seeks may be conditioned upon the following:

1. That it will continue to invest only in instruments having a remaining maturity of one year or less, and that its portfolio will continue to be managed so that (1) the average maturity of all instruments in the portfolio (on a dollar-weighted basis) will be 120 days or less and (2) so that redemption of its shares in the largest foreseeable volume may be made without the necessity of disposing of portfolio instruments. Applicant will typically maintain overnight liquidity through investments in instruments such as repurchase agreements, and will schedule maturity dates of the instruments which it purchases in consideration of sufficient regular and systematic cash availability.

2. That it will not sell instruments in its portfolio prior to maturity unless such sale or other disposition is mandated by redemption requirements, changes in creditworthiness of issuers, or other extraordinary circumstances not presently

foreseeable, and that it will disclose that policy in its prospectus.

3. That it will offer its shares only to present shareholders and to institutional investors, with a required minimum initial purchase of $50,000.

4. That it will describe in its prospectus its policies and practices set forth in the application and the concept and impact upon reported yield and net asset value of valuation of instruments using the amortized cost method as compared to mark-to-market.

5. That the Executive Committee of Applicant's board of directors shall continuously review its method of valuation and recommend changes to its directors which may be necessary to assure that their portfolio instruments are valued at their fair value, as determined by their boards of directors in good faith. In its review, the Executive Committee shall consider the relevant factors which may affect the value of portfolio instruments. These shall include such things as maturity, yield, stability, special circumstances of trading markets, the creditworthiness of the issuers whose instruments are owned (as indicated by dissemination of unfavorable financial data, change in their rating by the leading agencies, suspension of trading in securities or default in the payment of principal or interest), and economic, social, and political factors which may cause unusually large changes in prevailing levels of short-term market interest rates. Any one or more of these factors may indicate the need to change the method of valuation of a portfolio instrument. If such a change is indicated, the board of directors will revise the method of valuation in order to approximate more closely that instrument's market value.

6. That Applicant will continue to invest only in the kinds and qualities of money market instruments in which it is currently permitted to invest; commercial paper of investment grade issues rated A–1 or A–2 by Standard & Poor's Corp., Prime 1 or Prime 2 by Moody's Investors Services, Inc., or F–1 or F–2 by Fitch Investors Service; and instruments of banks and savings and loan associations which at the date of the investment have capital, surplus and undivided profits as of the date of their most recently published financial statements in excess of $100,000,000.

7. That Applicant will institute, as soon as is practicable, a redemption policy which will enable it to redeem its securities in kind, subject to the election provided for by Rule 18f–1 under the Act.

8. That to the extent Applicant has initiated a policy of reserving the right to honor redemption requests in whole or in part by a distribution in kind of portfolio securities in lieu of cash, such policy will be implemented if Applicant's management determines that a material adverse effect would be experienced by its remaining investors if a redemption request was satisfied wholly or partly in cash.

Applicant submits that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 29, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-32962 Filed 11-14-77;8:45 am]

[8010-01]

[Release No. 9996; 812-4171]

ISRAEL INVESTORS CORP. AND ICC HANDELS, A.G.

Application for an Order Exempting A Proposed Transaction and Permitting Proposed Transaction, and Exempting Certain Custody Arrangements

NOVEMBER 7, 1977.

Notice is hereby given that Israel Investors Corp. ("Israel Investors"), 850 Third Avenue, New York, N.Y. 10022, a closed-end, non-diversified management company registered under the Investment Company Act of 1940 ("Act"), and ICC Handels, A.G. ("Handels"), a Swiss corporation (collectively, "Applicants"), Chamberstrasse, 12C "Bellerive," Zug, Switzerland, filed an application on August 9, 1977, and an amendment thereto on October 17, 1977, pursuant to Sections 6(c), 17(b) and Section 17(d) of the Act, and Rule 17d–1 thereunder, for an order exempting from Section 17(a) and permitting the proposed purchase by Handels from Israel Investors of a minimum of 658,026 ordinary shares of Electrochemical Industries (Frutrom) Limited ("Electrochemical"), and exempting from Section 17(f) of the Act and Rule 17f–2 thereunder, certain custody and escrow arrangements to be established in connection with the proposed transfer of Electrochemical stock. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicants state that Israel Investors was organized for the purpose of investing in primary industries located in Israel, such as Electrochemical. Electrochemical is one of Israel's foremost manufacturers of basic chemicals. Applicants state that Electrochemical is now engaged in an expansion program expected to cost $65,000,000 during the next several years. These plans include the development and construction of a new complex for manufacturing polyvinyl-chloride and polyvinyl-chloride resins.

Handels is a wholly-owned subsidiary of ICC Industries, Inc. ("ICC Industries"), a New York corporation which is privately owned and which is primarily engaged in the business of manufacturing, selling and trading in chemicals. Israel Investors and Handels are the two largest stockholders of Electrochemical, owning about 30 percent and 21 percent of its voting stock, respectively.

Applicants state that on July 19, 1977 they entered into a Purchase Agreement, which provides for the purchase by Handels from Israel Investors of (a) 493,520 ordinary shares of Electrochemical owned by Israel Investors as of June 30, 1977, at a price of $6,197,832, or $12.56 per share, and (b) 164,506 ordinary shares of Electrochemical which Israel Investors purchased in an offering made by Electrochemical to its shareholders in July, 1977, at a price to Handels of $2,135,931, or $12.98 per share. Applicants further state that Handels will pay, in consideration for the 493,520 ordinary shares, $1,549,374 in cash at the closing of the transaction, and $4,648,374 in the form of a promissory note ("Promissory Note"). The Promissory Note will be payable in five equal installments, made semi-annually, beginning in 1980, and will bear interest at an annual rate of 8 percent on the unpaid balance of principal from July 19, 1977, the date of the Purchase Agreement. Payment by Handels for the 164,506 shares purchased by Israel Investors in Electrochemical's rights offering will be made in cash.

Applicants further state that the Promissory Note will be held in custody for Israel Investors by Bank Leumi Trust Co. of New York ("Bank Leumi"), which acts as custodian for Israel Investors. The Purchase Agreement also calls for Handels to deliver to Israel Investors five alternative promissory notes enforceable under Swiss law ("Swiss Promissory Notes"). Applicants state that the Swiss Promissory Notes will contain substantially the same terms as the Promissory Note and will constitute secondary evidence of the indebtedness of Handels to Israel Investors. Applicants state that the Swiss Promissory Notes will be held in escrow by a law firm, Dilworth, Pax-

son, Kalish, Levy & Kauffman, ("Dilworth, Paxon"), which represents Israel Investors. The Purchase Agreement provides that if Handels defaults under the terms of the Promissory Note, Dilworth, Paxson will deliver the Swiss Promissory Notes to Israel Investors.

Applicants state that Handels' obligations under the Promissory Note and the Swiss Promissory Notes also will be secured by the pledge of the 493,520 Electrochemical shares being purchased by Handels. ("Pledge Agreement"). The pledged shares will be held by Bank Leumi, but, subject to the security interest of Israel Investors, will be owned by Handels, which will exercise all rights as beneficial owner with respect to such shares. Handels will enter into a letter agreement with Electrochemical which will require Electrochemical to deliver to Israel Investors as part of the pledge, all shares of Electrochemical that would ordinarily be issued to Handels with respect to the pledged shares by reason of stock dividends, stock splits, or other distributions by Electrochemical on its capital stock. Applicants further state that ICC Industries has undertaken to guarantee the performance of Handels' obligations under the Purchase Agreement, the Promissory Note, the Swiss Promissory Notes and the Pledge Agreement.

Section 2(a)(3) of the Act defines an affiliated person of another person to include any person 5 percent or more of whose outstanding voting securities are owned by such other person and any person owning 5 percent or more of the outstanding voting securities of such other person. Thus, Electrochemical is an affiliated person of Israel Investors, and Handels is an affiliated person of Electrochemical. Applicants state that Handels is an affiliated person of an affiliated person of Israel Investors.

Section 2(a)(9) of the Act, in pertinent part, establishes a presumption that a person owning 25 percent or more of the voting securities of a company controls such company. Thus, Israel Investors is presumed to control Electrochemical but Handels is presumed not to control Electrochemical.

Section 17(a) of the Act prohibits an affiliated person of an affiliated person of a registered investment company, acting as principal, from knowingly purchasing any security from such registered company or from borrowing property from such registered company. However, Section 17(b) of the Act directs the Commission, upon application, to exempt a proposed transaction from the prohibition of Section 17(a) upon a finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company and the general purposes of the Act.

Applicants represent that the purchase by Handels of the Electrochemical stock of Israel Investors and the delivery by Handels to Israel Investors of the Promissory Note and Swiss Promissory Notes may be deemed to be prohibited under Section 17(a) of the Act. Applicants assert that the price Handels will pay for the Electrochemical shares is fair and reasonable to Israel Investors and to Handels. They state that the $12.98 price per share for the 164,506 shares acquired by Israel Investors in the Electrochemical rights offering is equivalent to the price paid by Israel Investors for those shares, plus interest paid by Israel Investors on the money it borrowed to buy such shares. Thus, the sale of these shares will result in no profit or loss to Israel Investors. Applicants state that the price of $12.56 which Handels will pay for the 493,520 shares owned by Israel Investors at June 30, 1977, will result in an aggregate profit to Israel Investors of $1,542,256, or $3.13 per share, based on the average cost of such shares to Israel Investors. Applicants state that on December 31, 1976, Electrochemical's book value per share was $11.46. The $12.56 price is higher than the current market price of Electrochemical shares, which price, however, is not the most meaningful indicator of the value of the shares. Applicants represent that the negotiations were conducted at arms length and each considered all conventional criteria for valuing the Electrochemical shares.

Applicants state that they are aware that on or about October 28, 1977, the Israeli Pound was devalued and allowed to float freely against other currencies on the international money market. Applicants state they continue to believe that in view of all relevant factors the price to be paid by Handels for the Electrochemical shares is fair and reasonable.

Applicants note further that the underlying principle of Rule 17a–6 under the Act is applicable to the proposed sale, and provides additional support for granting the exemptive relief requested. Rule 17a–6 provides an automatic exemption for transactions otherwise prohibited by Section 17(a) of the Act, where the likelihood for overreaching of the investment company is reduced by the condition that no person in a position to influence the decisions of the registered investment company (i.e., an "upstream affiliate") is a party to the transaction or has a financial interest in a party to the transaction (other than the registered investment company). Thus, Applicants state the terms of the transaction do not involve overreaching by any person concerned.

Israel Investors further represents that the proposed transaction is consistent with its investment policy and with the general purposes of the Act.

Section 17(d) of the Act and Rule 17d–1 thereunder, in pertinent part, prohibit an affiliated person of an affiliated person of a registered investment company, acting as principal, from participating in, or effecting any transaction in connection with, any joint enterprise or arrangement in which such registered investment company is a participant, unless an application regarding such transaction has been filed with the Commission and has been granted by an order entered prior to the submission of such plan to security holders for approval, or prior to such adoption if not so submitted. In passing upon an application pursuant to Rule 17d–1, the Commission will consider whether the participation of such registered company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants state that Section 17(d) and Rule 17d–1 thereunder may be deemed to prohibit the proposed purchase by Handels of Israel Investors' shares of Electrochemical stock, as the culmination of the Applicants' mutual interest in Electrochemical, a company which could be considered a joint enterprise of the Applicants. In this connection, Applicants state that in July, 1976, pursuant to an order of the Commission dated June 30, 1976 (Investment Company Act Release No. 9333), Israel Investors and Handels each purchased 178,195 shares of Electrochemical pursuant to commitments to purchase all such shares not purchased by the public in an offering made by Electrochemical. These purchases were made pursuant to standby commitments by the Applicants to Electrochemical, which, though separate, were entered into by each Applicant with knowledge that the other Applicant was, likewise, entering into such a commitment, and with the expectation that the great bulk of the shares to be sold in the public offering would be acquired by the Applicants. The commitments were, in fact, contingent upon each other. In addition, Applicants state that their entry into the Pledge Agreement may be deemed to constitute a joint arrangement within the scope of Rule 17d–1 under Section 17(d) of the Act. Accordingly, Applicants request, to the extent necessary, an order pursuant to Rule 17d–1 to permit these transactions.

Applicants state that the participation by Israel Investors in the proposed transaction will not be on a basis less advantageous than that of Handels. The sale of Electrochemical shares by Israel Investors assertedly is advantageous to both Israel Investors and Handels. Israel Investors will receive a fair price for its controlling interest in a company in which it no longer wishes to retain its investment, and Handels will be able to increase its ownership to a controlling level of a company in the same line of business. Applicants also state that the participation by Israel Investors in their joint arrangement with respect to custody of and rights in the pledged shares, is on a basis no less advantageous than that of Handels.

Applicants state that Israel Investors mains custody of its securities and similar investments under a self-custodianship, as permitted by Section 17(f)(3) of the Act, pursuant to a safekeeping arrangement with Bank Leumi in accordance with Rule 17f(2). Rule 17f–2 requires, in pertinent part, that all securities and similar investments be deposited in the safekeeping of, or in a

vault or other depository maintained by, a bank or other company whose functions and physical facilities are supervised by Federal or State authority, and that access to the securities and similar investments be limited to certain specified persons. Such persons are limited generally to authorized officers and responsible employees of the registered company, authorized officers and employees of the custodian, the independent public account for the registered company, and employees and agents of the Commission.

Applicants request an exemption from the restrictions of Rule 17f–2, to the extent necessary, to permit authorized representatives of Handels, subject to Bank Leumi's rules, to inspect the securities held in the safe-keeping of Bank Leumi under the Pledge Agreement. They also request an exemption from Rule 17f–2 to permit Dilworth, Paxson to retain possession of the Swiss Promissory Notes, which, as securities held by Israel Investors, would otherwise have to be maintained in the safekeeping of Bank Leumi in accordance with the requirements of Rule 17f–2.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction from any provision or provisions of the Act and the rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that an exemption from Rule 17f–2 is appropriate to permit representatives of Handels to inspect the pledged collateral in the safe-keeping of Bank Leumi, and to permit the Swiss Promissory Notes to be held in escrow by Dilworth, Paxson. They assert that the terms of the proposed transaction relating to custody and inspection of the pledged shares and the escrow of the Swiss Promissory Notes are necessitated by the terms of the transaction and will adequately protect

Notice is further given that any interested person may, not later than November 29, 1977, at 5:30 p.m., submit to the Commission writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–32963 Filed 11–14–77;8:45 am]

[8010–01]

[Release 34–14146; File No. SR–NASD–77–17]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94–29, 16 (June 4, 1975) notice is hereby given that on October 11, 1977, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission a proposed rule change as follows:

THE NASD'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The following is the full text of Section B.3.1. of Part II of Schedule D under Article XVI of the By-Laws, including the proposed amendment.

NOTE.—Additions are indicated by italics. Deletions are indicated by brackets.

3. An eligible security shall not be authorized, and an authorized security shall be subject to suspension of authorization, if: * * *

1. the number of persons holding the security shall total less than 300 except in the case of rights, warrants or units[;]. *Beneficial owners may be included as holders of such security upon appropriate verification by broker/dealers holding such security on behalf of such beneficial owners;*

THE NASD'S STATEMENT OF PURPOSE OF PROPOSED RULE CHANGE

The proposed rule change would permit the inclusion of beneficial owners as well as recordholders to satisfy the 300 holder requirement for initial inclusion and continued inclusion of securities in the NASDAQ system.

THE NASD'S STATEMENT OF BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Section 15A.(b)(11) provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that the rules of the association contain provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange which may be distributed or published by any member or persons associated with a member, and the persons to whom such quotations may be supplied. Such rules relating to quotations shall be designed to produce fair and informative quotations, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations.

THE NASD'S STATEMENT ON COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON THE PROPOSED RULE CHANGE

Article XVI of the NASD By-Laws provides that the Board of Governors may amend Schedule D without recourse to the membership.

Comments of the membership were neither solicited nor received.

THE NASD'S STATEMENT ON BURDEN ON COMPETITION

It is felt that no burden on competition is imposed by the proposed rule change.

On or before December 20, 1977, or within such longer period (i) as the Commission my designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 5, 1977.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 7, 1977.

[FR Doc.77–32970 Filed 11–14–77;8:45 am]

[8010–01]

[Release No. 34–14145; File No. SR–NASD–77–16]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. 94–29, section 16 (June 4, 1975), notice is hereby given that on October 6, 1977, the National Association of Securities Dealers, Inc. ("NASD") rescinded a rule which had become effective upon filing (SR–NASD–77–13, filed August 12, 1977, published in 42 FR 49553 (1977)) pursuant to Section 19(b)(3)(A) of the Act and which had reduced the variable portion of its annual membership assessment. It simultaneously submitted a new proposal (SR–NASD–77–16) identical in substance to the one submitted as SR–NASD–77–13. The proposal submitted as SR–NASD–77–16 became effective upon filing pursuant to Section 19(b)(3)(A) of the Act. Use of this section is authorized because the new proposal establishes or changes a due, fee, or other charge.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the NASD. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 30, 1977.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 7, 1977.

[FR Doc.77–32971 Filed 11–14–77;8:45 am]

[8010–01]

[Release No. 14143; File No. SR–NYSE–76–34]

NEW YORK STOCK EXCHANGE, INC.

Order Instituting Proceedings To Determine Whether Proposed Changes Should Be Disapproved

NOVEMBER 7, 1977.

The New York Stock Exchange, Inc. (the "NYSE"), 55 Water Street, New York, N.Y. 10041, has filed, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1) and Rule 19b–4 thereunder, 17 CFR 240.19b–4, proposed changes to NYSE Rule 405, the "Know Your Customer" rule.[1]

SUMMARY OF PROPOSED RULE CHANGES

The proposed rule would:

(1) Provide that, with respect to accounts introduced on a disclosed basis, only the introducing member or member organization would be required to inquire into the essential facts as to those customers and accounts and to supervise those accounts;

(2) Permit members and member organizations to effect, under certain conditions, isolated (i.e., not more than five transactions for a customer during a 12 month period unless otherwise approved by the NYSE) and unsolicited purchases and sales of securities valued at $2,000 or less per transaction without complying with Rule 405 (a) and (b) and Rule 409;

(3) Require that a member or member organization "make reasonable effort to ascertain * * *" the essential facts relative to certain persons and accounts in place of the present duty imposed by the rule to "use due diligence to learn * * *" the essential facts;

(4) Eliminate the specification that the member must learn such facts as to "every order"; and

(5) Delete the prescription that a member or member organization "diligently" supervise compliance with the standards of Rule 405.

PROCEEDINGS TO DETERMINE WHETHER TO DISAPPROVE THE PROPOSED CHANGES

The Commission has determined to institute proceedings pursuant to Section 19(b)(2) of the Act in order to determine whether to disapprove the proposed rule changes which raise substantial legal and policy issues as summarized below.

GROUNDS FOR DISAPPROVAL UNDER CONSIDERATION

Section 19(b)(2) of the Act provides that the Commission shall approve a proposed rule change of a self-regulatory organization only if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder which are applicable to such organization and shall disapprove if it does not so find.

Section 6(b)(5) of the Act prescribes that the rules of a national securities exchange shall be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest.

Rule 405, in conjunction with comparable provisions adopted by the other national securities exchanges, the National Association of Securities Dealers, Inc. and the Commission, constitutes a central component of the regulatory program for all brokers and dealers inasmuch as it directly prescribes a standard of conduct for brokers, dealers, and their associated persons with respect to their duty to customers and the activity in customer accounts.

Based upon its review of broker-dealer activities, the Commission actions taken against brokers and dealers, the resolution of customer grievances against them, and the judicial application of the "know your customer" rules and related rules, the Commission is concerned that, in a number of respects, the proposed changes to NYSE Rule 405 could diminish the responsibilities of the broker or dealer to its customers, decrease the protection afforded investors in the conduct of their accounts, and impair the ability of customers to maintain an action against a broker or dealer for inappropriate activity in their accounts. In addition, the Commission questions whether or not proposed Rule 405 is designed to prevent fraudulent or manipulative acts or practices and to foster just and equitable principles of trade.

Since the proposed changes appear to sanction a less rigorous inquiry by the broker or dealer in obtaining essential customer information and/or a less thorough review of the activity in customer accounts and to open certain opportunities for fraudulent or manipulative acts or practices and may not be designed to promote just and equitable principles of trade, we cannot now conclude that those changes are consistent with the purposes of the Act.

In particular, the Commission cites as a basis for instituting these proceedings the following issues. As described in item (1) of the Summary of Proposed Rule Changes ("Summary"), the amended rule provides that, with respect to any account introduced on a disclosed basis, the introducing broker or dealer would be required to "know the customer" and supervise the customer account. The Commission is concerned that, under the amended rule, the carrying member or member organization would bear no responsibility under the NYSE rules (other than that imposed by Rule 342(e)) to know the customer or, perhaps more importantly, supervise the trading activity in such account.

By virtue of the comprehensive duty imposed by existing Rule 405 on members and member organizations irrespective of their functional or contractual relationships, both the carrying and introducing members or member organizations currently bear the responsibility for these accounts. The Commission is cognizant of the fact that the imposition of responsibilities on both the carrying and introducing broker or dealer entails

[1] Notice of the amended proposal was given by publication of Securities Exchange Act Release No. 13821 (August 2, 1977) and 42 FR 40290 (August 9, 1977); notice of the initial filing was given in Securities Exchange Act Release No. 12674 (July 20, 1976) and 41 FR 34136 (August 12, 1976). No comments were received in response to either publication. The Commission extended the time for its action on the proposed rule changes until November 7, 1977 (Securities Exchange Act Release No. 13953 (September 13, 1977), 42 FR 47603 (September 21, 1977)).

a certain duplication of regulatory effort and is desirous of eliminating unnecessary duplication, and the consequent expense, where it does not fulfill an appropriate purpose. It is also aware that carrying and introducing firms currently allocate the exercise of these responsibilities by contract between themselves and that an allocation of these responsibilities by rule would be an appropriate method of delineating their responsibilities. As proposed, however, the rule appears to negate all responsibilities of the carrying member or member organization with respect to introduced accounts except that imposed by NYSE Rule 342 (e). Although the Commission believes that Rule 405 could be amended to establish an appropriate distribution of these responsibilities, it doubts that the complete or substantial elimination of the duty of the carrying firm with respect to introduced accounts without clarification of its residual responsibility for their supervision is consistent with the protection of investors and the public interest.

As currently in effect Rule 405 permits isolated sales of securities valued at $1,000 or less per transaction under certain circumstances. The proposal would permit the execution of isolated (i.e., not exceeding five $2,000 transactions during any twelve-month period unless otherwise approved in writing by the NYSE) and unsolicited purchases as well as sales of securities. It is the view of the Commission that permitting purchases or sales of securities which could amount to as much as $10,000 during a twelve-month period without requiring the broker or dealer to comply with Rules 405 and 409 may be inappropriate. Further, authorizing the execution of such purchases, even in lesser amounts, requires greater justification than does allowing the liquidation of existing securities positions of small value acquired, for example, through inheritance or stock bonus plans.

Although the Commission recognizes that brokers and dealers incur certain costs in collecting and maintaining customer information and complying with the reporting requirements of Rule 409 as well as that it may ultimately benefit investors to reduce the broker's or dealer's expenses, it nevertheless remains concerned that permitting a broker or dealer to execute purchases of securities without obtaining essential customer information, even under the circumscribed conditions set forth in the rule, may not be consistent with investor protection and the public interest.

The Commission also is concerned that the information relating to customer transactions in the common purchase and sale account may not be readily retrievable by the name of the customer as well as by the name of the security and, because of this, the broker or dealer will be unable to verify easily the number of transactions effected on this "isolated and unsolicited" basis. Because of its concern that the execution of such transactions, and in particular of purchases, in the common purchase and sale account may permit opportunities for fraudulent and manipulative acts or practices, the Commission considers that permitting such transactions in excess of the strict parameters set forth in the rule without specifying conditions under which they may be granted may be inappropriate.

As proposed, the obligation of the member or member organization to know its customer and to supervise customer accounts, as described in items (3) and (5) of the Summary, would be rephrased. The Commission is concerned that reformulation of the broker-dealer's duty by substituting the words "make reasonable effort" for "use due diligence" may sanction a less thorough evaluation of, for example, the financial condition and investment objectives of the customer and the suitability of particular transactions for the customer and a more cursory supervision of the transactions in a customer account by the broker or dealer than is consistent with the public interest and the protection of investors. The Commission is also concerned that the deletion of the specification that a broker or dealer supervise compliance with Rule 405 "diligently" may lead a broker or dealer to conclude inappropriately that it is not required to supervise compliance with the rule in a diligent manner.

As item (4) of the Summary indicates, the proposal also deletes from the statement of the duty of the member or member organization the requirement that it use reasonable effort to ascertain the essential facts relative to "every order." Although it can be argued that the duty as to every order is subsumed in the duty of the broker or dealer to the customer and the account, the Commission is nonetheless aware that, on its face, the proposal to eliminate this specification appears to negate this responsibility of the member or member organization. Since the Commission is of the view that the duty imposed by Rule 405 should extend to every order, this amendment may mislead the broker or dealer subject to the requirements of Rule 405.

For these reasons the Commission has decided to institute proceedings to determine whether or not the proposed change to Rule 405 should be disapproved.

Conduct of Proceedings

The grounds outlined above present matters of legal interpretation of the Act which the Commission believes may be considered, at least initially, by written submissions from interested persons since there does not appear to be any specific factual dispute relevant to a determination by the Commission to approve or to disapprove the NYSE proposed rules covered by File No. NYSE–76–34. Nevertheless, an opportunity for the oral presentation of views, data and arguments may, under certain circumstances, be useful and appropriate in connection with any decision relating to complex questions of law and policy.

Interested persons are invited to submit written data, views, and arguments within 30 days from the date hereof as to the NYSE's rule proposals and as to whether an opportunity for oral presentation of views, data and arguments should be accorded and to submit a rebuttal to any other person's submission within 40 days from the date hereof. SR–NYSE–76–34 and copies of all submissions will be available for inspection at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the NYSE's submissions are also available at the principal office of the NYSE. Persons desiring to make written submissions or rebuttal statements should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. Reference should be made to File No. SR–NYSE–76–34.

By the Commission.

George A. Fitzsimmons,
Secretary.

[FR Doc.77–32964 Filed 11–14–77;8:45 am]

[8010–01]

[Rel. No. 20248; 70–6070]

OHIO POWER CO.

Proposed Agreement With County Authority for Construction of Pollution Control Equipment Financed By Sale of Revenue Bonds

November 8, 1977.

Notice is hereby given that Ohio Power Company ("Ohio"), 301 Cleveland Avenue, S.W., Canton, Ohio 44702, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed an application-declaration with this Commission designating Sections 9(a) and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44(b)(3) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Ohio states that in order to comply with prescribed environmental quality control standards of the State of West Virginia it has been and will be necessary to construct a certain high efficiency electrostatic precipitator ("the Project") for particulate emission control and related facilities at its Kammer Plant ("the Plant"). It is estimated that the Project will in the aggregate cost approximately $75,000,000.

Under the Industrial Development and Commercial Development Bond Act of the State of West Virginia (the "Industrial Development Act"), Marshall County, West Virginia, a political subdivision of the State of West Virginia, (the "County"), is authorized to enter into agreements concerning, and to acquire, pollution control facilities, and to sell such facilities to the user thereof for consideration which may be paid in installments or otherwise. The County has adopted a resolution agreeing to cooperate to finance the acquisition, construction and installation of the Project, and, in particular, upon the request of Ohio, to undertake the issuance of its pollution

control revenue bonds (the "Bonds") under the Industrial Development Act, at one time or from time to time, to aid in financing the cost of the Project in the maximum amount of up to $80,000,000, the Bonds to be issued in such series and amounts and upon such terms and conditions as are mutually agreed between the County and Ohio.

Ohio proposes to enter into an agreement of sale ("Agreement") with the County whereby the County will construct and equip the Project. To finance the Project, the County will issue Bonds in an initial principal amount of up to $50,000,000 ("Series A Bonds") and additional Bonds in principal amounts which, when added to the principal amount of the Series A Bonds, are presently estimated not to exceed $80,000,000 in the aggregate, sufficient to cover construction costs of the Project. The proceeds from the sale of the Series A Bonds will be deposited by the County with a Trustee ("Trustee") under an indenture to be entered into between the County and such Trustee (the "Indenture") pursuant to which the Series A Bonds are to be issued and secured. Such proceeds will be applied to payment of the cost of construction of the Project. The Agreement also will provide for the sale of the Project to Ohio, the payment by Ohio of the purchase price of the Project in semiannual installments over a term of years, and the assignment and pledge to the Indenture Trustee of the County's interest in, and of the monies receivable by the County under, the Agreement.

The Agreement will provide that each installment of the purchase price for the Project payable by Ohio will be in such an amount (together with other monies held by the Trustee under the Indenture for that purpose) as will enable the County to pay, when due, (i) the interest on the Series A Bonds, any additional Bonds and any refunding Bonds, (ii) the principal amount of the Series A Bonds, any additional Bonds and any refunding Bonds payable at the time of their respective stated maturities and (iii) amounts, including any accrued interest, payable in connection with any mandatory redemption of the Series A Bonds, any additional Bonds or any refunding Bonds. The Agreement also obligates Ohio to pay the fees and charges of the Trustee, as well as certain administrative expenses of the County. The Agreement further provides that Ohio may prepay the purchase price of the Project (i) by paying, under certain conditions, amounts sufficient to redeem all the Bonds then outstanding and all other amounts payable under the Indenture or (ii) at any time by depositing in the Indenture's Bond Fund or delivering to the Trustee amounts sufficient to provide for the release of the Indenture. Upon prepayment of the entire purchase amount, Ohio may terminate the Agreement. Ohio may also prepay the purchase price of the Project in part, such payments to be paid to the Trustee for deposit in the Bond Fund and credited against the purchase price and used for the redemption or purchase of outstanding Bonds in the manner and to the extent the outstanding Bonds are redeemable or subject to purchase as provided in the Indenture.

Ohio proposes to convey equipment previously constructed (the "Existing Facilities"), subject to Ohio's First Mortgage lien, to the County and Ohio will receive out of the Bond proceeds, an amount equal to Ohio's original cost of the Existing Facilities. The Existing Facilities will be included in the Project which Ohio will repurchase from the County pursuant to the Agreement. The proceeds realized from the sale of the Existing Facilities will be used to retire unsecured short-term debt of Ohio, including the financing of part of its construction program. As of September 30, 1977, there were notes payable to banks and commercial debt outstanding in the amount of $75,480,000. The estimated cost of Ohio's construction program for 1977 is $184,000,000, exclusive of construction costs in connection with the Gavin Plant by Ohio's wholly owned subsidiary, Ohio Electric Co. Said costs for the Gavin Plant are estimated at $11,000,000 for 1977.

It is contemplated that the Series A Bonds will be sold by the County pursuant to arrangements with a group of underwriters represented by Morgan Stanley & Co., Inc. In accordance with the laws of the State of West Virginia, the interest rate to be borne by the Series A Bonds will be fixed by the County Commission of the County. While Ohio will not be a party to the underwriting arrangements for the Series A Bonds, the Agreement will provide that the terms of the Series A Bonds and their sale by the County shall be satisfactory to Ohio.

Ohio has been advised that the annual interest rates on an obligations, interest on which is tax exempt, historically have been and can be expected at the time of issue of the Series A Bonds to be 1½ percent to 2½ percent lower than the rates on obligations of like tenor and comparable quality, interest on which is fully subject to federal income tax.

The Series A Bonds will be dated on or about the first day of the month in which they are issued, will bear interest semiannually and will mature at a date or dates not more than 30 years from the date of their issuance. It is expected that the Series A Bonds will not be redeemable at the option of the County within 10 years from their issue date except under certain circumstances. The Series A Bonds will be subject to mandatory redemption under the circumstances and terms specified in the Indenture.

The fees and expenses incident to the proposed disposition of the Existing Facilities and the acquisition of the Project (as distinguished from and excluding fees and expenses incident to the sale of the Bonds by the County payable out of the proceeds of the sale) will be supplied by amendment. It is stated that the Public Utilities Commission of Ohio has jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 2, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed, or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-32965 Filed 11-14-77;8:45 am]

[8010-01]

[Release No. 14140; File No. SR-OCC-77-12]

OPTIONS CLEARING CORP.

Order Approving Rule Change Submitted to Change the Expiration Time for Certain Series of Options and To Improve OCC's Emergency Procedures

NOVEMBER 7, 1977.

On September 21, 1977, The Options Clearing Corporation ("OCC"), 5950 Sears Tower, Chicago, Ill. 60606, submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change to change the expiration time for series of options expiring nine or more months after the month in which the amendment becomes effective from 5:00 p.m. Eastern Time to 11:59 p.m. Eastern Time on the expiration date and to improve OCC's procedures for dealing with emergencies which prevent OCC from following its normal expiration date procedures.

In accordance with Section 19(b) of the Act and Rule 19b-4 thereunder, the proposed rule change was published in the FEDERAL REGISTER (42 FR 55156, October 13, 1977), and the public was invited to submit comments. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 14031, October 7, 1977. No letters of comment were received.

The Commission has reviewed the OCC submission and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A and the rules and regulations thereunder. The Commission finds good cause to approve the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in order to enable OCC to provide for prompt disclosure of the rule change in the OCC prospectus, scheduled to become effective on or before October 31, 1977.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-OCC-77-12 be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-32966 Filed 11-14-77;8:45 am]

[8010-01]

[Release No. 34-14144; File No. SR-NASD-77-15]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. § 78s(b)(1), as amended by Pub. L. 94-29, § 16 (June 4, 1975) (the "Act"), notice is hereby given that on September 26, 1977, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission the following proposed rule change:[1]

THE NASD'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The following is the full text of proposed amendments to Schedule E to Article IV, Section 2(c) of the Association's By-Laws. Schedule E in its entirety appears in the manual commencing on page 1101-3.

Section 1—Definitions.
(a) Affiliate:
(1) (Unchanged).
(2) (Unchanged).
(3) (Unchanged).
(4) (Unchanged).
(5) (Unchanged).

provided, however, that the term "affiliate" shall not be deemed to include an investment company registered as such with the Securities and Exchange Commission pursuant to the provisions of the Investment Company Act of 1940, as amended; a separate account as defined in Section 2(a)(37) of the Investment Company Act of 1940, as amended; a real estate investment trust as defined in Section 856 of the Internal Revenue Code or [a nondebt offering of] a direct participation program; *except that the term shall be deemed to include a debt and/or exchange offer of a direct participation program or real estate investment trust.*

(b) (Unchanged).
(c) (Unchanged).
(d) (Unchanged).
(e) (Unchanged).
(f) (Unchanged).
(g) (Unchanged).
(h) (Unchanged).
(i) (Unchanged).
(j) (Unchanged).
(k) (Unchanged).
(l) (Unchanged).
(m) (Unchanged).
(n) (Unchanged).
(o) (Unchanged).
(p) (Unchanged).
Section 2 (Unchanged).
Section 3 (Unchanged).
Section 4—Member Underwriting or Participating in the Distribution Of Issue of Securities of an Affiliate.

(a) Any member may underwrite, participate as a member of the underwriting syndicate or selling group, or assist in the distribution of a public offering of an issue of securities of an affiliate only if:

[(1) The offering price is established pursuant to the provisions of Section 3(a)(1) and the provisions of Section 3(a)(2) are complied with;]

(1) The price at which the issue is to be distributed to the public is established by the member-affiliate at a price no higher than that recommended by two qualified independent underwriters who shall also participate in the preparation of the registration statement and the prospectus, offering circular, or other comparable document, and each of who shall exercise the usual standards of due diligence in respect thereto;

(2) The referred to two qualified independent underwriters are represented by legal counsel independent of the issuer and its member-affiliate who shall review the information contained in the registration statement and the prospectus, offering circular, and other comparable document, and issue an opinion as to whether they conform to all requirements of the federal securities laws and, in case of an intrastate offering, whether they conform to all of the requirements of the state with jurisdiction.

[(2)] (*3*) (Unchanged).
[(3)] (*4*) (Unchanged).
[(4)] (*5*) (Unchanged).
[(5)] (*6*) (Unchanged).

(b) Notwithstanding the provision of subsection (a) hereof, a member may participate as a member of the underwriting or selling group in the distribution of an issue of an affiliate-issuer's securities which is the subject of a firm commitment underwriting managed by an underwriter who is a qualified independent underwriter in an amount not exceeding 10% of the total dollar amount thereof provided, however, that in any offering where a bona fide independent market for the securities does not exist, where more than one participating member is an equity owner of the issuer and their aggregate equity ownership is 10% or greater, the aggregate participation in the distribution by such members shall be limited to 10% of the total dollar amount of the offering, provided the requirements of Section [3] 4(a)(3) have been fully satisfied by such participating members; *except that in the case of tender or exchange offers the member-affiliate may participate up to 10% of the securities tendered or exchanged notwithstanding the fact that it may be offered on a best efforts basis, provided the offering is managed by a qualified independent underwriter, the member-affiliate satisfies the requirements of Section 4(a)(3), and there is a bona fide independent market for the securities to be tendered.*

(c) Notwithstanding the provisions of subsections (a) and (b) hereof, any member who satisfies in all respects the provisions of Section [3] 4(a)(3) hereof may underwrite or participate in the distribution of an issue of securities of an affiliate without the pricing recommendations of two qualified independent underwriters if the offering is of a class of securities for which a bona fide independent market exists as of the date of the filing of the registration statement for the current offering and as of the effective date thereof, or if the offering is of a class of securities which are rated BAA or better by a recognized rating service.

(d) A stockholder of a parent of a member who is actively engaged in the conduct of the member's investment banking or securities business, a member of his immediate family, or an affiliate of that member, is not permitted to sell any portion of his ownership interest in the issuing parent in any offering unless a bona fide independent market exists for the securities and the provisions of Section 4 (a) (1), (2), and (3) hereof are complied with.

THE NASD'S STATEMENT ON ITS PROCEDURES

The proposed amendments were recommended to the Board of Governors by the Committee on Corporate Financing and were subsequently approved by it for circulation to members and interested persons on April 20, 1977, for comment. Appropriate changes were made and the recommended amendments were adopted by the Board at its July 1977 meeting.

Article IV Section 2(c) of the By-Laws gives the power to the Board to adopt, alter, amend, supplement or modify the provisions of Schedule E without recourse to the membership for approval.

THE NASD'S STATEMENT OF PURPOSE OF PROPOSED BY-LAW CHANGE

The By-Laws would be amended in the following manner:

Section 1—Definitions.

This section would be amended to expand the definition of "affiliate" to include exchange offers of direct participation programs and real estate investment trusts as well as debt offerings of real estate investment trusts. Under recently effective amendments debt offerings of direct participation programs are already covered. While initially all offerings of direct participation programs and real estate investment trusts were excluded from compliance with the provisions of the Schedule as there was little or no pricing consideration, some have recently taken on new characteristics and have been the subject of a debt and/or exchange offer. In these instances the Board feels that the terms of the debt or exchange offer normally should be evaluated by two independent underwriters to assure that the investors are treated fairly in the determination of the coupon with respect to debt offerings or in the exchange of their program interests.

Section 2—(Unchanged).

Section 3—(Unchanged).

Section 4—Member Underwriting or Participating in the Distribution of Issue of Securities of an Affiliate.

Subsection (a)—This subsection has been amended to clarify and refine the provisions

[1] New material is indicated by italics. Deletions are indicated by brackets.

of Section 4(a) with respect to the requirements that qualified independent underwriters establish the offering price in offerings where a member is participating in the distribution of an affiliate's securities and that those underwriters be represented by legal counsel independent of the issuer and the member-affiliate. Thus, the two new paragraphs (1) and (2) under Section 4(a) restate these requirements which presently appear in Section 3, thereby eliminating the need to refer back to the provisions of Section 3. The new paragraph (2) also makes clear that the requirement is satisfied so long as the independent underwriters are represented by counsel which is independent of both the issuer and member-affiliate thereby eliminating an ambiguity under the present language which might be read as requiring three separate counsel.

Subsection (b)—The amendment to this subsection represents a liberalization of existing policy to now allow a member-affiliate to participate in any tender or exchange offer without employing two indepedent underwriters to price the securities; provided, the member-affiliate meets all applicable requirements of the subsection. Participation by a member in an offering of an affiliate's securities of up to 10% without employing two independent underwriters is presently limited to those offerings which are the subject of a firm commitment underwriting; however, since tender and exchange offers are not normally made on firm commitment terms, members are automatically precluded from participating in a best efforts tender or exchange offer of an affiliate's securities even though the member is able to meet all other basic requirements. The new provision specifically applies to tender or exchange offers only. Thus, all other types of offerings which are not underwritten on a firm commitment basis would still be subject to the prohibition.

Subsection (c)—The amendment to this subsection would require the changing of the present reference of Section 3(a)(3) to Section 4(a)(3) and represents only a technical clerical change necessary to make the paragraph reference more appropriate in view of the proposed changes and to make it consistent with the use of the same reference in Section 4 (b) and (d).

Subsection (d)—This is a new paragraph under Section 4, reflective of the existing provisions of Section 2(b)(1)d. of the Schedule, prohibiting stockholders of a parent of a member who are actively engaged in the conduct of member's investment banking business from selling their securities in an offering of the parent's securities in which the member is participating unless a bona fide independent market exists for the securities and certain provisions regarding stability of the member and the requirements of independent underwriters are met. (The term "parent" is defined under Section 1 of Schedule E.) Section 2(b)(1)d. also prohibits a stockholder of a member going public from selling his securities in a self-underwritten offering where there is no public market for the securities of the member. The provisions of this new paragraph would likewise prohibit persons actively engaged in a member's business who are stockholders of the member's parent from selling any securities of the parent in an offering underwritten by a member affiliate where there is no public market for the securities of the parent.

THE NASD'S STATEMENT OF BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Sections 15(A) (1), (2), and (6) of the Securities Exchange Act of 1934 provide that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that its rules provide it with the capacity to carry out the purposes of the Act, to enforce compliance by its members and persons associated with its members, with the Act, and the rules and regulations thereunder, and to protect investors and the public interest. The provisions of Article IV, Section 2(c) Schedule E of the Association's By-Laws provide for regulation over the terms and distribution of public offerings of an issue of a member's securities and affiliates thereof. The proposed amendments are being requested here to further strengthen such regulation or clarify it as a result of experience gained in its implementation.

THE NASD'S STATEMENT ON COMMENTS RECEIVED FROM THE MEMBERS, PARTICIPANTS OR OTHERS ON THE PROPOSED SCHEDULE CHANGE

On April 20, 1977, proposed amendments to Schedule E of Article IV, Section 2(c) of the Association's By-Laws were circulated to the membership for comment under Notice to Members 77-13. The proposed amendments were promulgated by the Committee on Corporate Financing last year and approved by the Board of Governors for circulation to the membership for comment. Only three letters of comment were received on the proposals.

One member's comments were directed more toward the incorporation of certain amendments which were already included in recent amendments to the Schedule which became effective on May 19. The only suggestion of any significance was in the recommendation on Section 4(a)(1) to allow the use of outside consultants to assist in the pricing of an offering rather than require reliance on another underwriter.

Another commentor suggested that in addition to the Schedule providing for an exemption for REITs which qualify under Section 856 of the Internal Revenue Code as set forth in the definition in Section 1 of the Schedule, it also should make the exemption available to any REIT which may be deemed to have an independent Board of Trustees or Advisors of the affiliated member firm.

The third commentor expressed its opinion in regard to Section 1 that the involvement of two independent underwriters places an unnecessary burden upon the investing public in debt offerings of direct participation programs on the grounds that a debt offering, by its very nature, must be priced competitively if it is to succeed.

The commentator also argued that in the presence of a bona fide independent market for the member or its parent's securities, insiders of the member firm or its parent should be allowed to sell their own securities without any additional protections.

THE NASD'S STATEMENT ON BURDEN ON COMPETITION

The proposed amendments to Schedule E to Article IV, Section 2(c) of the Association's By-Laws are the result of the Association's assumption of the responsibility imposed upon it by the Act, i.e., to develop criteria in its rules to aid in protecting the investing public. It is believed that no burden on competition not necessary in furtherance of the purposes of the Act arises from the proposal.

On or before December 20, 1977, or within such longer period (i) as the Commission may designate up to ninety (90) days of such date it if finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit witten data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number referenced in the caption above and should be submitted or or before December 15, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 7, 1977.

[FR Doc.77-32943 Filed 11-14-77;8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

REGION X BOISE ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region X Boise Advisory Council will hold a public meeting at 9:45 a.m., Monday, December 5, 1977, at the Royal Restaurant "Executive Room", 1112 Main Street, in Boise to discuss such business as may be presented by members, staff of the Small Business Administration, or others present. For further information write or call Oliver T. Davis, District Director, U.S. Small Business Administration, P.O. Box 2618, Boise, Idaho 83701, 208-554-1096.

Dated: November 7, 1977.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc.77-32947 Filed 11-14-77;8:45 am]

[8025-01]

REGION V CLEVELAND ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region V Cleveland Advisory Council will hold a public meeting at 9:00 a.m., Thursday, December 15, 1977, at the Bond Court Hotel, East 6th at St. Clair, Cleveland, Ohio 44114, to discuss such business as may be presented by members, staff of the Small Business Administration, or others present. For further

information write or call S. Charles Hemming, District Director, U.S. Small Business Administration, Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199, 216–293–4182.

Dated: November 7, 1977.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc.77–32948 Filed 11–14–77;8:45 am]

[8025–01]

REGION X PORTLAND ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region X Portland Advisory Council will hold a public meeting at 9:30 a.m., Wednesday, December 7, 1977, at the Bank of California Board Room, Broadway and Washington Streets, Portland, Oreg., to discuss such business as may be presented by members and the staff of the Small Business Administration, or others present. For further information write or call J. Don Chapman, District Director, U.S. Small Business Administration, Federal Building, 1220 SW. Third Avenue, Portland, Oreg. 97204, 503–423–3461.

Dated: November 7, 1977.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc.77–32949 Filed 11–14–77;8:45 am]

[8025–01]

REGION X SEATTLE ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region X Seattle Advisory Council will hold a public meeting at 9:00 a.m., Friday, December 9, 1977, in the Federal Building, 915 Second Avenue, Seattle, Wash. 98174, to discuss such business as may be presented by members, staff of the Small Business Administration, or others present. For further information write or call Robert F. Caldwel, District Director, at the above address, 206–399–7791.

Dated: November 7, 1977.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc.77–32950 Filed 11–14–77;8:45 am]

[8025–01]

[Declaration of Disaster Area No. 1384; Amdt. 1]

WASHINGTON

Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 56991), is amended by adding Stevens County under the designated counties for dry wells. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date: November 7, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–32952 Filed 11–14–77;8:45 am]

[8025–01]

[Delegation of Authority No. 30, Revision 15; Amdt. 14]

FIELD OFFICES

Delegation To Conduct Program Activities

Delegation of Authority No. 30, Revision 15, republished in the FEDERAL REGISTER on February 25, 1976 (41 FR 8240), as amended (41 FR 16234, 17289, 28049, 36702, 47610, 50883 and 42 FR 56990), is hereby further amended to reflect realignment of procurement assistance personnel in Region X.

Accordingly, Delegation of Authority No. 30, Revision 15, Part VI, Section B, is amended as set forth below:

* * * * *

PART IV—PROCUREMENT ASSISTANCE PROGRAM (PA)

SECTION B—SECTION 8(a) CONTRACTING AUTHORITY (SBAct)

1. * * *

* * * * *

g. District Directors, Region IX, Anchorage, Portland and Seattle D/O's—$500,000.

h. * * *

i. * * *

j. * * *

k. Branch Manager, El Paso, Tex.—$350,000.

2. * * *

* * * * *

g. District Directors, Region IX, Anchorage, Portland, and Seattle D/O's—$500,000.

h. * * *

i. * * *

j. Business Development Specialist, St. Louis D/O only—Unlimited.

k. Branch Manager, El Paso, Tex., BO—$350,000.

3. * * *

* * * * *

g. District Directors, Region IX D/O, Anchorage, Portland, and Seattle D/O's—$500,000.

h. * * *

i. * * *

j. * * *

k. Business Development Specialist, St. Louis D/O—unlimited.

l. Branch Managers, El Paso, Tex., B/O—$350,000.

Effective date: November 15, 1977.

Dated: November 9, 1977.

JOHN J. SWEENEY,
Acting Associate Administrator for Operations.

[FR Doc.77–32951 Filed 11–14–77;8:45 am]

[4710–01]

DEPARTMENT OF STATE

[Public Notice CM–7/132]

U.S. ADVISORY COMMISSION ON INTERNATIONAL EDUCATION AND CULTURAL AFFAIRS

Meeting

The United States Advisory Commission on International Educational and Cultural Affairs will meet in open session on Friday, December 9, 1977, in Room 1207 of the State Department. The meeting is expected to run from 9:30 a.m. until 12:30 p.m.

There will be three items on the agenda, in addition to any old or new business which any member of the Commission wishes to raise.

1. A report by Leo Albert on the Moscow Book Fair and his recent trip to Peking.

2. A continuation of the Commission's discussion, begun at its meeting on September 26, 1977, of the relationships among the educational and cultural exchange programs carried on by U.S. Government agencies.

3. A discussion of the future activities of the Commission in light of the President's Reorganization Plan 2.

Members of the general public may attend and participate in the discussions subject to the instructions of the Chairman. They will be accommodated up to the seating capacity of the room.

In order that the Commission may fulfill building security requirements, anyone wishing to attend the meeting must advise the Staff Director of the Commission by close of business on December 7, 1977, of his intention to attend. He may be reached by telephone at 202–632–2764.

Dated: November 4, 1977.

W. E. WELD, Jr.,
Staff Director.

[FR Doc.77–32941 Filed 11–14–77;8:45 am]

[4710–01]

[CM–7/135]

SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW

Cancellation of Meeting

The meeting of the Secretary of State's Advisory Committee on Private International Law which was scheduled to be held on November 18, 1977, as announced in Vol. 42, No. 26 of the FEDERAL REGISTER of October 26, 1977, has been cancelled because of the inability of a senior member to attend, for reasons of physical illness, whose participation is required in the meeting.

Dated: November 11, 1977.

RICHARD D. KEARNEY,
Chairman.

[FR Doc.77–33164 Filed 11–14–77;9:41 am]

[7035–01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 527]

ASSIGNMENT OF HEARINGS

NOVEMBER 10, 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 140216 (Sub-No. 3), John E. Way, Inc., now assigned December 14, 1977, at Washington, D.C. is canceled and reassigned for December 14, 1977 (3 days), at Harrisburg, Pa., in a hearing room to be later designated.

MC 133689 (Sub-No. 226), Overland Express, Inc., now assigned January 19, 1978, at Chicago, Ill. is advanced to January 18, 1978 (3 days), at Chicago, Ill., location if hearing room will be by subsequent notice.

MC 141776 (Sub-No. 12), Foodtrain, Inc., now being assigned December 12, 1977 (2 days), at Philadelphia, Pa. in a hearing room to be later designated.

MC 1934 (Sub-No. 39), The Arrow Line, Inc., now assigned November 29, 1977, at New Haven, Conn. and will be held at the Holiday Inn, Branford Room, 30 Whalley Avenue.

MC 133841 (Sub-No. 3), Dan Barclay, Inc., now being assigned January 31, 1978 (1 day), at New York, N.Y. in a hearing room to be later designated.

MC 142951 (Sub-No. 1), Network Transportation Systems, Inc., now assigned January 1978, at New York N.Y. is cancelled and transfered to Modified Procedure.

MC 124211 (Sub-No. 293), Hilt Truck Lines Inc., now assigned December 19, 1977, at Chicago, Ill. is postponed to January 19, 1978 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC 115162 (Sub-No. 347), Poole Truck Line, Inc., now being assigned Januray 31, 1978 (2 days), for hearing in Birmingham, Ala., in a hearing room to be later designated.

MC 66886 (Sub-No. 56), Belger Cartage Service, Inc., MC 114211 (Sub-No. 310), MC 121060 (Sub-No. 47), Arrow Truck Lines, Inc., and MC 143543 (Sub-No. 1), Thomas H. Kennedy, DBA K-Lines Transportation now being assigned February 2, 1978 (2 days), for hearing in Birmingham, Ala., in a hearing room to be later designated.

MC–F 13211, Tri-State Motor Transit Co., Inc., DBA Tri-State Motor Transit—Control—Colonial Fast Freight Lines, Inc., and FD 28460, Tri-State Motor Transit Co., Securities, now being assigned February 6, 1978 (1 week), for hearing in Birmingham, Ala., in a hearing room to be later designated.

MC 142766 (Sub-No. 7), White Tiger Transportation, Inc., now being assigned February 7, 1978 (1 day), at New York, N.Y. in a hearing room to be later designated.

MC–C–9853, Consolidated Van Lines, Inc., Investigation and Revocation of Certificate now being assigned February 6, 1978 (1 day), at New York, N.Y. in a hearing room to be later designated.

MC 139269 (Sub-No. 12), C. P. Craska, Inc., now being assigned February 8, 1978 (3 days), at New York, N.Y. in a hearing room to be later designated.

MC 59856 (Sub-No. 72), Salt Creek Freightways, now assigned December 12, 1977, at Missoula, Mont. and will be held at the Red Lion Motor Inn, 700 West Broadway.

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

[FR Doc.77-32998 Filed 11-14-77;8:45 am]

[7035–01]

FOURTH SECTION APPLICATION(S) FOR RELIEF

NOVEMBER 10, 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 within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43458—*Barley and Wheat to Malden, Wash.*

Filed by North Pacific Coast Freight Bureau, Agent (No. 77–5), for Chicago, Milwaukee, St. Paul & Pacific Railroad. Rates on barley and wheat, in carloads, as described in the application, from specified points in Montana to Malden, Wash.

Grounds for relief—Rate relationship and market competition.

Tariff—Supplement 1 to North Pacific Coast Freight Bureau, Agent, tariff 13–J, I.C.C. No. 1342. Rates are published to become effective on December 10, 1977.

By the Commission.

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

[FR Doc.77-32997 Filed 11-14-77;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).

CONTENTS

	Item
Civil Aeronautics Board	1, 2, 3, 4, 5
International Trade Commission	6
Nuclear Regulatory Commission	7

[6320–01]

1

[M–79 amdt 3; 11/8/77]

CIVIL AERONAUTICS BOARD.

DELETION OF ITEM FROM THE NOVEMBER 10, 1977 MEETING AGENDA

TIME AND DATE: 10:00 a.m., November 10, 1977.

PLACE: Room 1027, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

SUBJECT: 30. Revisions to various rules governing the acceptance of shipments of live animals proposed by various carriers, effective November 17, 1977 (BFR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: The staff had originally requested that item 30 be placed on the November 10, 1977 agenda because there are no meetings now scheduled for the week of November 14 through November 18. The staff now reports that this item will not be prepared in time for the November 10, 1977 meeting. Therefore, this matter will be handled by the notation process. Accordingly, the following Members have voted that agency business requires the deletion of item 30 from the November 10, 1977 agenda and that no earlier announcement of this deletion was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member Lee R. West
Member Elizabeth E. Bailey

[S–1830–77 Filed 11–11–77;8:29 am]

[6320–01]

2

[M–79 amdt 4; 11/8/77]

CIVIL AERONAUTICS BOARD.

CHANGE OF SUBJECT, STATUS AND PLACE OF DISCUSSION OF ITEM ON NOVEMBER 10, 1977 MEETING AGENDA

TIME AND DATE: 2:00 p.m., November 10, 1977.

PLACE: Room 1011, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

SUBJECT: 29. Dockets 31563 and 31566, Complaints by TWA and NACA against new fares filed by Alitalia, effective November 20, 1977, and U.S.–Italy bilateral issues (BFR).

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION:

EXPLANATION FOR THE CLOSING

On this item, the Board will discuss Alitalia's tariff filing both on its own merits and as it relates to issues in the ongoing U.S.–Italy air transport agreement discussions. The existence of a strong link of this sort has, in fact, been alleged in the complaints against the tariff. At this time, disclosure of the Board's views on these issues to the public, and especially to representatives of foreign governments, may well lessen the possibility of a successful conclusion to ongoing negotiations in the best interest of the United States. Accordingly, the following Members have voted that this item involves matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. § 552b(c)(9)(B) and 14 C.F.R. § 310b.5(9)(B), and that the meeting on this item will be closed:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member Lee R. West
Member Elizabeth E. Bailey

EXPLANATION OF EXPEDITED ACTION

The staff recommendation to the Board regarding Item 29 was still being prepared when Item 29 was placed on the agenda. The completed staff analysis requires that the subject description of Item 29 be expanded and the status of the Board's discussion of that item be changed from open to closed. Accordingly, the following members have voted that agency requires that these changes be made and that no earlier announcement of the changes was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member Lee R. West
Member Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

BOARD MEMBERS

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member Elizabeth E. Bailey

ASSISTANT TO BOARD MEMBERS

Mr. Mike Roach
Mr. Elias Rodriquez
Mr. Ford Cole
Mr. Fred Houghteling
Mr. James Casey
Mr. John Golden
Ms. Barbara Clark

OFFICE OF THE MANAGING DIRECTOR

Mr. John Hancock

BUREAU OF FARES AND RATES

Mr. Arthur Simms
Mr. James Deegan
Ms. Joan Coward
Mr. Charles Bayar
Mr. Herb Aswall
Mr. Keith Shangraw
Mr. John Kiser

OFFICE OF THE GENERAL COUNSEL

Mr. Harold Juhnke
Mr. Peter Schwarzkopf

OFFICE OF ECONOMIC ANALYSIS

Mr. Darius Gaskins
Mr. Sandy Rederer

BUREAU OF INTERNATIONAL AFFAIRS

Mr. Don Farmer
Mr. John Driscoll
Ms. Mary Pett
Mr. Joseph Chesen
Mr. Francis Murphy

OFFICE OF THE SECRETARY

Mrs. Phyllis T. Kaylor
Ms. Deborah A. Lee

REPORTER

Alderson Reporting Company

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. § 552b(c)(9)(B) and 14 C.F.R. § 310b.5(9)(B).

GARY J. EDLES,
Acting General Counsel.

[S–1831–77 Filed 11–11–77;8:29 am]

[6320–01]

3

[M–79 amdt 5; 11/9/77]

CIVIL AERONAUTICS BOARD

DELETION OF ITEM ON THE NOVEMBER 10, 1977 AGENDA

TIME AND DATE: 10:00 a.m., November 10, 1977.

PLACE: Room 1027, 1825 Connecticut Ave. NW., Washington, D.C. 20428.

SUBJECT: 2. Docket 30591, Colonial Airlines' Petition for Reconsideration of

Order Denying Large Aircraft Exemption Authority (Memo No. 7049-B, BOR, BLJ).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 2 concerns Colonial Airlines' petition for reconsideration of order denying large aircraft exemption authority. The staff had indicated that it would have prepared for the Board's consideration on November 10, 1977 material that relates to item 2. The necessary material will not be available before the November 10, 1977 meeting. In order to give the Board the benefit of all information on this item, it is necessary to delete this item from the November 10, 1977 agenda and to reschedule this item when all material is available. Accordingly, the following Members have voted that agency business requires the deletion of item 2 from the November 10, 1977 agenda and that no earlier announcement of this deletion was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member Lee R. West
Member Elizabeth E. Bailey

[S-1832-77 Filed 11-11-77;8:29 am]

[6320-01]

4

CIVIL AERONAUTICS BOARD.

[M-79 amdt 6; 11/9/77]

DELETION OF ITEM ON THE NOVEMBER 10, 1977 AGENDA

TIME AND DATE: 10:00 a.m., November 10, 1977.

PLACE: Room 1027, 1825 Connecticut Ave. NW., Washington, D.C. 20428.

SUBJECT: 25. Consumer Abuses by Tour Operators (Memo No. 7497, BOE, BOR, OGC, OCA, OEA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 25 concerns consumer abuses by tour operators. On October 18 Member West requested the views of other offices and bureaus of the Board on certain aspects of BOE's memorandum on tour operator abuses. Responses have been submitted by the Bureau of Operating Rights, the Office of the Consumer Advocate, the Office of Economic Analysis, and the Office of the General Counsel. There is a great disparity of views on the policy issues raised by the BOE proposal in these memoranda, and the Board believes that Board discussion at this time would be nonproductive and would consume an inordinate amount of Board time. The Members' Assistants and Board staff will meet within the next several days to refine the issues, reach a consensus where possible, and make further recommendations to the Board. Accordingly, the following Members have voted that agency business requires the deletion of item 25 from the November 10, 1977 agenda and that no earlier announcement of this deletion was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member Lee R. West
Member Elizabeth E. Bailey

[S-1833-77 Filed 11-11-77;8:29 am]

[6320-01]

5

[M-79 Amdt. 7; 11/9/77]

ADDITION OF ITEM TO THE NOVEMBER 10, 1977 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10:00 a.m., November 10, 1977.

PLACE: Room 1027, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

SUBJECT: 2a. Docket 30356, *Transcontinental Low-Fare Route Proceeding*, (Memo No. 5393-D BOR, OGC, BLJ).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: On October 28, 1977, the Board filed in the United States Court of Appeals for the District of Columbia Circuit an answer to a motion by World Airways for the Court to recall and amend its mandate in *World Airways, Inc.* v. *CAB*, No. 76-1072 (decided December 8, 1976). In its answer, the Board represented that it would issue an order in Docket 30356 by mid-November. Since no meetings of the Board are scheduled for the week of November 14-18, the Board must consider this item on November 10 to comply with its comitment to the Court. Accordingly, the following Members have voted that agency business requires the addition of item 2a. on less than seven days' notice and no earlier announcement of this addition was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member Elizabeth E. Bailey

[S-1834-77 Filed 11-11-77;8:29 am]

[7020-02]

6

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m. Wednesday, November 23, 1977.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): a. Luggage.
5. Improving regulatory practices—see action jacket GC-77-68.
6. Any items left over from previous agenda.
8. Customs Court Act of 1977—see action jacket GC-77-67.

PORTIONS CLOSED TO THE PUBLIC:

7. Proposed Cannons of Ethics (if necessary)—see action jacket CO3-77-5.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary 202-523-0161.

[S-1835-77 Filed 11-11-77;9:48 am]

[7590-01]

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of November 7, 1977, (Additional meeting).

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.
STATUS: Open.

MATTERS TO BE CONSIDERED:

Wednesday, November 9:

5:15 p.m.—Affirmation of Order in Petition by UCS.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: November 10, 1977.

WALTER MAGEE,
Office of the Secretary.

[S-1836-77 Filed 11-11-77;10:06 am]

federal register

TUESDAY, NOVEMBER 15, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

[4210–01]

Title 24—Housing and Urban Development

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI–2980]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for City of Elizabeth City, Pasquotank County, North Carolina

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Elizabeth City, Pasquotank County, North Carolina.

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).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Elizabeth City, N.C.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Elizabeth City, are available for review at City Hall, Elizabeth City, N.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Elizabeth City, North Carolina.

This final rule is issued 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 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tidal flooding	Areas on the east side of the city along the Pasquotank River and Knobbs Creek.	8
Charles Creek	Halstead Ave	8
	Southern Ave	8
Knobbs Creek tributary.	U.S. Route 17	8
	State Rd. 1309	8
East Branch of Knobbs Creek tributary.	Roanoke Ave	8
	U.S. Route 17 bypass	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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–32562 Filed 11–14–77;8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3610]

REVISION OF PROPOSED FLOOD ELEVATION DETERMINATIONS

Town of Gordo, Pickens 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 Town of Gordo, Ala. Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 42 FR 44902 on September 7, 1977, and in The Pickens County Herald published on August 15, 1977, and August 16, 1977, and hence supersedes those previously published rules.

DATE: The period for comment will be ninety (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 flood elevations are available for review at Town Hall, Gordo, Ala.

Send comments to: Mayor Dave Housel, Town Hall, P.O. Drawer P, Gordo, Ala. 35466.

FOR FURTHER INFORMATION CONTRACT:

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: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Gordo, 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. 90-48), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

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 remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Bear Creek	U.S. Highway 82	245
	Old U.S. Highway 82	247
	Illinois Central Gulf RR.	248
	1st Ave	250
Long Branch	Illinois Central Gulf RR.	248
	1st Ave	253

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32550 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3611]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Town of Henlopen Acres, Sussex County, Del.

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 Henlopen Acres, Del. 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 Town Hall, 104 Tidewaters, Henlopen Acres, Del.

Send comments to: Ms. Irene S. Dickerson, Town Clerk, Town of Henlopen Acres, P.O. Box 106, Henlopen Acres, Del.

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 Henlopen Acres, Del., 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
Atlantic Ocean	East of Duneway Ave.	10
Lewis and Rehoboth Canal.	Northeast of intersection of Dodds Lane and Tidewaters.	9

(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: October 13, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32551 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3612]

Proposed Flood Elevation Determinations TOWN OF MILTON, SUSSEX COUNTY, DEL.

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 Milton, Del. 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).

DATE: 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 Town Hall, 106 Union Street, Milton, Del.

Send comments to: Mayor John Starr, Town Hall, 106 Union Street, Milton, Del. 19968.

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 Milton, Del., 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
Broadkill River	Road St	9
Round Pole Branch	Downstream from Atlantic St.	9

(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: October 13, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32552 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3613]

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Belle Plaine, Sumner County, Kans.

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 Belle Plaine, Sumner County, Kans. 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).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper or local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposal base (100-year) flood elevations are available for review at City Hall, 401 North Merchant, Belle Plaine, Kans. 67013.

Send comments to: The Honorable Robert Pace, Mayor, City of Belle Plaine, P.O. Box 176, Belle Plaine, Kans. 67103.

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 City of Belle Plaine, 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 location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Euphrates Creek	320 ft upstream of Missouri Pacific R.R.	1,202
	700 ft upstream of Line St at the 4th Ave. Culvert.	1,203

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32553 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3614]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Doniphan County, Kans.

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 Doniphan County, Kans. 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).

DATE: 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 County Engineer's Office, County Courthouse, Troy, Kans. 66087.

Send comments to: Mr. H. D. Whetsteine, Chairman, Board of County Commissioners, Doniphan County, County Courthouse, Troy, Kans. 66087.

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 Doniphan 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 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
Missouri River	2.7 mi downstream of confluence of Peters Creek.	809
	1.5 mi downstream of of U.S. Highway 36.	815
	0.2 mi upstream of Union Pacific RR.	817
	0.8 mi upstream of Union Pacific RR.	818
	3.8 mi upstream of confluence of Mill Creek.	855
Peters Creek	Southern corporate limits of Wathena.	811
	500 ft upstream of western corporate limits of Wathena.	830
	10,400 ft upstream of western corporate limits of Wathena.	856
	At County Rd., 19,000 ft upstream of Western corporate limits of Wathena.	901
	15,750 ft downstream of Ponds located just East of Troy.	930
	At County Rd, 12,050 ft downstream of Ponds located just east of Troy.	959
	8,250 ft downstream of Ponds located just east of Troy.	975
	At County Rd, 5,250 ft downstream of Ponds located just east of Troy.	991
	100 ft downstream of Ponds located just east of Troy.	1,025

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–32554 Filed 11–14–77; 8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3615]

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Bay City, Bay County, Mich.

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 Bay City, Bay County, Mich. 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).

DATE: 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, 201 Washington Street, Bay City, Mich.

Send comments to: Mr. Earl Kivisti, City Planner, City of Bay City, City Hall, 201 Washington Street, Bay City, Mich. 48707.

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 Bay City, Mich., 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
Saginaw River	Belinda St.	585
	Lafayette Ave.	585
	Southernmost Corp. limit.	586

(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: October 13, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–32555 Filed 11–14–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3616]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Township of Merritt, Bay County, Mich.

Agency: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations lisited below for selected locations in the Township of Merritt, Bay County, Mich. 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).

DATE: 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 Township Hall, 32 West Munger Road, Munger, Mich.

Send comments to: Mr. Elmer Pourier, Township Supervisor, Township of Merritt, 32 West Munger Road, Munger, Mich. 48747.

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 Merritt, Mich., 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. 40001–4128, 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
Saginaw Bay.....	Russell Rd. and Bowker Rd.	585
	School Rd. and Bowker Rd.	585

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

Issued: October 13, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–32556 Filed 11–14–77;8:45 a.m.]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3225]

TOWNSHIP OF PARK, OTTAWA COUNTY, MICHIGAN; CORRECTION

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 4451 of the FEDERAL REGISTER of September 1, 1977.

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.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pine Creek.....	Ottawa Beach 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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–32557 Filed 11–14–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3617]

CLAY COUNTY, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Clay County, Mo.

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 County Administrative Offices, 103 East Kansas Avenue, Liberty, Missouri.

Send comments to: Mr. Wilford G. Winholtz, Planning and Zoning Director, Clay County, County Administrative Offices, 103 East Kansas Avenue, Liberty, Mo. 64068.

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 Clay County, Missouri, 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
Clear Creek	County Rd.	809
	Highway 92	785
	Confluence with Fishing River.	770
Holt Creek	Clay County Line	857
	County Rd.	845
	I-35	812
	County Rd.	808
	Confluence with Clear Creek.	786
Dry Fork	County Rd.	903
	Upstream corporate limits Excelsior Springs.	790
Fishing River	Highway C	845
	County Rd.	820
	I-35	792
	Burlington Northern RR.	787
	Highway 33	784
	Mosby corporate limits (upstream).	770
	Confluence with East Fork Fishing River.	744
	Highway N	735
East Fork Fishing River.	County Rd.	748
Williams Creek	County Rd.	823
	Highway 92	807
Brushy Creek	Highway 69	1,002
	Atchison, Topeka & Santa Fe RR.	1,008
	Clay County Line	983
Brushy Creek, Tributary I.	Highway 69	1,025
	Confluence with Brushy Creek.	1,012
Brushy Creek, Tributary II.	County Rd.	1,047
	Highway D	1,013
	Chicago, Milwaukee, St. Paul & Pacific RR.	1,009
First and Second Creeks.	County Rd.	850
	Highway 92	836
	Upstream Smithville corporate limits.	816
Owens Branch	County Rd. (near headwaters).	920
	County Rd.	857
	Highway 169	822
Wilkerson Creek	County Rd.	862
	Highway 92	840
	Upstream Smithville corporate limits.	818
Rocky Branch	County Rd.	865
	Confluence with Wilkerson Creek.	847
Crockett Creek	County Rd (upstream study limits).	810
	County Rd.	783
	Upstream Mosby corporate limits.	764
Holmes Creek	County Rd.	770
	Highway 69	767
	Chicago, Minneapolis and St. Paul RR.	765
Williams Creek	County Rd.	775
	Highway 69	761
Williams Creek Tributary.	County Rd.	835
Little Platte River.	Clay County line (downstream limit).	811
	Upstream Smithville corporate limits.	815
Missouri River	Confluence with Shoal Creek.	729
	Clay County line	718

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32558 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3618]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Town of Chichester, Merrimack County, N.H.

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 Chichester, Merrimack County, N.H.

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 Town Hall, Chichester, N.H.

Send comments to: Chairman E. H. Freakey, Town Hall, Chichester, N.H. 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 (100-year) flood elevations for the Town of Chichester, Merrimack County, New Hampshire, 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
Suncook River	Downstream of Depot Rd Bridge.	345
	Downstream of Webster Mills Rd Bridge.	393
Sanders Brook	Downstream of Pittsfield Rd Bridge.	347

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32559 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3619]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Township of Voorhees, Camden County, N.J.

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 Township of Voorhees, 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).

DATE: 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 Voorhees Township Hall, 620 Berlin Road, Voorhees, N.J.

Send comments to: Mayor Thomas J. McCart, Voorhees Township Hall, 620 Berlin Road, Voorhees, N.J. 08043.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll-free line 800–424–8872, Room 5720, 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 Voorhees, N.J., 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	Evesham Rd	43
	White Horse Rd [1]	54
	White Horse Rd [2]	62
Tributary 1 to Cooper River.	Confluence with North Fork of Tributary 1 to Cooper River.	83
Tributary 2 to Cooper River.	Rural Ave	54
	Patco Railroad [1]	
North Branch Cooper River.	Kresson Rd [1]	86
Tributary 1 to North Branch Cooper River.	Kresson Rd [1]	101
Tributary 2 to North Branch Cooper River.	Kresson Rd [1]	96
Nicholson Branch	Haddon Ave [1]	97
	Haddon Ave [2]	100
Barton Run	Route 73 [2]	86
	Victor Boulevard [2]	118
	Sunset Rd [1]	128
	Sunset Rd [2]	134

[1] Downstream.
[2] Upstream.

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

Issued: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77–32560 Filed 11–14–77; 8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3620]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Town of Cary, Wake 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 Cary, Wake County, N.C. 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).

DATE: 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 Town Hall, 316 North Academy Street, Cary, N.C.

Send comments to: Mr. Charles W. Williams, Town Manager, Town of Cary, Town Hall, 316 North Academy Street, Cary, N.C. 27511.

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 Cary, 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 appropirate 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
Black Creek Tributary A.	N.C. State Rd. 1652 [1]	358
Straight Branch	U.S. 64 and 1 [1]	377
Lens Branch	U.S. 64 and 1 [1]	369
	N.C. State Rd. 1009 [1]	349
Swift Creek Tributary 7.	Brockgreen Rd. [1]	393
	Queensferry Rd. [1]	360
	Glasgow Rd. and Dam. [1]	358
	U.S. 1 off ramp [1]	340
	U.S. 64	337
	U.S. 1	337
Swift Creek	U.S. 64 [1]	360
	U.S. 1 [1]	338
Walnut Creek	Buck Jones Rd. [1]	382

[1] Upstream.

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

Issued: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–32561 Filed 11–14–77; 8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3621]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Town of Elkin, Surry 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 Elkin, N.C. 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).

DATE: 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 Town Hall, 116 East Market Street, Elkin, N.C.

Send comments to: Mayor Jack Underdown, Town Hall, 116 East Market Street, Elkin, N.C. 28621.

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 (1000-year) flood elevations for the Town of Elkin, 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
Yadkin River	I-77	893
	South Bridge St.	900
	Corporate limits	905
Elkin River	Southern RR.	901
	North Carolina State Road 268.	912
	Corporate limits	931
Tributary E-1	North Carolina State Road 268.	908
Dutchmans Creek	do.	895
	Hill St.	1,029
	Claremont Dr.	1,055
Tributary D-1	Brookwood Rd.	960
	Dutchman Rd.	1,007

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–32563 Filed 11–14–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3236]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Town of Fuquay-Varina, Wake County, N.C.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 44157 of the FEDERAL REGISTER of September 1, 1977.

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 S.W., Washington, D.C. 20410.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kenneth Branch	North Carolina 42[1]	374
	North Carolina State Road 1104.[1]	377
	Norfolk and Southern Railroad.[1]	381
Neil Creek	Angier Rd. (North Carolina State Road 2770).[1]	314
	Holland Rd. (North Carolina State Road 2767).[1]	324
Neil Branch	South Fuquay Ave.[1]	338
	East Spring Ave.[1]	344

[1] 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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–32564 Filed 11–14–77;8:45 am].

[24 CFR Part 1917]

[Docket No. FI–3622]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Town of Garner, Wake 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 Garner, N. C. 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).

DATE: 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 Town Hall, 900 Seventh Avenue, Garner, N.C.

Send comments to: Mayor Joe G. Creech, Town Hall, 900 Seventh Avenue, Garner, N.C. 27529.

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 Garner, 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
Reedy Branch	North Carolina State Road 2710.	241
	Edgebrook St.	288
	Park Ave.	294
	Lakeside Dr.	307
	Vandora Ave.	310
	North Carolina State Road 2794.	323
Bogwell Branch	North Carolina State Road 50.	293
Reedy Branch Tributary.	Claymore Dr.[1]	267
Swift Creek	Old Stage Rd.[1]	246
Adams Branch	North Carolina State Road 2569.[1]	275
Big Branch	North Carolina State Road 2564.	225
Buck Creek	Vandora Springs Rd.[1]	270
Echo Creek	North Carolina State Road 1006.	265
	North Carolina State Road 2720.[1]	281
	Vesta Dr.	308
Yates Branch	Garner extraterritorial boundary.	247
Mahlers Creek	Garner extraterritorial boundary.	248

[1] Upstream.

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

Issued: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–32565 Filed 11–14–77;8:45 a.m.]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–2696]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Town of Knightdale, N.C.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 16112 of the FEDERAL REGISTER of March 24, 1977.

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.

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mingo Creek	North Carolina State Road 2233.[1]	276
Poplar Creek	North Carolina State Road 2233.[1]	225
	North Carolina State Road 2513.[1]	251
Poplar Branch	North Carolina State Road 2512.[1]	223
Mango Creek	Near extraterritorial boundary.	226

[1] 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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–32566 Filed 11–14–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3623]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Town of Wake Forest, Wake 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 Wake Forest, N.C.

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 or 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 Town Hall, 442 Pine Avenue, Wake Forest, N.C.

Send comments to: Mayor Thomas J. Bryne, Town Hall, 442 Pine View Avenue, Wake Forest, N.C. 27587.

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 Wake Forest, North Carolina, 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
Smith Creek	North Carolina State Road 2053 (upstream).	262
	North Carolina State Road 2053 (downstream).	261
Richland Creek	North Carolina State Road 1930.	266
	North Carolina 98.	258
Dunn Creek	North Carolina route 98.	281
	North Carolina State Road 1942 (upstream).	318
	North Carolina State Road 1942 (downstream).	314
Spring Branch	Corporate limits (State District 5100).	309
Horse Creek	North Carolina State Road 1926.	322
	North Carolina State Road 1927 (upstream).	300
	North Carolina State Road 1927 (downstream).	299
Unnamed Stream 3	Extraterritorial limits.	329
Austin Creek	North Carolina State Route 2053 (upstream).	255
	North Carolina State Route 2053 (downstream).	254

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32567 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3624]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Town of Zebulon, Wake 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 Zebulon, N.C. 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).

DATE: 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 elevation are available for review at Town Office, 111 East Vance Street, Zebulon, N.C.

Send comments to: Mayor Ralph Lewis, Town Office, 111 East Vance Street, Zebulon, N.C. 27597.

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 Zebulon, 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
Little Creek	U.S. Route 264 [1]	272
	do. [2]	265
Gill Creek	North Carolina State Road 263. [1]	263
	do. [2]	261
Wheels Creek	U.S. Route 64 [1]	234
	do. [2]	233
Little River	North Carolina State Road 2368. [1]	245
	do. [2]	242
Hominy Branch	Zebulon extraterritorial limit. [1]	233
Beaverdam Creek	U.S. Route 64 [1]	289
	do. [2]	287

[1] Upstream.
[2] Downstream.

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32648 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3204]

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Astoria, Oreg.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 38068 of the FEDERAL REGISTER of July 26, 1977.

FOR FURTHER INFROMATION: 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.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Youngs Bay	Along shore of Youngs Bay.	9
Small Streams near 49th and Birch Sts.	Intersection of 49th and Birch Sts.	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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32649 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3625]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Commonwealth of Puerto Rico

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 Commonwealth of Puerto Rico. 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).

DATE: 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 Puerto Rico Planning Board, Minillas Government Center, North Building, 14th Floor, Santurce, P.R.

Send comments to: Mr. Boris Oxman, Coordinator for National Flood Insurance Program, Puerto Rico Planning Board, Minillas Government Center, 14th Floor, Box 41119, Santurce, P.R. 00940.

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 Commonwealth of Puerto Rico, 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 regulations that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own. 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,[1] in meters, national geodetic vertical datum
Espiritu Santo River Basin:		
Espiritu Santo River.	Puerto Rico Highway 3.	2.7
Rio Grande	Puerto Rico Highway 3.	3.5
Rio Yauco Basin:		
Rio Yauco	New Highway 2 (upstream side).	28.7
	Old Highway 2 (upstream side).	29.3
Quebrada Berrenchin.	New Highway 2	28.4
	Highway 368	37.5
Quebrada Berrenchin.	Highway 128	40.9
Tributary No. 1	Highway 376	43.2
Rio Grande de Arecibo Basin:		
Rio Cidra	Puerto Rico Route 10 (upstream crossing—upstream side of bridge).	510.4
	Rius Rivera St	483.4
	T. Figueroa St	481.2
	Puerto Rico Route 10 (downstream crossing—upstream side of bridge).	474.4
Town of Coamo, Puerto Rico:		
Rio Coamo	Puerto Rico Highway 556.	113.8
	Puerto Rico Highway 153 (upstream).	85.8
	Puerto Rico Highway 153 (downstream).	84.0
Town of Jayuya, Puerto Rico:		
Rio Grande de Jayuya.	Puerto Rico Highway 144.	436.4
	Confluence with Rio Zamas.	395.8
Town of Utuado, Puerto Rico:		
Rio Grande de Arecibo.	Puerto Rico Highway 603.	148.4
	Puerto Rico Highway 111.	135.0
Rio Vivi	Herrera Ave	138.7
Other areas in the Commonwealth:		
Rio Culebrinas	Puerto Rico Highway 459.	(2)
Rio Grande de Manati.	Puerto Rico Highway 2.	(2)
Rio Grande de Loiza.	C. Brewer R R line	(2)
Rio Tanama	Puerto Rico Highway 111.	(2)
Rio de la Plata	Puerto Rico Highway 167.	(2)
Rio Blanco	Puerto Rico Highway 191.	(2)
Rio Yaquez	Puerto Rico Highway 2.	(2)
Rio Loco	Puerto Rico Highway 116.	(2)
Rio Tallaboa	Puerto Rico Highway 2.	(2)
Rio Toa Vaca	Puerto Rico Highway 150.	(2)
Rio Guayanes	Puerto Rico Highway 3.	(2)

[1] Meters above mean sea level.
[2] Approximate 100-year flood boundaries delineated in these areas.

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32650 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3626]

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Hondo, Medina County, Tex.

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 Hondo, Medina County, Tex.

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, Hondo, Tex.

Send comments to: Mayor W. Glasscock, 1600 Avenue M, Hondo, Tex. 78861.

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 Hondo, Medina County, Texas, 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 (10-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East Branch Live Oak Creek.	Upstream of the southern corporate limit.	896
West Branch Little Live Oak Creek.	At the southern corporate limits.	885
Little Live Oak Creek.	Upstream of Southern Pacific R.R.	896
	Upstream of Farm Road 1250.	878
	Upstream of the southern corporate limit.	874
Elm Slough	Downstream of the northern corporate limits.	884
	Upstream of Southern Pacific R.R.	875
	Upstream of 27th St. (extended east of Avenue E.)	864
	Upstream of southern corporate limits.	860
West Branch Elm Slough.	Downstream of Avenue M (Farm Road 462).	885
	Upstream of 15th St.	877

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32651 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3627]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Town of Shrewsbury, Rutland County, Vt.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicted on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Shrewsbury, Rutland County, Vt.

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 Town Hall, Office of the Town Clerk, Shrewsbury, Vt.

Send comments to: Chairman of the Board of Selectmen of the Town of Shrewsbury, Leonard Korzun, Cuttingsville, Vt. 05738.

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 (108-year) flood elevations for the Town of Shrewsbury, Rutland County, Vt., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 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
Mill River	Approximately 170 ft. downstream of Northern Crossing of State Route 103.	946
	Downstream of Southern Crossing of State Route 103.	993
Shrewsbury Brook	Town Hill Rd.	1042
Freeman Brook	Downstream of Beaver Dam.	1490
Cold River	Approximately 200 ft. downstream of Wilmouth Hill Rd.	1357

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32652 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3628]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Town of Stamford, Bennington County, Vt.

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 Stamford, Bennington County, Vt.

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 the Town Clerk's Office, Stamford Elementary School, Main Road, Stamford, Vt.

SEND COMMENTS TO:

Mr. Ray Sherrill, Chairman, Board of Selectmen, Town of Stamford, RFD No. 1, North Adams, Mass. 01247.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administration, 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 Stamford, 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
North Branch Hoosic River.	Southern Town boundary.	1,074
	250 ft downstream of the Lane Bridge.	1,086
	The Lane Bridge	1,094
	Confluence with Roaring Brook.	1,111
	Confluence with Brown Brook.	1,119
	Confluence with Harris-Goodrich Brook.	1,131
	100 ft downstream of East Street Bridge.	1,146
	East Street Bridge	1,152
	Confluence with Fuller Brook	1,174
	Confluence with Summer Brook.	1,201
	Route 8 Bridge near Summer Brook.	1,215

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Branch Hoosic River.	Confluence with Basin Brook.	1,251
	Route 8 Bridge above Basin Rd.	1,284
	Old Route 100 Bridge near Basin Rd.	1,285
	425 ft upstream of Old Route 100 Bridge near Basin Rd.	1,297
	Route 8 Bridge, 0.6 mile south of Collins Rd.	1,318
	Route 8 Bridge, 0.2 mile south of Collins Rd.	1,362
	Confluence with Crazy John Stream.	1,371
	Old Route 100 Bridge near Collins Rd.	1,388
	1,500 ft upstream of Old Route 100 Bridge near Collins Rd.	1,431
	Bridge off Old Route 100, 0.3 mile south of Fred Tatro Rd.	1,506
	Private Driveway Bridge, 0.1 mile south of Fred Tatro Rd.	1,516
	Route 8 Culvert, 150 ft north of Fred Tatro Rd.	1,537
Roaring Brook	Confluence with North Branch Hoosic River.	1,111
	500 ft downstream of Route 8 Bridge.	1,121
	Route 8 Bridge	1,136
	600 ft upstream of Route 8 Bridge.	1,145
	1500 ft upstream of Route 8 Bridge.	1,174
	2250 ft upstream of Route 8 Bridge.	1,198
	2600 ft upstream of Route 8 Bridge.	1,216
	3200 ft upstream of Route 8 Bridge.	1,232

(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 (29 FR 2787, January 24, 1974).)

Issued: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–32653 Filed 11–14–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3629]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Town of Williamstown, Orange County, Vt.

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 Williamstown, Orange County, Va.

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 the Town Manager's Office, Town Office, Williamstown, Vt. 05679.

SEND COMMENTS TO:

Mr. Roy Kane, Town Manager, Town of Williamstown, Town Office, Williamstown, Vt. 05679.

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 NW., 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 Williamstown, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 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 entitles. 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
Stevens Branch	At northern corporate limits.	741
	100 ft downstream of Route 14 Bridge, near Brook Falls Bridge Rd.	754
	120 ft upstream of Route 14 Bridge, near Brook Falls Bridge Rd.	763
	At Brockway Hill Bridge.	770
	800 ft upstream of Brockway Hill Bridge.	776
	1,600 ft upstream of Brockway Hill Bridge.	795
	Upstream of Circle Street Rd.	856
	Upstream of Meadow St.	859
	110 ft upstream of Vermont Route 14 Bridge, near Cliff St.	865
	1,400 ft downstream of Williamstown Landfill access road.	866
	800 ft downstream of Route 14 Bridge, below Cutter Pond.	881
	350 ft upstream of Route 14 Bridge, below Cutter Pond.	905
	1,800 ft upstream of Route 14 Bridge, below Cutter Pond.	908
Brook 1 whose confluence with Stevens Branch is 1,000 ft downstream of Circle Rd Bridge.	At confluence with Stevens Branch.	777
	580 ft above confluence with Stevens Branch.	779
	1,425 ft above confluence with Stevens Branch.	795
Brook 2 whose confluence with Stevens Branch is between Circle St Bridge and Meadow St Bridge.	At confluence with Stevens Branch.	857
	At Meadow St.	859
	At Northfield Rd.	871
	580 ft upstream of Northfield Rd.	898
	800 ft upstream of Northfield Rd.	903

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–32654 Filed 11–14–77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3630]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Mecklenburg County, Va.

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 Mecklenburg County, Va.

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 Mecklenburg County Courthouse, Highway 58, Mecklenburg, Va. 23917.

SEND COMMENTS TO:

Mr. Ben D. McCauly, County Administrator of Mecklenburg County, P.O. Box 307, Mecklenburg, Va. 23917.

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 Mecklenburg County, Virginia 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 most 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
Meherrin River	Brunswick County line.	217
	Virginia Route 621	219
	Virginia Route 138	227
	Virginia Route 637	236
	Virginia Route 635	240
	Virginia Route 636	247
Little Bluestone Creek.	Virginia Route 49	333
	Virginia Route 792	340
	Virginia Route 695	352
	Virginia Route 696	356
Woodpecker Creek.	At mouth—Virginia Route 49.	364
	Downstream side at mouth—Virginia Route 49.	381
	Upstream side at mouth—Virginia Route 49.	386
Hazen Branch	At mouth—Virginia Route 600.	412
	Downstream side at mouth—Virginia Route 600.	426
	Upstream side at mouth—Virginia Route 600.	429
	Downstream side of Virginia Route 47–92.	445
	Upstream side of Virginia Route 47–92.	448

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32655 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3631]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Township of Albion, Whitman County, Wash.

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 Township of Albion, Whitman County, Wash. 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).

DATE: 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 Albion Town Hall, Albion, Wash.

Send comments to: Honorable Merle Dawson, Mayor of Albion, Albion Town Hall, P.O. Box 38, Albion, Wash. 99102.

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 Albion, Whitman County, Wash., 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 polices established by other Federal, State, or regional entities. These poposed 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
South Fork of Palouse River.	Upstream corporate limits.	2,245
	Unnamed street	2,240
	"D" St.	2,240
	Downstream corporate limits.	2,237

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32656 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3632]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Lafayette County, Wis.

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 Lafayette

County, Wis. 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).

DATE: 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 Lafayette County Courthouse, Darlington, Wis.

Send comments to: Mr. Steven Hubner, Zoning Administrator, Lafayette County Courthouse, Darlington, Wis. 53530.

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 Lafayette County, Wis., 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
Pecatonica River	County Trunk Highway "N"	787
	Sargent Rd.[1]	792
	Larse Rd.	794
	State Trunk Highway "178".[1]	801
	Riverside Rd.	804
	Walnut Rd.[1]	809
	Roller Coaster Rd.	818
	Ferndale Rd.	837
	County Trunk Highway "O".[1]	840
	Oak Park Rd.	848
	U.S. Highway "151"	863
East Branch Pecatonica River.	Cisserville Rd.	786
	County Trunk Highway "M".[1]	788
	State Trunk Highway "78".[1]	817
Blue Mounds Branch.	County Trunk Highway "H".	821
Vinegar Branch	County Trunk Highway "F".	832
		832
Wood Branch	County Trunk Highway "Z".	
	County Trunk Highway "O".	887
Bonner Branch	County Trunk Highway "C".	834
	County Trunk Highway "O".[1]	851
	Brunton Lane[1]	879
	Landon Rd.[1]	906
	County Trunk Highway "G" (upstream location near Belmont corporate limits).	1005
Mineral Point Branch.	County Trunk Highway "O".[1]	845
	East Oak Park Rd.[1]	860
Galena River	County Trunk Highway "H".[1]	861
New Diggings Tributary.	Ollie Bell Rd.[1]	787

[1] 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: October 13, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32657 Filed 11-14-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3258]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Uinta County, Wyo.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 44917 of the FEDERAL REGISTER of September 7, 1977.

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.

The following corrections are made:

The name of the Chief Executive Officer should be: Mr. Glenn Payne, Planning Director, Lincoln-Uinta Association of Governments, Box 389, Kemmerer, Wyo. 83101.

(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: October 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-32658 Filed 11-14-77;8:45 am]

federal register

TUESDAY, NOVEMBER 15, 1977

PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development
Administration on Aging

■

OLDER AMERICANS PROGRAM

Reorganization and Republication

[4110–12]

Title 45—Public Welfare

CHAPTER XIII—OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—ADMINISTRATION ON AGING, OLDER AMERICANS PROGRAMS

REORGANIZATION AND REPUBLICATION

AGENCY: Administration on Aging, Office of Human Development Services, Department of Health, Education, and Welfare.

ACTION: Final rules.

SUMMARY: Regulations formerly appearing in 45 CFR Chapter IX, Administration on Aging, Department of Health, Education, and Welfare, are transferred to 45 CFR Chapter XIII, redesignated as regulations in Subchapter C—Administration on Aging, Older Americans Programs, of that Chapter, and renumbered accordingly. These actions will locate the regulations of the Administration on Aging with the regulations of other Office of Human Development Services programs and thereby consolidate the Office of Human Development Services program regulations into a single CFR Chapter. Heretofore, the Administration on Aging's organizational placement in the Department as a component of the Office of Human Development Services has not been properly reflected in its regulations. In order to facilitate continued use of the Administration on Aging's regulations, they are republished below under their new designation. Additionally, in the process of republishing, certain editorial and technical changes which take effect immediately are made in these regulations.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard Ledder, Policies and Procedures Branch, Division of Grants and Contracts Management, Office of Human Development Services, Department of Health, Education, and Welfare, 341F South Portal, Washington, D.C. 20201, 202–245–2897.

SUPPLEMENTARY INFORMATION: With this publication, four rulemaking actions take effect in 45 CFR Chapter XIII:

1. The regulations which formerly appeared in 45 CFR Chapter IX are transferred to 45 CFR Chapter XIII.

2. The regulations thus added to Chapter XIII are redesignated as regulations in Subchapter C—Administration on Aging, Older Americans Programs, and renumbered accordingly.

3. The regulations thus appearing in Subchapter C are republished.

4. Certain editorial and technical changes which take effect immediately are incorporated into the republished regulations.

TRANSFERRING

The regulations which formerly appeared in 45 CFR Chapter IX are transferred to 45 CFR Chapter XIII. The purpose of transferring the regulations from Chapter IX to Chapter XIII is to reflect the Administration on Aging's organizational placement as a component of the Office of Human Development Services of the Office of the Secretary of the Department of Health, Education, and Welfare and to consolidate the regulations of Office of Human Development Services programs. Although the Administration on Aging has been a component of the Office of Human Development Services since OHD was established by the Secretary of Health, Education, and Welfare on March 29, 1973, the Administration on Aging's regulations have until today continued to occupy their own CFR chapter. The basis for putting the regulations in Chapter XIII is that Chapter XIII is reserved for regulations of the Office of Human Development Services and its program administration components and it is likewise desirable to have the Administration on Aging's regulations in this location.

REDESIGNATING

The regulations thus added to Chapter XIII are redesignated as regulations in Subchapter C—Administration on Aging, Older Americans Programs of Chapter XIII. With the designation of subchapters within Chapter XIII elsewhere in today's FEDERAL REGISTER (see 42 FR 59086), the Administration on Aging's regulations can be moved from Chapter IX keeping the integrity of the parts which were in Chapter IX. Thus, Part 901 which had general applicability to the other parts in Chapter IX has the same general applicability to the other parts of Subchapter C of Chapter XIII.

The parts of Chapter IX are renumbered in Chapter XIII as follows:

Old part No.	Part title	New part No.
901	General	1320
903	Grants for State and community programs on aging	1321
904	Research and development projects	1322
905	Training projects	1323
908	Advisory committees	(1)
909	Nutrition program for the elderly	1324
910	Model projects on aging	1325
911	Multipurpose senior centers	1326

[1] Revoked.

Sections appearing in these parts are renumbered accordingly. The renumbering is simple as the new section numbers correspond to the old section numbers. As a general rule, the numbers after the decimal point remain the same. Thus, § 901.1 becomes § 1320.1, § 901.2 becomes § 1320.2, and so forth. Exceptions to this general rule occur when a section which was in Chapter IX is revoked or when the reserved classification of a section is deleted. In these instances, consecutive numbering requires that some section numbers be advanced. As an example, the reserved classification of former § 904.7 is deleted and former § 904.8 becomes new § 1322.7.

REPUBLISHING

To facilitate citations to these regulatory provisions, the regulations thus appearing in Subchapter C are republished.

CHANGING

Additionally, certain editorial and technical changes are incorporated into the republished regulations. There are no substantive regulatory changes. None of the changes represents any alterations in program administration, nor are there any additional or different requirements imposed on those regulated by these regulations. There are no new demands on grantees or contractors. Consequently, no purpose would be served in the notice, public participation and effective date requirements contained in 5 U.S.C. 553, even though it is the general policy of the Office of Human Development Services to allow interested parties to take part in the rulemaking process. The changed regulations thus take effect immediately.

There are eight bases for making changes in the republished regulations.

BASES FOR CHANGE

1. *Typographical corrections required.* This is the basis for correcting two misprinted words.

2. *Minor editorial revisions required.* These limited amendments include dropping superfluous language, substituting a more appropriate word for the word used, eliminating references to passed dates, and rewriting to clarify meaning, simplify language or to accommodate other changes.

3. *Adjustment to date of new Federal fiscal year required.* The new Federal fiscal year which runs from October 1 to September 30 in one instance made a requirement for an operating plan by May 1 improper and the reference is changed to a more appropriate one.

4. *Citation correction required.* The renumbering of the regulations today requires that all cross references within these regulations be changed to reflect the new part and section numbers. Revisions to other documents have created the basis for correcting citations to the Administration on Aging regulations. Additionally, since the cost principles of the Office of Management and Budget and its predecessor, the Bureau of the Budget, which are referenced in the Administration on Aging regulations, have been stated in the Department's grant administration regulations, 45 CFR Part 74, issued Sept. 19, 1973 (38 FR 26275), this rulemaking replaces the OMB and BoB references to the Department's own regulations. This substitution is consistent with the Administration on Aging's general administration requirements, § 1320.4, formerly § 901.5 of these regulations, which apply relevant provisions of Part 74 to Administration on Aging grants.

Regulations of the Administrative Committee of the Federal Register, 1 CFR 21.52, require that authority citations to statutory material which is in a title on the United States Code which

has not been enacted into positive law shall include reference to the public law, references to the U.S. Statutes at Large and the parallel United States Code citation. All authority citations for the parts moved to Subchapter C of Chapter XIII are rewritten to conform with this requirement.

Additionally, the authority citations in Chapter IX require updating. The regulations of the Administration on Aging are to implement provisions of the Older Americans Act of 1965, Pub. L. 89–73, 79 Stat. 218–22, July 14, 1965 (42 USC 3001 et seq.), as amended. The Act has been amended six times to date, as follows: Pub. L. 90–42, 81 Stat. 106–108, July 1, 1967; Pub. L. 91–69, 83 Stat. 108–115, Sept. 17, 1969; Pub. L. 92–258, 86 Stat. 88–95, March 22, 1972; Pub. L. 93–29, 87 Stat. 30–57, May 3, 1973; Pub. L. 93–351, 88 Stat. 357–358, July 12, 1974; Pub. L. 94–135, 89 Stat. 713–726, Nov. 28, 1975.

However, Parts 901, 904, 905, and 908 of Chapter IX were issued Aug. 5, 1970 (35 FR 12516 et seq.) to implement provisions of the Older Americans Act through the 1969 amendments. Part 909 was issued Aug. 19, 1972 (37 FR 16844) to implement the 1972 amendments and was revised Sept. 11, 1973 (38 FR 24900) to include the nomenclature changes of the 1973 amendments to the Act. Part 903 was issued Oct. 11, 1973 (38 FR 28042) to implement the 1973 amendments and Part 910 was issued May 21, 1974 (39 FR 17912) to implement the 1973 amendments. Thus none of these parts is cited to the latest amendments to the Act. Also, the authority citation for Part 911, which was issued Sept. 10, 1976 (41 FR 38612), does not include the latest authorizing amendments.

5. *Nomenclature change required.* Changes in nomenclature are required to reflect the proper organizational placement of the Administration on Aging in the Department of Health, Education, and Welfare and to conform the regulations with amendments to the legislation. The most important nomenclature change is the substitution of the word "Commissioner" for "Secretary" in the regulations for research and development projects (former Part 904) and training projects (former Part 905). The 1973 amendment to the Act gave to the Commissioner on Aging the authority previously conferred on the Secretary to make project grants in these areas.

6. *Nonprocedural technical revisions required.* A number of nonprocedural technical revisions are required throughout these regulations to conform the language to the legislation amended. Examples include the addition of new Congressional statements of purpose and the revision of definitions. These changes are the result of either the 1973 amendments, Pub. L. 93–29, 87 Stat. 30–57, May 3, 1973 or the 1975 amendment, Pub. L. 94–135, 89 Stat. 713–726, Nov. 28, 1975. The 1974 amendments, Pub. L. 93–351, 88 Stat. 357–358, July 12, 1974, do not require any revisions of this type to the regulations.

7. *Revocation of obsolete regulation required.* Legislative amendments on expired dates have made several regulatory provisions obsolete and therefore are revoked in this republication.

8. *Change directed to user convenience is appropriate.* An additional section is added to the regulations for research and development projects and training projects to call attention to evaluation standards which were published in the notices section of the FEDERAL REGISTER (38 FR 17030, June 28, 1973) subsequent to the issuance of these regulations. Additionally, a new Appendix A reprints these standards, which are also applicable to model projects, so that the user of these regulations does not have to go to this outside source for information. This change category also includes the addition of undesignated subheadings within a part and the elimination of sections with reserved classifications.

INDIVIDUAL CHANGES EXPLAINED

General

Part 901, renumbered Part 1320: Citation corrections. Wherever it appears in this part, the word "chapter" is changed to "subchapter" to reflect the new location of these regulations. Also, all cross references to other sections of these regulations are renumbered as appropriate.

Authority: Citation correction. Part 1320, formerly Part 901, has general applicability to all the regulations which are now or which may be included in Subchapter C of Chapter XIII. Consequently, the authority citation required for Part 1320 is a blanket citation to Pub. L. 89–73, 79 Stat. 218–226 (42 U.S.C. 3001 et seq.), the Older Americans Act of 1965, with all its amendments to date. The authority citation which appeared with Part 901 is revised by adding public law numbers where they do not appear and by adding all amendments subsequent to the last citation. Additionally, the reference to 82 Stat. 1101 does not appear relevant and, therefore, is deleted.

Sec. 901.1, renumbered § 1320.1: Nonprocedural technical revision. The words "as amended" are added after the reference to section 101 of the Older Americans Act of 1965 to reflect that this section of the regulations is derived from the Act as amended.

Sec. 901.1(h), renumbered § 1320.1 (h): Nonprocedural technical revision. The phrase "including access to low-cost transportation" is added following "efficient community services" to reflect the addition of this phrase by sec. 102 of the 1973 amendments, Pub. L. 93–29, 87 Stat. 30 (42 U.S.C. 3001).

Sec. 901.2(b), renumbered § 1320.2 (b): Nonprocedural technical revision and nomenclature change. The definition of the Administration on Aging is revised to show first that the Administration on Aging is established by the legislation in the Office of the Secretary, Department of Health, Education, and Welfare, and second, that it is administered under the Office of Human Development Services of the Office of the Secretary. The first change reflects the 1973 amendments, sec. 201(a), Pub. L. 93–29, 87 Stat. 30 (42 U.S.C. 3011(a)), which requires that the Administration on Aging be established in the Office of the Secretary. The second change shows that the Administration on Aging is organizationally under the Office of Human Development Services of the Office of the Secretary.

Sec. 901.2(c), renumbered § 1320.2(c): Minor editorial revision and nomenclature change. The words "unless the context otherwise requires" are eliminated as the word "Commissioner" refers only to the Commissioner on Aging in the context of these regulations. The Commissioner's full title is changed to read "Commissioner on Aging of the Administration on Aging" to account for the 1973 amendments, sec. 201(a), Pub. L. 93–29, 87 Stat. 30 (42 U.S.C. 3011(a)), which establishes in the Office of the Secretary an Administration on Aging headed by a Commissioner on Aging.

Secs. 901.2 (e) and (f), renumbered, §§ 1320.2 (e) and (f): Minor editorial revisions. The introductory phrase "The term" is eliminated as it is unnecessary in an alphabetical list of definitions.

Sec. 901.2(h), renumbered § 1320.2 (h): Nomenclature change, minor editorial revision and citation correction. The definition of "project period" is revised to show that the Commissioner, not the Secretary, since the 1973 amendments, is the person who makes the determination of time which is the project period. The definition is further revised to clarify that it is the grantee who initiates and conducts projects. The citation to titles of the Older Americans Act is corrected to cite the amended Act, sec. 308 of title III and titles IV and V.

Sec. 901.4, Retention of records: Revocation of obsolete regulation. This section is revoked as it pertains to programs which are no longer administered by the Administration on Aging.

Grants for State and Community Programs on Aging

Part 903, renumbered Part 1321: Citation corrections. Wherever it appears in this part, the word "chapter" is changed to "subchapter" to reflect the new location of these regulations. Also, all cross references to other sections of these regulations are renumbered as appropriate.

Authority: Citation correction. The authority citation for Part 1321, formerly Part 903, the regulations which implement title III of the Act, is revised to make the citation current.

Sec. 903.0, Transition provision: Revocation of obsolete regulation. This section is revoked in its entirety. The new title III inserted by the Older Americans Comprehensive Services Amendments of 1973, Pub. L. 93–29, 87 Stat. 30, 36–45 (42 U.S.C. 3021 et seq.) required the issuance of new regulations by the Administration on Aging for the program of grants for State and community programs on aging and the subsequent amendment by May 3, 1974 of State plans by all States. Sec. 903.0 was issued June 29, 1973 (38 FR 17226) to permit State agencies to continue the expendi-

ture of Federal funds under this program in keeping with their previously approved State plans. Once a State received approval of an amended plan under the title III regulations issued Oct. 11, 1973 (38 FR 28042), § 903.0 no longer applied to that State, and as of May 3, 1974, the last date an existing State plan could remain in force, it had no further applicability. (The 1975 volume of Title 45 of the Code of Federal Regulations shows the publication of § 903.0 as 39 FR 7790, Feb. 28, 1974. This is because § 903.0 was inadvertently left out when the new title III regulations were published at 38 FR 28042, Oct. 11, 1973. § 903.0 was republished Feb. 28, 1974, with a note that the regulation was in full force.)

Sections 903.2 (c), (d), (e), (f), (g) and (h), renumbered §§ 1321.2 (c), (d), (e), (f), (g) and (h): Minor editorial revisions. The introductory phrase "The term" is eliminated as it is unnecessary in an alphabetical list of definitions. Additionally, in (g) the introductory phrase "For the purposes of this part" is eliminated since it repeats the opening paragraph for the definitions.

Section *903.2(f), renumbered § 1321.2 (f):* Nonprocedural technical revision. The text of this definition is revised by striking the words "which may" and "the" and putting the words following "services" until the word "for" in parentheses. Additionally, the cross reference to item (g) is deleted for the definition is now complete within itself. The purpose of revising the text is to make it conform to the definition of "multipurpose senior center" in title V, sec. 501(c) of the Act.

Section 903.2(g), renumbered § 1321.2 (g): Minor editorial revision. In the phase "Social services means only the following services" the words "any of" are substituted for "only" to correct an editing error in the original regulations and to make clear that any of the activities listed below (g) constitutes "social services" in the context of this part.

Section 903.2(h)(2), renumbered § 1321.2(h)(2): Nonprocedural technical revision. This section which defines "unit of general purpose local government" is revised by striking out all the words following "An Indian tribal organization" and replacing them with language which incorporates the definitions in secs. 102 (4) and (5) of the Act (42 U.S.C. 3002) for "Indian tribe" and "tribal organization". The definitions were added to the Act by sec. 104(b) of Pub. L. 94-135, 89 Stat. 714, Nov. 28, 1975, to define "Indian Tribe" and "tribal organization" as used in title III of the Act.

Section 903.16, renumbered § 1321.16: Minor editorial revision and revocation of obsolete regulation. Former paragraph (a) is revised to eliminate language for dates which are passed. Former paragraph (b), which concerned only the fiscal 1974 plan, is obsolete and therefore revoked. Consequently, the first paragraph is no longer designated as (a).

Section 903.49(c)(1), renumbered § 1321.49(c)(1): Citation correction. This section is revised to require coordination between the resources available under "titles I, X and XIV, or old title XVI, or titles XIX and XX of the Social Security Act, as appropriate," rather than coordination under "titles I, X, XIV, XVI, and XIX * * * and title VI * * *". This revised listing of Social Security titles is necessitated by Pub. L. 92-603, 86 Stat. 1329, approved Oct. 30, 1972 and Pub. L. 93-647, 88 Stat. 2337, approved Jan. 4, 1975. Effective Jan. 1, 1974, Pub. L. 92-603 made titles I, X and XIV applicable only to Guam, Puerto Rico and the Virgin Islands unless they elect to disburse such assistance under a combined plan in which case old title XVI applies. As for the fifty states, the coordination required relates only to titles XIX and XX, the latter added by Pub. L. 93-647, to be effective Oct. 1, 1975. The word "old" is necessary before "title XVI" to distinguish it from the "new" title XVI, also in the Act, which is the Supplemental Security Income program.

Section 903.57(e), renumbered § 1321.57(e): Citation correction. The reference to "Part IV.2 of Office of Management and Budget Circular A-95" is revised to read "Part IV of Office of Management and Budget Circular A-95 Revised". This change reflects the applicability of the revised OMB circular issued in the FEDERAL REGISTER of Jan. 13, 1976 (41 FR 2052). All of Part IV is made applicable since Part IV in total applies to all Federal programs providing assistance to State, areawide, or local agencies or organizations for multijurisdictional or areawide planning, and Part IV.2 is not understandable without the rest of Part IV. Additionally, the statement in parentheses, which indicated that the circular was issued pursuant to the Intergovernmental Cooperation Act of 1968, is deleted. This parenthetical statement was only a partial authority citation for the A-95 circular and no purpose would be served by giving the full authority citation in these regulations for Circular No. A-95 Revised.

Section 903.57(g), renumbered § 1321.57(g): Citation correction. The reference to Office of Management and Budget Circular A-95 is again changed to read "Office of Management and Budget Circular No. A-95 Revised".

Section 903.78(h), renumbered § 1321.78(h): Citation correction. The reference to titles of the Social Security Act is revised to conform with the revision to § 1321.57(e), formerly § 903.57(e).

Section 903.36(a)(2), renumbered § 1321.96(a)(2): Citation correction. The reference to Office of Management and Budget Circular A-95 is changed to read "Office of Management and Budget Circular No. A-95 Revised".

RESEARCH AND DEVELOPMENT PROJECTS

Part 904, renumbered Part 1322. Nomenclature change, citation correction and change directed to user convenience. Throughout this part the word "Commissioner" is substituted for the word "Secretary" to reflect the Commissioner's statutory authority provided in the 1973 and subsequent amendments to the Older Americans Act. All cross references to other sections of these regulations are renumbered as appropriate. Additionally, the reserved classification of §§ 904.7 and 904.10 is eliminated and the remaining sections are renumbered as necessary to make the section numbers consecutive.

Authority: Citation correction. Sec. 401 of Pub. L. 93-29, 87 Stat. 45-49, May 3, 1973 (42 U.S.C. 3035 et seq.), revoked title IV of the Older Americans Act of 1965, the original authority for research and development projects of the Administration on Aging. Sec. 401 also added to the Act a new title IV, part B of which provides for research and development projects and part D of which authorizes appropriations for the purposes of carrying out title IV. The new legislation as it applied to project grants was not significantly different from the old legislation and the original regulations for research and development projects (35 FR 12521, August 5, 1970) were sufficient to allow the Commissioner to implement the new program. The republication today affords the opportunity to make minor revisions which bring the 1970 regulations into conformity with the new legislation and the authority citation is revised accordingly.

Section 904.4, renumbered § 1322.4: Nomenclature change. The reference to SRS (Social and Rehabilitation Service) regional officer review, which was in effect before the Administration on Aging became part of the Office of Human Development Services, is eliminated. The revised section indicates the Administration on Aging procedure which is that applications are sent to the Office of Aging, in the cognizant Department of Health, Education, and Welfare regional office.

Section 904.9, renumbered § 1322.8: Citation correction. The reference to "Bureau of the Budget Circulars A-21 and A-87" is changed to "Subpart Q of Part 74 of this title", the Department's own grant administration regulations, which restated the contents of these circulars. Sec. 1320.4 of the Aging regulations, formerly § 901.5, also makes Subpart Q applicable to all Administration on Aging grants.

Section 1322.11 Evaluation: Changes directed to user convenience. A new section on evaluation is added to direct attention to standards for evaluating programs and projects assisted under section 308 or title IV of the Older Americans Act of 1965, as amended, which were published in the notices section of the FEDERAL REGISTER of June 28, 1973 (38 FR 17030). These standards are then reprinted as Appendix A to Subchapter C so users of these regulations do not have to go to this primary source. A new subhead "Evaluation" is added to designate this section.

TRAINING PROJECTS

Part 905, renumbered Part 1323. Nomenclature change, citation correction

and change directed to user convenience. Throughout this part the word "Commissioner" is substituted for the word "Secretary" to reflect the Commissioner's statutory authority provided in the 1973 and subsequent amendments to the Older Americans Act. All cross references to other sections of these regulations are renumbered as appropriate. Additionally, the reserved classification of §§ 905.7 and 905.10 is eliminated and the remaining sections are renumbered as necessary to make the section numbers consecutive.

Authority: Citation correction. Sec. 401 of Pub. L. 93–29, 87 Stat. 45–49, May 3, 1973 (42 U.S.C. 3035 et seq.), revoked title V of the Older Americans Act of 1965, the original authority for training projects of the Administration on Aging. Sec. 401 also added to the Act a new title IV, part A of which provides for training projects and part D of which authorizes appropriations for the purposes of carrying out title IV. The new legislation as it applied to project grants was not significantly different from the old legislation and the original regulations for training projects (35 FR 12522, Aug. 5, 1970) were sufficient to allow the Commissioner to implement the new program. The republication today affords the opportunity to make minor revisions which bring the 1970 regulations into conformity with the new legislation and the authority citation is revised accordingly.

Section 905.4, renumbered § 1323.4: Nomenclature change. The reference to SRS (Social and Rehabilitation Service) regional office review, which was in effect before the Administration on Aging became part of the Office of Human Development Services, is eliminated. The revised section indicates the Administration on Aging procedure which is that applications are sent to the Office of Aging, in the cognizant Department of Health, Education, and Welfare regional office.

Section 905.9, renumbered § 1323.8: Citation correction. The reference to "Bureau of the Budget Circular A–21 and A–87" is changed to "Subpart Q of Part 74 of this title", the Department's own grant administration regulations, which restates the contents of these circulars. Section 1320.4 of the Aging regulations, formerly § 901.5, also makes Subpart Q applicable to all Administration on Aging grants.

Section 1323.11 Evaluation: Change directed to user convenience. A new section on evaluation is added to direct attention to standards for evaluating programs and projects assisted under section 308 or title IV of the Older Americans Act of 1965, as amended, which were published in the notices section of the FEDERAL REGISTER of June 28, 1973 (38 FR 17030). As a further convenience to users of these regulations, these standards are reprinted as Appendix A to Subchapter C so users of these regulations do not have to go to this primary source. A new subhead "Evaluation" is added to designate this section.

ADVISORY COMMITTEES

Part 908, Advisory committees: Revocation of obsolete regulations. This part is revoked in its entirety. Section 202 of Pub. L. 93–29, 87 Stat. 36, the 1973 amendments, repealed title VIII, the general title of the Older Americans Act. Section 801 of title VIII, whose provisions were not retained anywhere in the legislation, authorized the Advisory Committee on Older Americans and such technical advisory committees as the Secretary deemed appropriate for advising him in carrying out his functions under the Act. Consequently, Part 908, the implementation of sec. 801, is obsolete in its entirety.

NUTRITION PROGRAM FOR THE ELDERLY

Part 909, renumbered Part 1324: Minor editorial revision and citation corrections. In all instances, when the words "in the Office of Human Development Services" or "of the Social and Rehabilitation Service" follow "Administration on Aging", such words are deleted. The deleted words are unnecessary because the location of the Administration on Aging is contained in the definition of the Administration on Aging in § 1320.2, formerly § 901.2, of these regulations. Additionally, wherever it appears in this part, the word "chapter" is changed to "subchapter" to reflect the new location of these regulations. Also, all cross references to other sections of these regulations are renumbered as appropriate.

Authority: Citation correction. The citation which appeared with Part 909, renumbered Part 1324, is revised in full to correct errors in the original citation and to update it. The basis for this part is sec. 2 of Pub. L. 92–258, 86 Stat. 88–95 (42 U.S.C. 3045 et seq.), March 22, 1972, which added a new title VII, Nutrition Program for the Elderly, to the Older Americans Act of 1965, and also the subsequent amending legislation.

Section 909.11, renumbered § 1324.11: Typographical correction required. The misprinting in the word "title" is corrected.

Section 909.12, renumbered § 1324.12: Citation correction and editorial revision. Section 909.12 provided that review of the State plan by the Governor shall be in accordance with the requirements of § 204.1 of 45 CFR. The requirements are part of the general administration regulations for Social and Rehabilitation Service grant programs, and continued incorporation of these requirements by the Administration on Aging is inappropriate since AoA is now located in the Office of Human Development Services. Consequently, the citation to § 204.1 is eliminated.

Section 1324.12 is revised so that the procedures are stated within. The Administration on Aging in actual practice has had the same system of review by the Governor for plans submitted under title VII as it has had for plans submitted under title III of the Act. This section is therefore revised to conform with § 1321.15(a) which is the corresponding section for regulating Governor's review of State plans submitted under title III.

Section 909.16, renumbered § 1324.16: Date adjustment. The May 1 date for submission of the annual State operating plan is inappropriate to the Federal fiscal year which now begins on October 1. The language is therefore revised to require that the plan be submitted at least 60 days prior to the beginning of each fiscal year which is the same requirement for the submission of the title III plan.

Section 909.25, renumbered § 1324.25: Revocation of obsolete sentence in regulation. The last sentence of this section which states a requirement that demonstration projects shall have until June 30, 1973 to conform to any standards, in addition to those prescribed in the Act, is obsolete because of a passed date and is therefore deleted.

Section 909.29, renumbered § 1324.29: Nomenclature changes. The word "Commission" in the third line is changed to "Commissioner" and the word "Secretary" in the eighth line is changed to "Commissioner". Sec. 704(b) of Pub. L. 93–29, 87 Stat. 57, May 3, 1973, amended title VII of the Older Americans Act by striking out "Secretary" wherever it appeared in reference to the Secretary of Health, Education, and Welfare, and inserting in lieu thereof "Commissioner". Nomenclature changes to this effect were made in the title VII regulations Sept. 11, 1973 (38 FR 24900). The changes today in this section correct omissions in those amendments.

Section 909.36, renumbered § 1324.36: Minor editorial revision. The preposition "in" following the word "prescribed" in the second sentence is changed to "by" to correct a grammatical error.

Section 909.60, renumbered § 1324.60: Citation correction. The reference to "Office of Management and Budget cost policies" is changed to "Subpart Q of Part 74 of this title", the Department's own grant administration regulations, which incorporates OMB cost policies into the principles established for determining costs applicable to HEW grants. Section 1320.4 of the Aging regulations, formerly § 901.5 also makes Subpart Q applicable to all Administration on Aging grants.

MODEL PROJECTS ON AGING

Part 910, renumbered Part 1325: Change directed to user convenience and citation corrections. Undesignated subheadings are added where appropriate to identify the sections which concern General, Grants, Contracts and Evaluation provisions of this part. Wherever it appears in this part, the word "chapter" is changed to "subchapter" to reflect the new location of these regulations. Also, all cross references to other sections of these regulations are renumbered as appropriate.

Authority: Citation correction. Sec. 301 of Pub. L. 93–29, 87 Stat. 36–44, May 3, 1973 (42 U.S.C. 3021 et seq.), inserted into the Older Americans Act a new title

iii, sec. 308 of which authorities model projects. The authority citation which appeared with the implementing regulations, published May 21, 1974 (39 FI 17912) is revised to correct the original citation and to update it.

Section 910.1, renumbered § 1325.1: Minor editorial revision. The last sentence, "§§ 910.2–910.8 deal with grants and § 910.9 with contracts." is unnecessary with the addition of appropriate subheads in this part and, therefore, is deleted.

Section 910.2(a)(1)(ii), renumbered § 1325.2(a)(1)(ii): Nonprocedural technical revision. The word "existing" is inserted between "adapting" and "housing" to make this section conform with the legislation, sec. 308(a)(1)(2). The original omission of the word appears to have been inadvertent.

Section 910.2(a)(3), renumbered § 1325.2(a)(3): Typographical correction. The misprinting in the word "preretirement" is corrected.

Sections 1325.2(a) (5), (6) and (7): Nonprocedural technical revisions. Paragraphs (5), (6) and (7), describing additional model projects to which special consideration shall be given, are added to the regulations to reflect these additional paragraphs added to the Act by the 1975 amendments, sec. 108, Pub. L. 94–135, 89 Stat. 717 (42 U.S.C. 3028).

Section 1325.2(b)(5): Nonprocedural technical revision. A new paragraph (5), describing additional model projects to which special consideration shall be given, is added to the regulations. The regulations thus indicate that the Commissioner will give special consideration to projects designed to facilitate the use of findings from model projects in order to provide immediate benefits to Older Americans from proven research knowledge which can sustain and improve health and happiness. The added paragraph reflects the discharge by the Commissioner of the responsibility assigned by the Act and restated in § 1320.1 of these regulations, "to assist our older people to secure equal opportunity to the full and free enjoyment of the following objective(s): Immediate benefit from proven research knowledge which can sustain and improve health and happiness."

Section 910.8, renumbered § 1325.9: Minor editorial revisions and change directed to user convenience. This section on "Evaluation" is moved below the section on "Contracts" to conform the organization of Part 1325 to Parts 1322 and 1323. The repositioning of this section on "Evaluation" should make clear to the user of Part 1325 that "Evaluation" pertains to both grants and contracts and not to grants alone as might have been suggested from the previous positioning. Additionally, the language of this section is revised to conform to the language of §§ 1322.11 and 1323.11. The added language relates that the evaluation standards apply to programs and projects assisted under section 308 or title IV of the Act and calls attention to the inclusion of these standards as Appendix A of this subchapter.

Section 910.9, renumbered § 1325.8: Minor editorial revision. This section on "Contracts" is repositioned ahead of the section on "Evaluation" for the reasons noted with § 910.8 above.

MULTIPURPOSE SENIOR CENTERS

Part 911, Renumbered Part 1326. EXPLANATORY NOTE.—The regulations in Part 1326, formerly Part 911, were promulgated as interim final regulations (41 FR 38612, Sept. 10, 1976) so that they would be effective prior to the award of grants from funds appropriated for the period through September 30, 1976 by Pub. L. 94–303 (Second Supplemental Appropriations Act, June 1, 1976). The final regulations were published in 42 FR 34430 July 5, 1977, Part 1326 Multipurpose Senior Centers and are republished here.

APPENDIX A

Appendix A, Evaluation standards for programs and projects assisted under section 308 or title IV of the Older Americans Act of 1965, as amended: Change directed to user convenience. These evaluation standards are reprinted from the FEDERAL REGISTER of June 28, 1973 (38 FR 17030) so users of the Administration on Aging regulations do not have to go to the primary source.

PROMULGATION

Accordingly, 45 CFR Chapter XIII is amended as follows:

1. By transferring there the regulations formerly appearing in 45 CFR Chapter IX.

2. By redesignating the regulations thus added as regulations in Subchapter C—Administration on Aging, Older Americans Programs, and renumbering them accordingly.

3. By republishing the regulations thus appearing in Subchapter C.

4. By incorporating into the republished regulations certain editorial and technical changes which take effect immediately.

NOTE.—It is hereby certified that this rulemaking has been screened pursuant to Executive Order No. 11821 and it does not require an Inflation Impact Evaluation.

(Catalog of Federal Domestic Assistance Program Numbers: 13.633 Grants for State and Community Programs on Aging (Part 1321); 13.634 Model Projects on Aging (Part 1325); 13.635 Nutrition Program for the Elderly (Part 1324); 13.636 Research and Development Projects (Part 1322); 13.637 Training Projects (Part 1323); 13.639 Special Programs for the Aging—Title V Multipurpose Senior Centers (Part 1326).)

Dated: May 23, 1977.

ARTHUR S. FLEMMING,
Commissioner on Aging.

Dated: June 15, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

Approved: November 7, 1977.

HALE CHAMPION,
Acting Secretary.

SUBCHAPTER C—ADMINISTRATION ON AGING, OLDER AMERICANS PROGRAMS

Part
1320 General.
1321 Grants for State and community programs on aging.
1322 Research and development projects.
1323 Training projects.
1324 Nutrition program for the elderly.
1325 Model projects on aging.
1326 Multipurpose senior centers.

Appendix A—Evaluation standards for programs and projects assisted under section 308 or title IV of the Older Americans Act of 1965, as amended.

PART 1320—GENERAL

Sec.
1320.1 Purposes of the Act.
1320.2 Definitions.
1320.3 Publications, films, copyrights, educational materials, and inventions.
1320.4 Retention of records.
1320.5 General administrative requirements.

AUTHORITY: Pub. L. 89–73, 79 Stat. 218–226, as amended by Pub. L. 90–42, 81 Stat. 106–108; Pub. L. 91–69, 83 Stat. 108–115; Pub. L. 92–258, 86 Stat. 88–95; Pub. L. 93–29, 87 Stat. 30–57; Pub. L. 93–351, 88 Stat. 357–358; Pub. L. 94–135, 89 Stat. 713–726 (42 U.S.C. 3001 et seq.).

§ 1320.1 Purposes of the Act.

In the Declaration of Objectives for Older Americans (section 101 of the Older Americans Act of 1965, as amended) the Congress found and declared that, in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States and of the several States and their political subdivisions to assist our older people to secure equal opportunity to the full and free enjoyment of the following objectives:

(a) An adequate income in retirement in accordance with the American standard of living.

(b) The best possible physical and mental health which science can make available and without regard to economic status.

(c) Suitable housing, independently selected, designed, and located with reference to special needs and available at costs which older citizens can afford.

(d) Full restorative services for those who require institutional care.

(e) Opportunity for employment with no discriminatory personnel practices because of age.

(f) Retirement in health, honor, dignity—after years of contribution to the economy.

(g) Pursuit of meaningful activity within the widest range of civic, cultural, and recreational opportunities.

(h) Efficient community services, including access to low-cost transportation, which provide social assistance in a coordinated manner and which are readily available when needed.

(i) Immediate benefit from proven research knowledge which can sustain and improve health and happiness.

(j) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives.

§ 1320.2 Definitions.

(a) "Act" means the Older Americans Act of 1965, as amended (42 U.S.C. 3001 et seq.).

(b) "Administration on Aging" means the Administration on Aging established under the provisions of the Act in the Office of the Secretary, Department of Health, Education, and Welfare, and administered under the Office of Human Development Services of the Office of the Secretary.

(c) "Commissioner" means the Commissioner on Aging of the Administration on Aging.

(d) "Department" means the Department of Health, Education, and Welfare.

(e) "Fiscal year" refers to the Federal fiscal year.

(f) "Nonprofit" as applied to any agency, institution or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(g) "Population" as applied to any State means the population of that State as determined by the most recent official estimates of the Bureau of the Census available to the Secretary preceding the fiscal year for which Federal grant funds are appropriated.

(h) "Project period" means the period of time which the Commissioner finds is reasonably required for the grantee to initiate and conduct a project submitted under the provisions of section 308 of title III or titles IV and V of the Act.

(i) "Secretary" means the Secretary of Health, Education, and Welfare.

(j) "Single organizational unit" means the unit established within the State agency with delegated authority for, and whose principal responsibility shall be, planning, coordination, and evaluation of programs and activities related to the purposes of the Act, and administration of the State plan.

(k) "State" means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(l) "State agency" means the single State agency established or designated as the sole agency for administering or supervising the administration of the State plan.

(m) "State plan" means the document or documents submitted by the States to comply with the requirements for participation under title III of the Act.

§ 1320.3 Publications, films, copyrights, educational materials, and inventions.

(a) *Publications.* Grantees under this chapter may publish results of any projects without prior review by the Administration on Aging: *Provided*, That such publications carry a footnote acknowledging assistance received under the Act, and that the claimed findings and conclusions do not necessarily reflect the views of the Administration on Aging, and provided that copies of the publication are furnished to the Administration on Aging.

(b) *Films.* Grantees cannot use grant funds to produce films intended for viewing by the general public without prior approval by the Administration on Aging.

(c) *Copyrights.* Where the grant-supported activity results in a book or other copyrightable material, the author is free to copyright, but the Administration on Aging reserves a royalty free nonexclusive, and irrevocable license to reproduce, publish, translate, or otherwise use, and to authorize others to use, all copyrightable or copyrighted materials resulting from the grant-supported activity.

(d) *Educational materials.* All educational materials arising out of the grant supported activity shall be available to the Secretary to reproduce, publish, translate, or otherwise use, and to authorize others to use.

(e) *Inventions.* Any invention arising out of the grant-supported activity shall be promptly and fully reported to the Administration on Aging. Ownership and the manner of disposition shall be determined by the Secretary in accordance with Department patent regulations and policy.

§ 1320.4 General administrative requirements.

The provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants under Parts 1321, 1322, 1323, 1324, and 1325 of this subchapter to State or local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to awards made to all other grantees under Parts 1321, 1322, 1323, 1324, and 1325 of this subchapter:

45 CFR PART 74

Subpart
- A General.
- B Cash Depositories.
- C Bonding and Insurance.
- D Retention and Custodial Requirements for Records.
- F Grant-Related Income.
- G Matching and Cost Sharing.
- H Standards for Grantee Financial Management Systems.
- K Grant Payment Requirements.
- M Grant Closeout, Suspension, and Termination.
- O Property.
- Q Cost Principles.

[39 FR 17912, May 21, 1974]

PART 1321—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

Subpart A—Purpose

Sec.
1321.1 Purpose of the program.
1321.2 Definitions.

Subpart B—The State Plan

Sec.
1321.12 Purpose and content of the State plan.
1321.13 Designation of the State agency.
1321.14 Authority of the State agency.
1321.15 Review of plan by Governor.
1321.16 Plan submission and approval.
1321.17 Plan amendments.
1321.18 Plan review.
1321.19 Plan disapproval.
1321.20 Withholding of funds.
1321.21 Appeal procedures.

Subpart C—State Agency Organization

1321.34 Organization of the State agency.
1321.35 Methods of administration.
1321.36 Staffing of the single organizational unit.
1321.37 Standards of personnel administration.

Subpart D—Functions and Responsibilities of the State Agency Under the State Plan

1321.47 Statewide planning, coordination, administration, and evaluation.
1321.48 Planning.
1321.49 Coordination of programs.
1321.50 Administration.
1321.51 Evaluation.
1321.52 Establishment or maintenance of information and referral sources.
1321.57 Designation of planning and service areas.
1321.53 Direct provision of social services by the State agency.
1321.54 Demonstration projects of Statewide significance.

Subpart E—Designation of Planning and Service Areas by the State Agency

1321.58 Determination of planning and service areas for which an agency on aging will be designated and for which an area plan will be developed.

Subpart F—Designation of Area Agencies on Aging by the State Agency

1321.63 Designation of area agencies on aging.
1321.64 Organization of the area agency.
1321.65 Staffing of the area agency.
1321.66 Functions and responsibilities of the area agency.
1321.67 Direct provision of social services by the area agency.
1321.68 Public information.

Subpart G—Area Plans on Aging

1321.78 Development of the area plan.
1321.79 Conditions for approval of the area plan by the State agency.
1321.80 Implementation of the area plan.
1321.81 Training of personnel engaged in implementation of the area plan.
1321.82 Establishment or maintenance of information and referral sources.
1321.83 Federal financial participation of activities under an area plan.
1321.84 Duration of Federal support for activities under an area plan.

Subpart H—Initiation of Activities and Services Not Under Area Plans on Aging

1321.94 Purposes for which awards may be made.
1321.95 Eligibility of applicants.
1321.96 Approval of awards.
1321.97 Federal financial participation.

Subpart I—Authorization and Allotments for Planning, Coordination, Administration, and Evaluation of State Plans

1321.107 Authorizations.
1321.108 Use of State planning funds for administering area plans.

Sec.
1321.109 Use of area planning monies on a Statewide basis.
1321.110 Allotments to the State for planning, coordination, administration, and evaluation of State plans.
1321.111 Reallotment of funds for planning, coordination, administration, and evaluation of State plans.
1321.122 Authorizations.
1321.123 Allotments for area agencies and social services.
1321.124 Limitations on awards.
1321.125 Reallotment of funds for area agencies and social services.

Subpart K—General

1321.135 Public funds as part of the non-Federal share.
1321.136 Payments.
1321.137 Audit.
1321.138 Maintenance of effort.
1321.139 Confidentiality.
1321.140 Opportunity for hearing.
1321.141 State agency licensure requirements.
1321.142 Contributions for social services.
1321.143 Continuation of support for existing activities.
1321.144 Requests for postponement.
1321.145 Allowable costs and administration of grant or contract activities.

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Subpart A—Purpose

§ 1321.1 Purpose of the program.

(a) It is the purpose of the program under title III of the Act to encourage and assist State and area agencies to concentrate resources in order to develop greater capacity and to foster the development of comprehensive and coordinated service systems to serve older persons.

(b) The systems are to be developed by the agencies' entering into new cooperative arrangements with each other and with providers of social services for planning for the provision of, and providing, social services, and where necessary, to reorganize or reassign functions.

(c) The goals of the comprehensive and coordinated service systems are to:

(1) Secure and maintain maximum independence and dignity in a home environment for older persons capable of self-care with appropriate supportive services; and

(2) Remove individual and social barriers to economic and personal independence for older persons, including the provision of opportunities for employment and volunteer activities in the communities where older persons live.

(d) In order to achieve this purpose, the resources made available under title III shall be used to:

(1) Provide for the development and implementation by designated State and area agencies, in conjunction with other planners and service providers, and older consumers of service, of State and area plans which set forth specific program objectives and priorities for meeting the needs of the elderly with special attention being given to the needs of low income and minority older persons, and the older physically and mentally disabled;

(2) Increase the capability of State and area agencies to develop and implement action programs designed to achieve the coordination of existing social service systems in order to make such systems more effective, efficient, and responsive in meeting the needs of the elderly;

(3) Draw in increasing commitments from public and private agencies which have resources that can be utilized to serve the elderly, and encourage such agencies to enter into cooperative arrangements directed toward maximum utilization of existing resources on behalf of the elderly;

(4) Make existing social services more accessible to older persons in need through the development and support of services such as transportation, outreach, information and referral and escort which can increase the ability of older persons, including the older physically and mentally disabled, to obtain other social services; and

(5) Promote comprehensive services for the elderly through the development and support of social services which are needed by older persons but which are not otherwise available.

(e) Funds made available under this part shall be used primarily to provide maximum incentive for attracting support from public and private agencies having resources for programs for the elderly.

(f) Funds made available under this part may be used to provide social services only when it has been clearly shown that:

(1) The social services are needed and are not already available; and

(2) No other public or private agency can or will provide the social services.

(g) Agencies providing services to older persons under this part must seek reimbursement for the cost of providing the services when a third party (including a government agency) is authorized or is under legal obligation to pay such costs.

§ 1321.2 Definitions.

In addition to the definitions set forth in § 1320.2, of this subchapter, the following definitions are applicbale for purposes of this part:

(a) "Area agency" means the single agency designated by the State agency to be responsible for the program described in this part within a planning and service area designated by the State agency.

(b) "Area plan" means the document submitted annually by an area agency to the State agency for approval which sets forth goals and measurable objectives and identifies the planning, coordination, administration, social services, and evaluation activities to be undertaken to carry out the purposes of this title.

(c) "Comprehensive and coordinated system" means a system for providing all necessary social services in a manner designed to:

(1) Facilitate accessibility to and utilization of all social services provided within the geographic area served by the system by any public or private agency or organization;

(2) Initiate, develop and make the most effective use of social services in meeting the needs of older persons; and

(3) Use available resources efficiently and with a minimum of unnecessary duplication.

(d) "Low income" is described in § 1321.48(c).

(e) "Minority" means those persons who identify themselves as American Indian, Negro, Oriental, or Spanish language, and members of any additional limited English-speaking groups designated as minority within the State by the State agency.

(f) "Multipurpose senior center" means a community facility for the organization and provision of a broad spectrum of services (including provision of health, social, and education services and provision of facilities for recreational activities) for older persons.

(g) "Social services" means any of the following services:

(1) Coordination activities which link together, in support of common objectives, existing planning and service resources, and assure the utilization of such resources for the purpose of developing and carrying out action programs and activities which will result in improvement, expansion, and, as necessary, initiation of services needed by older persons.

(2) Information sources or services which provide a location where State, area or other public or private agencies or organizations:

(i) maintain current information with respect to the opportunities and services available to older persons, and develop current lists of older persons in need of services and opportunities; and

(ii) employ a specially trained staff, including bilingual individuals as appropriate, to inform older persons of the opportunities and services which are available, and assist them to take advantage of such opportunities and services.

(3) Referral services which assist individuals to identify the type of assistance needed, place individuals in contact with appropriate services, and followup to determine whether services were received and met the need identified, and which provide for the maintenance of proper records for use in identifying services offered and gaps in existing services systems.

(4) Transportation services designed to transport older persons to and from community facilities and resources for the purpose of applying for and receiving services, reducing isolation, or otherwise promoting independent living, but not including a direct subsidy for an overall transit system or a general reduced

fare program for a public or private transit system. Such Transportation services shall be, insofar as possible, part of an area transportation plan;

(5) Services designed to encourage and assist older persons to use the facilities and services available to them, including:

(i) Outreach services, including search and find activities, which seek out and identify hard-to-reach individuals and assist them in gaining access to needed services; and

(ii) Escort services which assist individuals who, for a variety of factors, are unable to use conventional means of transportation to reach needed services, or require such assistance for reasons of personal security or protection.

(6) Counseling services which provide direct guidance and assistance in the utilization of needed health and social services, and help in coping with personal problems which threaten personal health and social functioning;

(7) Health related services which identify health needs of individuals, and assist them to obtain health services under Medicare, Medicaid, or other health services programs, and from other public or private agencies or providers of health services; planning, as appropriate, with the individual in need of service, and health providers, to help obtain continuity of treatment and carrying out of health recommendations; assisting the individual where appropriate to secure admission of medical institutions and other health related facilities; and home health services as defined in paragraph (g)(8)(iii) of this section;

(8) Preventive services to avoid institutionalization, which may include any of the following services:

(i) Periodic screening and evaluation which provide for an assessment of an individual's need for those medical and social services necessary to retain his capacity for self-care and to maintain independent living in his home as long as possible;

(ii) Homemaker services which provide care for elderly individuals in their own homes and help them maintain, strengthen, and safeguard their personal functioning in their own homes through the services of a trained and supervised homemaker;

(iii) Home health services which provide basic health services to individuals who can be cared for at home, including part-time bedside nursing care under medical supervision, occupational, physical, and speech therapy, special services for the blind or visually handicapped, homemaker-home health aide services, the services of a home health aide, and home delivered meals services which meet the nutritional standards prescribed in Part 1324 of this subchapter;

(iv) Homemaker-home health aide services are those services which ideally would help older individuals remain in their own homes when a health or social problem occurs or help individuals to return to their homes after specialized care. The homemaker-home health aide carries out assigned tasks in an individual's place of residence, working under the supervision of a professional person who also assesses individually the need for the service and has responsibility for implementing the plan of care. Recognition should be given to the fact that, at this time, it may be necessary to support services which do not meet this definition;

(v) Chore services which provide for the performance of household tasks, essential shopping, simple household and home repairs, and other light work necessary to enable an individual to remain in his own home, when, because of frailty or other condition, such individual is unable to perform such tasks himself;

(vi) Friendly visiting services which provide regular visits to the homes of socially and geographically isolated individuals to provide socialization;

(vii) Telephone reassurance services which provide for telephone calls at specified times as often as necessary, to or from individuals who live alone, or who are temporarily alone, to determine if they are safe and well, if they require special assistance, and to provide psychological reassurance;

(vii) Protective services which are designed to assist those elderly persons carry out the activities of daily living who, because of impaired mental or physical functioning are unable to manage their own affairs, or protect themselves from neglect or hazardous situations without assistance from others; and

(ix) Housing assistance to aid individuals in obtaining adequate housing through the provision of technical help (as contrasted to financial help) in order to improve their present living arrangements or to relocate to more suitable housing when needed.

(9) Recreational services which foster the health and social well-being of individuals through social interaction and the satisfying use of time;

(10) Continuing education services, including consumer education, which are designed to provide individuals with opportunities to acquire knowledge and skills suited to their interests and capabilities through either formal academic courses or informal methods, with a view toward either vocational or personal enrichment;

(11) Legal services which provide legal advice and counseling to older persons in matters of importance to the individual, including serving as an advocate of older persons who have consumer problems;

(12) Welfare services which seek to assure the health and well-being of individuals, which neither duplicate nor overlap any cash assistance and social service programs, and the health and social services provided under Medical Assistance;

(13) Nutrition services which provide older persons with assistance in maintaining a well-balanced diet, including shopping assistance, diet counseling; nutrition education; and limited meal service on a scale less than the meal service provided in projects under Part 1324 of this subchapter but only in those areas where funds under Part 1324 of this subchapter cannot be made available.

(14) Employment services which provide information to older persons concerning available employment opportunities, and preparatory counseling for referral to prospective employers, but not including financial support to establish programs whose primary purpose is paid employment with title III funds;

(15) Any other social services determined to be necessary for the general welfare of older persons.

(h) "Unit of general purpose local government" means:

(1) A political subdivision of the State, or a grouping of such subdivisions, whose authority is broad and general and is not limited to only one function or a combination of related functions; or

(2) An Indian tribal organization, meaning the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body. For the purposes of this part, "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92-203, 85 Stat. 688) which (i) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or (ii) is located on, or in proximity to, a Federal or State reservation or rancheria.

Subpart B—The State Plan

§ 1321.12 Purpose and content of the State plan.

In order for a State to be eligible for grants for a fiscal year from the allotments of funds under title III of the Act, it shall submit a State plan, prior to the beginning of each fiscal year, to the Commissioner for approval. The State plan shall consist of:

(a) A commitment that the title III program will be carried out in keeping with the provisions of the Act and all regulations, policies and procedures established by the Commissioner; and

(b) A fiscal year operating plan which shall include:

(1) An analysis of the needs and characteristics of the elderly population in the State with emphasis on low income and minority older persons, and an identification of those persons who will be given priority in the implementation of the State plan;

(2) A statement of the measurable objectives, in priority order, established for the title III program which relates to the national operational objectives established by the Commissioner for a fiscal year, after obtaining the views of representatives of State and area agencies, and announced to the States;

(3) An identification of the barriers to achievement of the objectives established;

(4) An inventory and analysis of the resources available in the State to meet the needs of older persons; and

(5) A plan of action which describes how the title III program will be implemented and how the funds made available under this part will be allocated by the State agency.

§ 1321.13 Designation of the State agency.

(a) The State Plan shall identify the sole State agency that has been designated to:

(1) Develop the State plan to be submitted to the Commissioner for approval;

(2) Administer the State plan within the State;

(3) Be primarily responsible for the coordination of all State activities related to the purposes of the Act:

(4) Divide the entire State into distinct areas (hereinafter referred to as "planning and service areas") in accordance with the requirements prescribed in § 1321.57;

(5) Designate a public or nonprofit private agency or organization as the area agency on aging for each planning and service area for which an area plan will be developed;

(6) Approve the area plans developed by such area agencies;

(7) Monitor and assess the implementation of each area plan, including the progress toward the achievement of the objectives set forth in the plan; and

(8) Carry out all other functions and responsibilities as prescribed in this part for the State agency.

§ 1321.14 Authority of the State agency.

The State plan shall contain certification by the State Attorney General that the State agency has the authority to submit the State plan; is the sole agency responsible for the conduct of all the functions prescribed for the agency in this part; and that nothing in the State plan is inconsistent with State law.

§ 1321.15 Review of plan by Governor.

(a) The State plan must be submitted to the State Governor for his review and approval, and the State plan must provide that the Governor will be given an opportunity to review and approve all amendments to the State plan.

(b) For fiscal year 1975, and for any fiscal year thereafter, the State agency shall conduct, prior to the submission of the State plan to the Governor for approval, a public hearing(s) on the State plan. The State agency shall give adequate public notice prior to the conduct of the hearing. The hearing shall provide the opporunity for the general public, officials of general purpose local government, and other interested parties to comment on the State plan.

§ 1321.16 Plan submission and approval.

(a) The State plan shall be submitted for approval within 60 days prior to the beignning of each fiscal year. Any State plan or amendment meeting the requirements of this part as determined by the Commissioner shall be approved.

§ 1321.17 Plan amendments.

The State agency's administration of the program under this part shall be in conformity with the State plan as approved by the Commissioner. Whenever there is any material change in the content or administration of the State plan as approved, or when there has been a change in pertinent State law or in the organization, policies, or operations of the State agency affecting the plan, the State plan shall be appropriately amended.

§ 1321.18 Plan review.

The State plan as approved and all amendments thereto shall be subject to such review as the Commissioner may prescribe.

§ 1321.19 Plan disapproval.

No State plan, or any modification thereof, submitted under title III of the Act, shall be finally disapproved without first affording the State reasonable notice and opportunity for a hearing.

§ 1321.20 Withholding of funds.

(a) Whenever the Commissioner, after giving reasonable notice and opportunity for hearing to the State agency administering a State plan approved under title III of the Act, finds that: (1) The State is not eligible under section 304 of the Act; (2) the State plan has been so changed that it no longer complies with the provisions of the Act; or (3) in the administration of the plan there is a failure to comply substantially with any such provision, the Commissioner shall notify such State agency that no further payments will be made to the State under title III of the Act (or in his discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure) until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments shall be made to such State under title III of the Act (or payments shall be limited to projects under, or portions of, the State plan not affected by such failure).

(b) If there is no appeal, or if the action taken by the Commissioner is upheld as a result of an appeal in keeping with the procedures prescribed in § 1321.-21 of this subpart, the Commissioner shall take action to disburse the funds withheld in the following manner:

(1) The Commissioner shall, by whatever steps he deems appropriate, notify those appropriate public or nonprofit private organizations or agencies or political subdivisions of such State that they may submit a State plan under the authority of section 304(d)(3) of the Act for use of the allotments (or portions thereof) unused by the State as a result of action taken under paragraph (a) of this section.

(2) Any State plan so submitted must conform to all the requirements and procedures related to the submission of State plans prescribed in this part.

(3) The Commissioner shall give priority to any State level public agency submitting such a plan that has the authority and capacity to administer this program on a statewide basis. If no such State level public agency submits a plan, consideration shall then be given to those submitting a plan that has the au-program on a statewide basis. If no other agencies submitting a plan that have the authority and capacity to administer this program on a Statewide basis.

§ 1321.21 Appeal procedures.

A State which is dissatisfied with a final action of the Commissioner under § 1321.19 or § 1321.20 may appeal to the U.S. Court of Appeals for the circuit in which the State is located, by filing a petition with such court within 60 days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

Subpart C—State Agency Organization

§ 1321.34 Organization of the State agency.

The State plan shall provide that there will be a single organizational unit within the State agency designated in accordance with § 1321.13, with delegated authority for, and whose principal responsibilities shall be, Statewide planning, coordination, administration, and evaluation of programs and activities related to the purposes of the Act, includ-

ing all other functions prescribed for such agency in this part. The unit shall be identified in the State plan. If the State agency is an independent single purpose agency, it may in its entirety constitute the single unit. In all other cases, the single organizational unit must be placed at an organizational level within the State agency to assure effective performance of all the responsibilities of the unit prescribed in this part. In establishing an organizational structure for the unit, including determination of the need for a State regional structure for the unit, due consideration shall be given to the geography of the State, the number and concentration of older persons, and other special conditions in the State.

§ 1321.35 Methods of administration.

(a) The State plan shall provide for the use of such methods of administration as are necessary for the proper and efficient administration of the plan, and for the conduct of all functions for which the State is responsible under the plan and this part, including the coordination and integration of activities related to the purposes of the Act, adequate controls over operations, procedures for the development and interpretation of policies and standards, recordkeeping and reporting procedures, monitoring programs supported under this part, evaluation of program activities, and effective supervision of staff.

(b) If certain specified portions of the plan are to be administered by an agency other than the State agency, the State plan shall provide for such methods of administration as are necessary to assure the applicability of all requirements set forth in the State plan and this part.

§ 1321.36 Staffing of the single organizational unit.

(a) The State plan shall contain a staffing plan that sets forth the projected staffing of the single organizational unit for the fiscal year for which the plan is submitted. The staffing plan must set forth the number and type of personnel employed, and the timetable for the hiring of staff set forth in such plan.

(b) The State plan must provide that:

(1) The single organizational unit will be headed by an individual qualified by education and experience to assume leadership of the program, assigned full-time solely to this activity; and

(2) Adequate numbers of qualified staff, including members of minority groups, will be assigned full-time, solely to the single organizational unit, to assure the effective conduct of the responsibilities under this part.

(3) Subject to the requirements of merit employment systems of the State preference shall be given to persons aged sixty or over for any staff positions (full-time or part-time) in the State agency for which such persons qualify.

(c) The staffing plan contained in the State plan approved for a fiscal year must be adhered to in all personnel actions taken by the State agency.

(d) The State agency may contract for technical assistance to assist its staff in the performance of their duties and responsibilities.

§ 1321.37 Standards of personnel administration.

(a) The State plan shall provide that methods of personnel administration will be established and maintained in the State agency administering the State plan or agencies administering or supervising the administration of the State plan including local public agencies conducting activities under this part in conformity with the Standards for a Merit System of Personnel Administration, Part 70 of this title, and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding such standards. Under this requirement, laws, rules, regulations, and policy statements, and amendments thereto effectuating such methods of personnel administration are a part of the State plan. Statements of acceptance of these standards must be obtained from all local public agencies conducting activities under this part, and methods must be established by the State to assure compliance by local jurisdictions. Citations of applicable State laws, rules, regulations, and policies which provide assurance of conformity to the standards in Part 70 of this title or to modifying or superseding standards issued by the U.S. Civil Service Commission must be submitted with the State plan. Copies of the materials cited and of similar local materials maintained by a State official responsible for compliance by local jurisdictions must be furnished to the Department on request.

(b) The State plan shall provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity as specified in § 70.4 of this title. The affirmative action plan will provide for specific action steps and timetables to assure equal employment opportunity. This plan shall be made available for review upon request.

(c) The Commissioner shall exercise no authority with respect to the selection, tenure of office or compensation of any individual employed in accordance with such methods.

Subpart D—Functions and Responsibilities of the State Agency Under the State Plan

§ 1321.47 Statewide planning, coordination, administration, and evaluation.

In addition to the responsibilities of the State agency as prescribed in § 1321.13, the State plan shall provide that the State agency shall:

(a) Carry out ongoing planning, coordination, administration, and evaluation activities necessary to implementation of the title III program; and

(b) Provide an ongoing program of technical assistance to the designated area agencies in the development and implementation of the area plans on aging.

§ 1321.48 Planning.

(a) The State plan shall provide that the State agency shall carry out those activities necessary for effective planning on behalf of all older persons in the State, including:

(1) Establishment of measurable objectives in aging related to the purposes of the Act, and the objectives established by the Commissioner;

(2) Conduct of special studies related to the needs of the elderly;

(3) Conduct of issue analyses in areas of special concern to the elderly; and

(4) Data gathering and analysis on the needs of the elderly in keeping with paragraph (b) of this section;

(b) The State plan shall provide that the State agency, in consultation with the National Clearinghouse on Aging, shall undertake or arrange for the regular collection of data on the needs of the elderly throughout the State. The data collected shall include such areas of need as:

(1) Income;
(2) Physical and mental health;
(3) Housing;
(4) Employment;
(5) Nutrition;
(6) Social services;
(7) Transportation; and
(8) Any other subject area considered appropriate by the State agency.

The data collected must identify the location, special needs and living conditions of those older persons found to be in greatest need in the state for the purpose of determining the population of older persons that will be given priority in the utilization of the funds available under this part. In this effort, special attention shall be given to the needs of low income and minority older persons in the State. The State agency shall take such steps as are necessary to move toward the development of a system that will provide for the systematic storage, retrieval, and analysis, of such data, and other data made available from the Administration of Aging, and for the dissemination of such data to other public and private agencies and organizations having programs affecting the elderly in the State, and the public at large.

(c) The State plan shall provide that in the conduct of the title III program in the State, the term "low income" refers to those incomes which are below the current Department of Commerce, Bureau of Census poverty threshold. The State plan may, however, provide for a modification of this definition when the State agency can demonstrate with relevant data that special factors affecting the economic status of older persons in the State require such modification. The modified definition shall be set forth in the State plan. Approval of the modified definition will be in the form of approval of the State plan each fiscal year.

§ 1321.49 Coordination of programs.

(a) The State plan shall provide that the State agency will establish such procedures and mechanisms that are necessary to assure the effective coordination of State planning and service activities

and programs related to the purposes of the Act. To this end, the State agency will seek to develop and maintain effective working relationships with those public and private agencies having programs which affect the elderly, including the following activities:

(1) Dissemination of information on the needs of the elderly;

(2) Joint funding and programming to achieve the objectives established in the State plan to the maximum extent feasible;

(3) Development of interagency actions concerning State and area plans and objectives, and assessment of progress and problems in implementation of the plans; and

(4) Reporting of activities on aging under this program throughout the State;

(b) The State plan shall provide for the furnishing of technical assistance to public and private agencies and organizations engaged in activities relating to the needs of older persons.

(c) The State plan shall provide that the State agency shall enter into agreements with appropriate State or, until such time as area plans are submitted and approved, local public or private agencies and organizations, for joint utilization of their services and facilities in the administration of the plan and in the development of programs and activities for carrying out the purposes of the Act.

(1) The State plan shall provide that the State agency will carry out those programs and activities designed to bring about maximum possible coordination between the resources available under titles I, X and XIV, or old title XVI, or titles XIX and XX of the Social Security Act, as appropriate and the operation of the programs under this part. The State plan shall describe the activities to be undertaken by the State agency to accomplish such coordination.

(2) The State plan shall provide that the State agency, in conjunction with the designated area agencies, shall take the initiative in endeavoring to work out arrangements whereby recipients of grants or contracts for nutrition projects under § 1324 of this subchapter, mutually agree with area agencies, that such nutrition projects shall be made part of the comprehensive and coordinated service system for older persons under title III.

§ 1321.50 Administration.

(a) *Training and manpower development.*—(1) The State plan shall contain a training and manpower development plan which shall provide for the initiation of a program designed to achieve the objective of a training and staff development program concerning the implementation of the Act, for all professional staff of State and area agencies and principal staff of all service programs initiated under this part. All expenditures of Federal resources under section 301(a)(1) of the Act for training shall be consistent with this program.

(2) The State plan shall provide that personnel working on Older Americans Act programs at the State and area levels will attend such training programs that are specifically developed for such individuals by the Administration on Aging, in consultation with the State agencies, at designated training centers, and that in all title III awards, the State agency will assure that adequate funds are budgeted to pay the travel, per-diem and tuition costs of such individuals to attend such training.

(b) *Participation of Older Americans in implementation of the State plan.*—The State plan shall provide that procedures will be developed by the State agency that will assure effective participation of actual or potential consumers of services under this program in the implementation of the State plan at the State and local levels. These procedures shall provide for periodic public hearings on concerns of the elderly in the State with adequate public notice for such hearings.

(c) *Advisory committee.*—The State plan shall provide for the establishment of an advisory committee to the Governor, the State agency, and the single organizational unit on the implementation of the State plan. At least one-half of the membership of the committee shall consist of actual consumers of services under this program, including low income, and minority older persons, at least in proportion to the number of minority older persons in the State, with the remainder being broadly representative of the major public and private agencies and organization in the State who are experienced in or have demonstrated particular interest in the special needs of the elderly. This committee shall meet preferably bi-monthly, but at least quarterly.

(d) *Public information.*—(1) The State plan shall provide for a continuing program of public information specifically designed to assure that information about the programs and activities carried out under this part are effectively and appropriately promulgated throughout the State.

(2) The State plan shall provide that the State agency will pursue a policy of freedom of information and that the State plan, approved title III program applications, all periodic reports made by the State agency to the Commissioner in accordance with paragraph (g) of this section, and all Federal and State policies governing the administration of the title III program in the State will be available at reasonable times and places in the offices of the State agency for review upon request by interested persons including representatives of the media.

(e) *Review and comment on applications.*—The State plan shall provide that the State agency will review and comment on, at the request of any Federal department or agency, any application from any agency or organization within such State to such Federal department or agency for assistance relating to meeting the needs of older persons.

(f) *Fiscal administration.*—The State plan shall provide for such accounting systems and procedures as are needed to control and support all fiscal activities under title III in accordance with guidelines issued by the Administration on Aging. The State plan shall provide for the maintenance by the State agency and all recipients of awards under this part, of such accounts and supporting documents as will serve to permit an accurate and expeditious determination to be made at any time of the status of the Federal grants, including the disposition of all monies received and the nature and amount of all charges claimed to lie against the allotments to the States.

(g) *Reports.*—The State plan shall provide that the State agency will make such reports to the Commissioner in such form and containing such information as may reasonably be necessary to enable him to perform his functions under title III of the Act, and will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

§ 1321.51 Evaluation.

(a) The State plan shall provide that the State agency will conduct ongoing monitoring, assessment, and periodic evaluation (including the capturing and recording of information relative to changes in public and private organizations in the field of aging and changes in the lives of older persons), of activities and projects carried out under the State plan, in accordance with criteria established by the Commissioner. The operations of the area agency on aging, and the total program of each planning and service area for which an area plan is developed, and each title III project outside such areas, shall be evaluated onsite by the State agency at least annually prior to the funding anniversary of the programs. The results of these evaluations shall be in writing, and shall be submitted to the Commissioner.

(b) The State plan shall provide that the State agency will evaluate on an ongoing basis the extent to which existing public and private programs in the State meet the needs of older persons, especially those older persons who will be given priority in the implementation of the programs under this part. As part of this responsibility, the State agency shall undertake an analysis of the services and resources available for serving older persons in the State. The data resulting from this analysis shall be updated at least on an annual basis, and shall be submitted to the Commissioner.

(c) The State plan shall provide that the State agency and all recipients of awards under this part will cooperate in the carrying out of evaluations of the title III program by the Administration on Aging or those organizations having

contracts with the Administration on Aging for such purposes.

§ 1321.52 Establishment or maintenance of information and referral sources.

The State plan shall provide that the State agency will establish or maintain information and referral sources in sufficient numbers, which will seek to achieve linkages with other information and referral sources in the State capable of serving the elderly, so as to assure that all older persons in the State who are not furnished adequate information and referral services under plans developed by area agencies will have reasonably convenient access to information normally available through such sources by the end of fiscal year 1975. All information and referral services shall be established or maintained in close coordination with the information and referral services available through the District Offices of the Social Security Administration of the Department.

§ 1321.53 Direct provision of social services by the State agency.

The State plan shall provide that no social service under this part will be provided directly by the State agency, except where, in the judgment of the State agency, based on an assessment of needs of older persons and the resources available to meet such needs, provision of such service by the State agency is necessary to assure an adequate supply of such service and that no other agency in the State could effectively deliver such service. All such cases in which the State agency anticipates providing social services directly shall be identified in the State plan. This provision does not apply when the State agency designates a single planning and service area under § 903.57 (f).

§ 1321.54 Demonstration projects of Statewide significance.

(a) The State agency may enter into contracts with public or private nonprofit agencies and profit-making organizations to carry out demonstration projects of Statewide significance relating to the initiation, expansion, or improvement of social services in relation to the purposes of this part. The State plan shall identify the demonstration projects proposed for funding during a fiscal year, the objectives of the projects, the projected impact or significance of the projects, the cost projections related to the projects, and the method by which the projects will be evaluated. The approval of demonstration projects shall be in the form of approval of the State plan each year. Demonstration projects, as approved, shall be financed with funds made available under § 1321.110 of this part and shall be subject to the cost sharing requirements for such funds.

(b) The State agency shall evaluate the projects at least annually in accordance with the method specified in the State plan. The results of these evaluations shall be submitted to the Commissioner.

Subpart E—Designation of Planning and Service Areas by the State Agency

§ 1321.57 Designation of planning and service areas.

(a) The State plan shall provide that in order to carry out the purposes of this program, the State agency shall divide the entire State, after taking into consideration the provisions of paragraphs (b) through (e) of this section, into distinct multicounty, county, metropolitan or city areas called planning and service areas. Wherever possible, an Indian reservation shall be designated as a distinct planning and service area.

(b) The State plan shall provide that in determining the boundaries of planning and service areas in the State, the State agency shall consider those factors, including those set forth under paragraphs (c) through (e) of this section, that will most significantly contribute toward the achievement of the purposes of title III, including:

(1) The boundaries of existing areas within the State which were drawn for the planning or administration of planning or social service programs;

(2) The location of units of general purpose local government within the State;

(3) The geographical distribution of individuals aged sixty or older in the State;

(4) The incidence of need for social services as determined by the data on the needs of the elderly collected by the State agency (including the numbers of low income and minority older persons residing in such areas); and

(5) The distribution of resources available to provide social services.

(c) The State plan shall provide that in every case, in determining the boundaries for planning and service areas, the State agency shall designate as a planning and service area, any unit of general purpose local government which has a population aged sixty or over of fifty thousand or more, or which contains 15 percent or more of the State's population aged sixty or over, except that the State agency may designate as a planning and service area, any region within the State recognized for purposes of areawide planning which includes one or more such units of general purpose local government when the State determines that the designation of such a regional planning and service area is necessary for, and will enhance the effective administration of the program authorized by this title.

(d) The State plan shall provide that the State agency may include in any planning and service area designated pursuant to the provisions of paragraph (c) of this section such additional areas adjacent to the unit of general purpose local government or region so designated as the State determines to be necessary for, and will enhance, the effective administration of programs authorized by this title.

(e) If the State agency chooses to use existing regions within the State recognized for purposes of areawide planning as planning and service areas, it must designate those regions established by the State in accordance with the provisions of Part IV of Office of Management and Budget Circular No. A-95 Revised, or under the Comprehensive Planning Assistance program authorized by section 701 of the Housing Act of 1954, as amended (40 U.S.C. 461), or under the Areawide Health Planning Project Grant program authorized under section 314(b) of the Public Health Service Act (42 U.S.C. 246(b)).

(f) (1) The State agency may, with the approval of the Commissioner, designate all or substantially all of the State as a single planning and service area covering all or substantially all of the older persons in the State. The Commissioner's approval will be in the form of approval of the State plan each year;

(2) In considering a State's proposal, the Commissioner will consider these factors:

(i) Is the State too small to be divided effectively?

(ii) Is the size and distribution of the elderly population such that division of the State would spread coordination and management resources too thinly to be effective?

(iii) Is the State agency capable of performing area agency functions for the entire State?

(iv) Has the State constituted the entire State as one area for other planning or social service administration purposes?

(v) Does State law forbid or restrict the division of the State into areas, or the administration of area plans by local agencies?

(3) With the approval of such designation, the single organizational unit of the sole State agency shall be considered the area agency for such area, and shall assume all the functions and responsibilities as prescribed for the area agency in this part. In all such cases, the area plan shall be submitted each fiscal year to the Commissioner for review and approval prior to the obligation of funds, by the State agency for the implementation of the plan.

(g) The boundaries of the planning and service areas determined by the State agency shall be identified in the State plan. The State plan shall include a certification that the proposed boundaries of the planning and service areas have been cleared through the clearinghouse process established in accordance with Office of Management and Budget Circular No. A-95 Revised. The State plan shall include a statement of the rationale for the manner in which the State has been divided.

§ 1321.58 Determination of planning and service areas for which an area agency on aging will be designated and for which an area plan will be developed.

(a) The State plan shall provide that for the first year of implementation of the program under this part, the

planning and service areas for which an area agency will be designated and for which an area plan will be developed shall encompass not less than 55 percent of the total population of persons aged 60 or over in the State. The Commissioner may approve a State plan providing for coverage of less than 55 percent if the State agency can show that:

(1) The allotment available to the State for the purposes of this title is insufficient to meet this objective;

(2) The application of this requirement will result in serious barriers to achievement of the goals and objectives of this part; and

(3) This requirement would cause undue difficulties in implementing the title III program because of the size and distribution of the elderly population in the State.

(b) The State plan shall provide that in determining the planning and service areas for which area agencies will be designated and area plans will be developed, or which will continue to receive funds under this part, the State agency shall give priority to those areas having significant concentrations or proportions of low income and minority older persons 60 years of age or older.

(c) The State plan shall describe how the State agency determined the areas for which plans will be developed and the areas, if any, for which plans have already been developed and approved by the State agency.

Subpart F—Designation of Area Agencies by the State Agency

§ 1321.63 Designation of area agencies on aging.

(a) The State plan shall provide that following the determination of planning and service areas for which area plans will be developed, and prior to the obligation of funds to such areas to carry out the purposes of this part, the State agency shall designate a single public or non-profit private agency or organization as the area agency on aging.

(b) The State plan shall provide that the State agency shall establish procedures for considering views, with respect to the designation of the area agency, offered by units of general purpose local government in the planning and service area. The State agency shall, prior to the designation of the area agency, obtain the views of general purpose local government concerning such designation.

(c) The State plan shall provide that for an agency or organization to be designated as an area agency, it must be:

(1) An established office of aging which is operating within a designated planning and service area; or

(2) Any office or agency of a unit of general purpose local government which is designated for this purpose by the chief elected official or officials of such unit; or

(3) Any office or agency designated by the chief elected official or officials of a combination of units of general purpose local government to act on behalf of such combination for this purpose; or

(4) Any public or nonprofit private agency in a planning and service area which is under the supervision or direction for this purpose of the designated State agency and which can engage in the planning, coordination or provision of a broad range of social services within such planning and service area.

(d) The State agency or any regional unit thereof shall not be eligible to be designated as an area agency, except as provided in § 1321.57(f). In addition, no other agency of the State or regional unit thereof shall be eligible to be so designated.

(e) The State plan shall provide that in designating an area agency, the State agency shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to develop and carry out the area plan and the functions prescribed in § 1321.66.

(f) The State plan shall provide that when in accordance with § 1321.57(a), the planning and service area boundaries are essentially coterminous with those of an Indian reservation, the tribal organization of that reservation shall be designated as the area agency, unless it is determined by the State agency that such organization does not have the capacity to carry out the area plan.

(g) The State plan shall provide that, before an agency may be designated as an area agency, the State agency must obtain adequate assurances that the agency will have the authority and capacity to develop an area plan and to carry out directly or through contractual or other arrangements, a program pursuant to the plan within the planning and service area.

§ 1321.64 Organization of the area agency.

If the area agency has responsibilities that go beyond programs for the elderly, there must be created within such agency a single organizational unit with delegated authority for, and whose principal function shall be, the effective implementation of the program described in this part. It shall be the responsibility of this unit to carry out directly all of the functions and responsibilities prescribed in this part for the area agency.

§ 1321.65 Staffing of the area agency.

(a) The area plan developed by the area agency shall contain a staffing plan for the area agency which sets forth the number, type of personnel employed and the timetable for the hiring of staff to carry out the functions and responsibilities of the area agency on aging. The area plan shall provide that the area agency or unit within such agency responsible for this program will:

(1) Be headed by an individual qualified by education or experience, working full-time, solely on the implementation of the area plan under this program; and

(2) Provide for adequate numbers of additional qualified staff working full or part-time, including members of minority groups, for the development and implementation of the plan and the conduct of functions prescribed in this part for the area agency.

(b) Once the staffing plan of the area agency has been approved by the State agency, it must be adhered to in all personnel actions taken by the area agency. When an area agency determines that it must deviate from the plan, it must obtain the prior approval of the State agency.

(c) The State plan shall provide that, subject to the requirements of merit employment systems of local government, preference shall be given to persons aged sixty or over for any paid staff positions (full-time or part-time) in the area agency for which such persons qualify.

§ 1321.66 Functions and responsibilities of the area agency.

(a) The State plan shall provide that each area agency shall develop, and submit annually to the State agency for approval, an area plan on aging which conforms to the provisions of § § 1321.78 and 1321.79, and which is designed to develop comprehensive and coordinated programs for older persons throughout the planning and service area.

(b) In addition to the development and administration of an area plan, an area agency shall carry out directly, to the maximum extent feasible, the following functions:

(1) Provision of leadership and advocacy on behalf of all older persons within the geographic area for which the agency is responsible;

(2) Determination of the need for social services in the planning and service area, with special attention being given to the needs of low income and minority elderly;

(3) Inventory of the resources available within the area to meet the needs of the elderly and an evaluation of the effectiveness of the services provided by the public and private agencies within the area in meeting such needs;

(4) Establishment of measurable program objectives and priorities for implementation of the area plan, in keeping with the objectives established by the State agency;

(5) Planning with existing planning agencies and the providers of services in the area concerning the needs of the elderly;

(6) Either directly or through contract or grant, provided for an action program designed to:

(i) Coordinate the delivery of existing services for the elderly; and

(ii) Pool untapped resources of public and private agencies in order to strengthen or inaugurate new services for older persons;

(7) Periodic evaluation of activities carried out pursuant to the area plan, including the views of older persons participating in such activities;

(8) Conduct of periodic public hearings concerning the needs of the elderly;

(9) Collection and dissemination of information concerning the needs of the elderly;

(10) Provision of technical assistance to providers of social services in the planning and service area covered by the area plan;

(11) Where necessary and feasible, enter into arrangements, consistent with the provisions of the area plan, under which funds under this title may be used to provide legal services to older persons in the planning and service area, carried out through Federally assisted programs or other public or nonprofit agencies;

(12) Where possible, enter into arrangements with organizations providing day care services for children so as to provide opportunities for older persons to aid or assist, on a voluntary or paid basis, in the delivery of such services to children;

(13) Establish an advisory council which shall meet preferably monthly but at least bi-monthly. The council shall consist of representatives of program participants and the general public, including low income and older minority persons at least in proportion to the number of minority older persons in the area, and shall advise the area agency on all matters relating to development and administration of the area plan and operations conducted thereunder. At least one-half of the membership of such council shall be made up of actual consumers of services under the area plan. Where a nutrition project established under § 1324 of this subchapter is located within the planning and service area for which an area plan is to be developed, a representative of the nutrition project council for such project shall also be included on the advisory council. Where more than one nutrition project is located within the planning and service area, the project councils for such projects shall designate one of their number to provide representation for all the nutrition projects of the area on the advisory council; and

(14) Take into account, in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under the area plan.

§ 1321.67 Direct provision of social services by the area agency.

(a) The State plan shall provide that no social service under this part will be provided directly by the area agency, except where the State agency has granted specific approval to the area agency to do so. With the exception of information and referral services and coordination activities, no such approval may be given by the State agency unless the agency designated was providing social services prior to its designation as an area agency, or it can be clearly shown that the direct delivery of a service is necessary to assure an adequate supply of such services, and that no other agency in the area can and will effectively deliver such service.

(b) The approval for the area agency to deliver a social service directly shall be in the form of approval of the area plan on aging by the State agency.

§ 1321.68 Public information.

(1) The area agency shall provide for a continuing program of public information specifically designed to assure that information about the programs and activities carried out under the area plan are effectively and appropriately promulgated throughout the planning and service area;

(2) The area agency shall pursue a policy of freedom of information. The area plan, all periodic reports made by the area agency to the State agency, and all Federal and State policies governing the administration of the title III program in the area will be available at reasonable times and places in the offices of the area agency for review upon request by interested persons, including representatives of the media.

Subpart G—Area Plans on Aging

§ 1321.78 Development of the area plan.

(a) In accordance with guidelines established by the Commissioner regarding the content and format of the area plan, the area agency shall develop and submit, on an annual basis, an area plan to the State agency for approval. This plan must set forth in detail how the area agency proposes to develop a comprehensive and coordinated system for the delivery of social services to the elderly.

(b) The State plan shall set forth the criteria established by the State agency for determining whether an area plan as submitted by an area agency meets all of the requirements of the Act and this part. Any area plan which fails to meet such criteria shall not be approved. Where a State agency disapproves an area plan or a substantial portion of the plan, it shall notify the area agency in writing of its action and set forth the reasons for its disapproval.

(c) In developing the area plan, the area agency shall take into consideration the requirements of the Act and of § 1321.82 for the establishment or maintenance of information and referral services, and provide for activities to be undertaken after approval of the plan which will ensure that such requirements are met.

(d) In developing the area plan, the area agency shall include plans for transportation whenever funds are used to establish needed services for older persons to ensure that older persons have access to such services.

(e) The area plan shall contain an assurance that the area agency designated has the authority and capacity to carry out directly all of the functions and responsibilities prescribed in § 1321.66.

(f) For fiscal year 1975, and for every fiscal year thereafter, the area agency shall conduct, prior to the submission of the area plan to the State agency for approval, a public hearing(s) on the area plan. The area agency shall give adequate public notice prior to the conduct of the hearing. The hearing shall provide the opportunity for older persons, the general public, officials of general purpose local government, and other interested parties to comment on the area plan.

(g) The area plan shall provide that the area agency, in conjunction with the State agency, shall take the initiative in endeavoring to develop arrangements with recipients of grants or contracts for nutrition projects under Part 1324 of this subchapter whereby, subject to mutual agreement of both parties, such projects shall be made part of the coordinated and comprehensive system of services for older persons to be established under the area plan.

(h) The area plan shall provide assurances for maximum coordination between the programs and activities under the area plan, and the resources available under titles I, X and XIV, or old title XVI, or titles XIX and XX of the Social Security Act, as appropriate, in order to achieve comprehensive and coordinated service programs for older persons as prescribed in this part.

§ 1321.79 Conditions for approval of an area plan by the State agency.

(a) In order to be approved for the award of funds under this part by the State agency, the area plan must provide for:

(1) A continuous process of planning by the area agency, including the defining and redefining of objectives and the establishment of priorities; and

(2) The launching or strengthening of action programs within the area for coordinating the delivery of existing services for older persons, and for the pooling of untapped resources in order to strengthen existing services or inaugurate new services for older persons. Such activities may be carried out directly by the area agency, by a grant from the area agency to a public or nonprofit private agency, or through a contract between the area agency and a public or private agency in the planning and service area, and are subject to the provisions of § 1321.83(b).

(b) After the area agency has met the requirements of paragraph (a) of this section, a State agency may award funds to include as part of the area plan, support for those service programs found necessary to assist older persons to become aware of the social services available in the area (information and referral and outreach services), and to assist them in having access to these services (transportation and escort services), and support for other social services needed by older persons, but which no public and private agencies of the area can or will provide.

(c) In all cases, the area plan shall provide that priority be given to those activities and services which will assist and benefit low income and minority older persons throughout the planning and service area, and shall assure that, to the extent feasible, and with respect to resources made available under the plan, low income and minority individuals will be served at least in proportion to their relative numbers in the planning and service area.

§ 1321.80 Implementation of the area plan.

(a) Pursuant to its approval of the area plan, the State agency shall award all funds under this part to support implementation of the plan only to the area agency.

(b) With the exception of coordination and information and referral services which may be provided directly by the area agency subject to approval by the State agency and the conditions prescribed in § 1321.67, the area agency shall enter into contracts or grants with other agencies providing services within the planning and service area for the actual delivery of those social services for which funds may be made available under the area plan. The area agency may make grants to or contract with public or private nonprofit agencies or organizations, or enter into contracts with profit-making organizations, for such purposes.

(c) The area plan shall provide for contracts or grants under the area plan to be operated by minority individuals, at least in proportion to their relative number in the planning and service area.

(d) It shall be the responsibility of the area agency to:

(1) Monitor on an ongoing basis the performance of the contracting agencies and grantees under the area plan, and ensure that funds made available by the State agency are expended in keeping with the purposes for which they were awarded; and

(2) Conduct periodic evaluations of the activities conducted under the area plan.

§ 1321.81 Training of personnel engaged in implementation of the area plan.

The area agency shall make provision for the training of personnel necessary for implementation of the area plan, and the attendance of such individuals at designated training centers established by the Administration on Aging, in consultation with State agencies, for individuals having specific responsibilities under the area plan.

§ 1321.82 Establishment or maintenance of information and referral sources.

(a) The area plan shall provide that the area agency will take such steps as are designed to achieve the establishment or maintenance of information and referral sources in sufficient numbers to assure that all older persons within the planning and service area covered by the plan will have reasonable convenient access to such sources by the end of fiscal year 1975.

(b) Such information and referral sources shall be established or maintained in close coordination with the information and referral services which are available through the District Offices of the Social Security Administration of the Department. To the maximum extent possible, the services and resources available through such offices shall be utilized by the area agency for this purpose.

§ 1321.83 Federal financial participation in activities under an area plan.

(a) Federal funds under this part may be used to pay up to 75 percent of the cost of the development and administration of the area plan by the area agency and the conduct of the functions of such agency as prescribed in this part.

(b) Funds under this part may not be awarded to carry out any of the activities prescribed in § 1321.79 of this subpart until the area plan has been approved by the State agency. Once a plan has been approved, Federal funds may be used to pay up to 90 percent of the cost of these activities.

§ 1321.84 Duration of Federal support for activities under an area plan.

(a) The State agency shall approve an area plan for a maximum of one year. Prior to annual refunding of an area plan, the State agency must conduct an annual on-site evaluation of the area program. The State agency may approve refunding of the area plan, in whole or in part, when such evaluation demonstrates that:

(1) Substantial progress has been made in achieving the objectives of the area plan; and

(2) Substantial efforts have been made to attract financial resources from other public and private sources for the support and continuation of programs under the area plan.

(b) In keeping with paragraph (a) of this section, grants or contracts made by area agencies to conduct activities under the area plan, shall be limited to a maximum of one year. Renewal of the grants or contracts shall also be limited to a maximum of one year, and shall be subject to the final action taken by the State agency on refunding the area plan as a result of its program evaluation.

(c) No individual social service activity under the area plan may be funded for longer than three years unless the Commissioner, after obtaining the views of the State agency, approves funding beyond such period. The Commissioner will approve such funding only when it can be shown that substantial efforts have been made by the area agency to attract resources for such social services from public and private agencies, and that the support requested will not be available from such sources in the foreseeable future.

Subpart H—Activities and Services Not Under Area Plans on Aging

§ 1321.94 Purposes for which awards may be made.

(a) The State plan shall provide that funds may be awarded by the State agency to projects not under area plans only when such projects will contribute directly toward achieving the purposes of title III set forth in § 1321.1 of this part.

(b) Initiation of any social services under this subpart shall be permitted only when all older persons living in areas not covered by area plans have reasonably convenient access to information and referral services as defined in § 1321.2(g)(2).

§ 1321.95 Eligibility of applicants.

The State agency may make grants to or contract with public or private nonprofit agencies or enter into contracts with profit-making organizations to carry out the purposes of this subpart.

§ 1321.96 Approval of awards.

(a) The State plan shall provide that the State agency will assure that each proposal to be considered for approval under § 1321.94 must:

(1) Be submitted for comment to the local office on aging (if any) having jurisdiction over the geographic area from which the proposal is submitted;

(2) Be submitted for comment through the clearinghouse process established under the Office of Management and Budget Circular No. A–95 Revised.

(3) Have clearly specified objectives that are in keeping with the priorities established under § 1321.94; and

(4) Be designed to serve primarily low income and minority older persons.

(b) The State plan shall provide that awards under this subpart will be approved initially for a maximum of one year. Before additional support is awarded for any subsequent year, the State agency must conduct an on-site evaluation of the project to determine if the objectives of the project are being met. The evaluation findings shall be submitted to the Commissioner.

(c) The State agency shall assure that only those projects which are making substantial progress toward achieving the objectives for which they were approved will be considered for refunding for any subsequent year under this subpart. No activity under this subpart may be funded for longer than three years unless the Commissioner, after obtaining the views of the State agency, approves funding beyond such period.

§ 1321.97 Federal financial participation.

(a) Federal funds under this subpart may be used to pay not more than 75 percent of the cost of activities and services under this subpart.

(b) Sponsors of existing projects must maintain the level of their non-Federal share in accordance with the requirements of § 1321.138 of this part.

Subpart I—Authorization and Allotments for Planning, Coordination, Administration, and Evaluation of State Plans

§ 1321.107 Authorizations.

Amounts appropriated as authorized by section 303 of the Act may be used to make grants to States for paying such percentages as each State agency determines, but not more than 75 percentum of the cost of the administration of its State plan, including the administration of the State plan amendment relating to title VII of the Act, incurred during the fiscal year for which such sums are appropriated, including the preparation of

the State plan, the evaluation of activities carried out under such plan, the collection of data and the carrying out of the analysis related to the need for social services within the State, the dissemination of information so obtained, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this Act, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of social services.

§ 1321.108 Use of State planning funds for administering area plans.

Any sum allotted to a State under section 306 of the Act for covering part of the cost of the administration of its State plan which the State determines is not needed for such purpose may be used, as approved by the Commissioner, by such State to supplement the amount available under section 303(e)(1) to cover part of the cost of the administration of area plans. Approval by the Commissioner for the use of such funds in this manner will be in the form of approval of the State plan each fiscal year.

§ 1321.109 Use of area planning monies on a statewide basis.

Any State which has designated a single planning and service area pursuant to § 1321.57(f) may elect to pay part of the costs of the administration of State and area plans either out of sums allotted under this part or out of sums made available for administration of area plans under § 1321.123, but shall not pay such costs out of sums allotted under both such sections.

§ 1321.110 Allotments to the State for planning, coordination, administration, and evaluation of State plans.

Federal funds appropriated under section 303 of the Act for any fiscal year shall be allotted among the States in the following manner:

(a) From the sums appropriated for any fiscal year under section 303 for carrying out the purposes of this subpart, each State shall be allotted an amount which bears the same ratio to such sum as the population aged sixty or over in such State bears to the population aged sixty or over in all States, except that:

(1) No State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made, or $160,000, whichever is greater, and

(2) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted not less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made, or $50,000 whichever is greater. For the purpose of the exception contained in clause (1) of this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The number of persons aged sixty or over in any State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

§ 1321.111 Reallotment of funds for planning, coordination, administration, and evaluation of State plans.

The amount of any State's allotment under § 1321.110 for any fiscal year which the Commissioner determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under § 1321.110 of this subpart for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Such reallotments shall be made on the basis of the State plan so approved, after taking into consideration the population aged sixty or over. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under § 1321.110 for that year.

Subpart J—Authorization and Allotments for Area Planning and Social Services Programs

§ 1321.122 Authorizations.

Amounts appropriated as authorized may be used to make grants to each State with a State plan approved under section 305 of the Act (except as provided in section 307 of the Act) for paying part of the cost incurred during the fiscal year for which such sums are appropriated for the purposes of:

(a) The development and administration of area plans by area agencies on aging;

(b) The development of comprehensive and coordinated systems for the delivery of social services under area plans; and

(c) Activities and services not under area plans.

§ 1321.123 Allotments for area agencies and social services.

(a) From the sums appropriated for a fiscal year each State shall be allotted an amount which bears the same ratio to such sum as the population aged sixty or over in such State bears to the population aged sixty or over in all States, except that:

(1) No State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made;

(2) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted no less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made; and

(3) No State shall be allotted an amount less than that State received for the fiscal year ending June 30, 1973. For the purpose of the exception contained in clause (1) above, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The number of persons aged sixty or over in any State and in all States shall be determined by the Commissioner on the basis of the most recent and satisfactory data available to him.

§ 1321.124 Limitations on awards.

(a) From a State's allotment for a fiscal year under section 303 of the Act, such amount as the State agency determines, but not more than 15 percent thereof, shall be available to pay part of the costs of the development and administration of area plans;

(b) For the fiscal year beginning July 1, 1974 and for each fiscal year thereafter, not more than 20 percent of a State's allotment under section 303 of the Act, may be used to pay part of the costs of activities and services in areas not under an approved area plan developed by an area agency and approved by the State agency.

§ 1321.125 Reallotment of funds for area agencies and social services.

Whenever the Commissioner determines that any amount allotted to a State for a fiscal year under § 1321.123 of this subpart will not be used by such State to carry out the purpose for which the allotment was made, he shall make such amount available for carrying out such purpose to one or more other States to the extent he determines such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year pursuant to the preceding sentence shall, for purposes of this part, be regarded as part of such State's allotment (as determined under the preceding provisions of this section) for such year.

Subpart K—General

§ 1321.135 Public funds as part of the non-Federal share.

For fiscal year 1975, and for each fiscal year thereafter, not less than 25 percent of the non-Federal share of the total expenditures under the State plan shall be met from funds from State or local public sources.

§ 1321.136 Payments.

Payments of grants or contracts under this part may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

§ 1321.137 Audit.

All fiscal transactions by the State agency, any other agency (if any) administering part of the plan, and any recipient of an award from the State

agency are subject to audit by the Department to determine whether expenditures have been made in accordance with the Act and this part.

§ 1321.138 Maintenance of effort.

(a) A State's allotment under section 303 of the Act for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 305 of the Act are less than its expenditures from such sources for the preceding fiscal year.

(b) The State plan shall provide reasonable assurance by the State agency that there will be expended by each recipient of an award under this part, for the purposes for which payments are made for activities under this part, for the year for which such payments are made and from funds from non-Federal resources, an amount not less than the amount expended for such purposes from such funds during the previous year.

§ 1321.139 Confidentiality.

(a) The State plan shall provide that the State agency will take steps to insure that no information about, or obtained from, an individual, and in possession of any agency providing services to such individual under the plan, shall be disclosed in a form identifiable with the individual without the individual's informed consent.

(b) The State plan shall provide that lists of older persons compiled pursuant to § 1321.2(g)(2) shall be used solely for the purpose of providing social services, and only with the informed consent of each individual on such list.

§ 1321.140 Opportunity for hearing.

(a) The State plan shall provide that any area agency on aging whose request for approval of an area plan is denied, will be afforded an opportunity for a hearing before the State agency.

(b) The State plan shall provide that any project applicant in areas not covered by an area plan, whose application for approval is denied, will be afforded an opportunity for hearing before the State agency.

§ 1321.141 State licensure requirements.

The State plan shall provide that where the State or local public jurisdictions require licensure for the provision of social services, agencies providing such services under this part shall be licensed, or shall meet the requirements for licensure.

§ 1321.142 Contributions for social services.

(a) The State plan shall provide that agencies providing social services under this part shall provide older persons receiving such services the opportunity to contribute to all or part of the costs of the social services provided. Where such services are provided under an area plan, the area agency shall consult with the advisory council to the area agency regarding proposed contributions.

(b) The State plan shall provide that each individual recipient shall determine for himself what he is able to contribute toward the cost of the social service. No older person shall be denied a social service because of his failure to contribute to all or part of the cost of such service.

(c) The State plan shall provide that the methods of receiving contributions from individuals shall be handled in such a manner so as not to differentiate among individuals' contributions publicly.

§ 1321.143 Continuation of support for existing activities.

(a) The State agency is authorized, with the prior approval of the Commissioner, to continue Federal support for community project activities which meet the requirements of the Act, but which do not meet all of the requirements of this part, if such projects had been approved and funded prior to the effective date of these regulations.

(b) Such Federal financial assistance shall be available for not more than one year following the effective date of these regulations.

(c) A State agency request to continue such assistance shall be in writing, and shall set forth the reasons for which the State agency makes such a request, including:

(1) A showing that failure to continue support for the project would result in serious harm to the persons served, or to the effort for aging in the area of the project; and

(2) A showing that the State agency and community project have exhausted all efforts to obtain continuing financial assistance from other sources.

§ 1321.144 Requests for postponement.

(a) In cases where a State agency has determined that it is unable to meet the requirements prescribed under this part, because such requirements in implementation of the title III program will place undue hardship on older persons, it may request the Commissioner to approve, for a specified period of time, not to exceed 120 days, a postponement of such requirements. This provision does not apply to the requirements of this part mandated by statute.

(b) The State agency shall submit a request for a postponement in writing to the Commissioner. The request shall state why the State agency is unable to meet the requirement, and therefore has need for a postponement; the effect of not granting a postponement on the implementation of the title III program; and what steps the State agency will take (and the time required), to meet the requirements for which postponement is requested.

(c) The Commissioner shall approve the postponement if he finds that it is needed to prevent undue hardships on older persons and that there is reasonable expectation that the State agency will be able to meet the requirements within the postponement period.

§ 1321.145 Allowable costs and administration of grant or contract activities.

Allowable costs for Federal financial participation under title III of the Act must be both reasonable and necessary for the conduct of activities under the State plan. Determination of allowable costs, expenditure of grant funds pursuant thereto, and the administration of all grant or contract activities under the State plan shall be carried out in accordance with Part 74 of this title, and with guidelines and policies issued by the Administration on Aging.

PART 1322—RESEARCH AND DEVELOPMENT PROJECTS

PURPOSE

Sec.
1322.1 Purpose.

GRANTS

1322.2 Eligibility.
1322.3 Application.
1322.4 Project review.
1322.5 Grant awards.
1322.6 Payments.
1322.7 Reports.
1322.8 Project expenditures.
1322.9 Audits.

CONTRACTS

1322.10 Contracts.

EVALUATION

1322.11 Evaluation.

AUTHORITY: Pub. L. 89-73, 79 Stat. 218-226 (42 U.S.C. 3001 et seq.), as amended by sec. 401, Pub. L. 93-29, 87 Stat. 45-49; secs. 112, 114, Pub. L. 94-135, 89 Stat. 719-720 (42 U.S.C. 3035 et seq.)

PURPOSE

§ 1322.1 Purpose.

The Commissioner is authorized to make grants or enter into contracts to meet in whole or in part the costs of conducting an identified activity or program to carry out the purposes of the Act through:

(a) The study of current patterns and conditions of living of older persons and identification of factors which are benecial or detrimental to the wholesome and meaningful living of such persons;

(b) The development or demonstration of new approaches, techniques, and methods (including multipurpose centers) which hold promise of substantial contribution toward wholesome and meaningful living of such persons;

(c) The development or demonstration of approaches, methods, and techniques for achieving or improving coordination of community services for older persons;

(d) The evaluation of these approaches, techniques, and methods as well as others which may assist older persons to enjoy wholesome and meaningful living and to continue to contribute to the strength and welfare of our Nation;

(e) The collection and dissemination, through publications and other appropriate means of information concerning research findings, demonstration results, and other materials developed in connection with activities assisted under this part; or

(f) The conducting of conferences and other meetings for the purposes of facilitating exchange of information and stimulating new approaches with respect to activities related to the purposes of this part.

GRANTS

§ 1322.2 Eligibility.

The Commissioner, after consulting with the designated State agency, is authorized to make grants to any public or nonprofit private agency, organization, or institution (except Federal agencies and institutions) for paying in whole or part the costs of projects designed to carry out the purposes of this part.

§ 1322.3 Application.

Any applicant eligible for a grant award under § 1322.2 may file application therefor with the Commissioner on such forms and in such detail as the Commissioner may prescribe. Such application shall set forth adequately the nature, duration, purpose, and plan of the project, the qualifications of the principal staff members to be responsible for the project, the total facilities and resources that will be available, a justification of the amount of the requested grant, and such other pertinent information as the Commissioner may require. The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this part.

§ 1322.4 Project review.

The Administration on Aging processes all applications which meet legal requirements for a grant. Applications which are consistent with Administration on Aging support policies are sent to the cognizant State agency on aging and to the Office of Aging, in the cognizant Department of Health, Education, and Welfare regional office for review and comment. Comments may also be requested from appropriate specialists and consultants inside and outside of the Government. Applicants may be requested to submit additional information while a project proposal is being considered. Upon completion of the review process, the Commissioner determines the action to be taken with respect to each application and the applicant is notified accordingly.

§ 1322.5 Grant awards.

Within the limits of funds available for such purpose, the Commissioner will award a grant to those applicants whose approved projects will in his judgment best promote the purposes of the Act and this part. All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award. The initial award shall also specify the project period for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support, grantees must make separate application in accordance with the provisions of this part.

§ 1322.6 Payments.

(a) To the extent he deems it appropriate, the Commissioner shall require the recipient of any grant under this part to contribute money, facilities, or services for carrying out the project.

(b) The Commissioner shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses to be incurred or incurred in the project period, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project. All such payments shall be recorded by the grantee in accounting records separate from all other fund accounts, including funds derived from other grant awards. Amounts paid shall be available for expenditure by the grantee in accordance with the regulations of this part throughout the project period subject to such limitations as the Commissioner may prescribe.

§ 1322.7 Reports.

The grantee shall make such reports to the Commissioner, including reports of findings and results of evaluation, in such form and containing such information as may reasonably be necessary to enable him to perform his functions under this part and shall keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

§ 1322.8 Project expenditures.

Grants under this part will be available for the following types of expenditures for approved projects:

(a) Salaries, cost of travel, and related expenses of project personnel;

(b) Necessary supplies, equipment, and related expenses;

(c) Purchase or provision of services to individuals served by the project;

(d) Costs of publication and distribution of studies, findings, and materials developed in connection with activities under this part;

(e) Costs of administration and other indirect costs of the project, subject to such limitations as are set forth in Subpart Q of Part 74 of this title, and as the Commissioner may establish; and

(f) Such other items as are included in the approved application.

Expenditures shall be in connection with the conduct of the project as approved.

§ 1322.9 Audits.

All fiscal transactions by a grantee relating to grants under this part are subject to audit by the Department to determine whether expenditures have been made in accordance with the Act and this part.

CONTRACTS

§ 1322.10 Contracts.

(a) *Eligibility.* The Commissioner is authorized to make contracts to carry out the purposes of this part with any agency, organization or institution (except Federal agencies and institutions), or with any individual, after consulting with the designated State agency.

(b) *Provisions.* Any contract under this part shall be entered into in accordance with and shall conform to all applicable laws, regulations and Department policy.

(c) *Payments.* Payments may be made in advance or by way of reimbursement, and in such installments and on such conditions, as the Commissioner may determine. To the extent he deems it appropriate, the Commissioner shall require the contractor to contribute money, facilities, or services for carrying out the project for which the contract was made.

EVALUATION

§ 1322.11 Evaluation.

Projects supported under this Part will be evaluated in accordance with the criteria set forth in the notice published in the FEDERAL REGISTER on June 28, 1973 (38 FR 17030) which promulgates the evaluation standards for programs and projects assisted under section 308 or title IV of the Older Americans Act of 1965, as amended. This notice is set forth as Appendix A to this subchapter.

PART 1323—TRAINING PROJECTS

PURPOSE

Sec.
1323.1 Purpose.

GRANTS

1323.2 Eligibility.
1323.3 Application.
1323.4 Project review.
1323.5 Grant awards.
1323.6 Payments.
1323.7 Reports.
1323.8 Project Expenditures.
1323.9 Audits.

CONTRACTS

1323.10 Contracts.

EVALUATION

1323.11 Evaluation.

AUTHORITY: Pub. L. 89-73, 79 Stat. 218-226 (42 U.S.C. 3001 et seq.), as amended by sec. 401, Pub. L. 93-29, 87 Stat. 45-49; secs. 109, 110, 112, 114, Pub. L. 94-135, 89 Stat. 717, 718, 719-720, 725 (42 U.S.C. 3031 et seq.)

PURPOSE

§ 1323.1 Purpose.

The Commissioner is authorized to make grants or enter into contracts to meet in whole or in part the costs of—

(a) The specialized training of persons employed or preparing for employment in carrying out programs related to the purposes of the Act and the development of curriculums for such training;

(b) The conduct of studies of the need for trained personnel to carry out such programs;

(c) The preparation and dissemination of materials, including audiovisual

materials and printed materials, for use in recruitment and training of such personnel;

(d) The conduct of conferences and other meetings for the purpose of facilitating exchange of information and stimulating new approaches with respect to activities related to the purposes of this part; or

(e) The publication and distribution of information concerning studies, findings, and other materials developed in connection with activities under this part.

GRANTS

§ 1323.2 Eligibility.

The Commissioner, after consulting with the designated State agency, is authorized to make grants to any public or nonprofit private agency, organization, or institution (except Federal agencies and institutions) for paying in whole or part the costs of projects designed to carry out the purposes set forth in § 1323.1.

§ 1323.3 Application.

Any applicant eligible for a grant award under § 1323.2 may file application therefor with the Commissioner on such forms and in such detail as the Commissioner may prescribe. Such application shall set forth adequately the nature, duration, purpose and plan of the project, the qualifications of the principal staff members to be responsible for the project, the total facilities and resources that will be available, a justification of the amount of the requested grant, and such other pertinent information as the Commissioner may require. The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this part.

§ 1323.4 Project review.

The Administration on Aging processes all applications which meet legal requirements for a grant. Applications which are consistent with Administration on Aging support policies are sent to the cognizant State agency on aging and to the Office of Aging, in the cognizant Department of Health, Education, and Welfare regional office for review and comment. Comments may also be requested from appropriate specialists and consultants inside and outside of the Government. Applicants may be requested to submit additional information while a project proposal is being considered. Upon completion of the review process, the Commissioner determines the action to be taken with respect to each application and the applicant is notified accordingly.

§ 1323.5 Grant awards.

Within the limits of funds available for such purpose, the Commissioner will award a grant to those applicants whose approved projects will in his judgment best promote the purposes of the Act and this part. All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award. The initial award shall also specify the project period for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support, grantees must make separate application in accordance with the provisions of this part.

§ 1323.6 Payments.

(a) To the extent he deems it appropriate, the Commissioner shall require the recipients of any grant under this part to contribute money, facilities, or services for carrying out the project.

(b) The Commissioner shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses to be incurred or incurred in the project period, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project. All such payments shall be recorded by the grantee in accounting records separate from all other fund accounts, including funds derived from other grant awards. Amounts paid shall be available for expenditure by the grantee in accordance with the regulations of this part throughout the project period subject to such limitations the Commissioner may prescribe.

§ 1323.7 Reports.

The grantee shall make such reports to the Commissioner in such form and containing such information as may reasonably be necessary to enable him to perform his functions under this part and shall keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

§ 1323.8 Project expenditures.

Grants under this part will be available for the following types of expenditures for approved projects:

(a) Salaries, cost of travel;

(b) Stipends or other expenses of trainees;

(c) Necessary supplies, equipment and related expenses;

(d) Costs of publication and distribution of studies, findings, and materials developed in connection with activities under this part;

(e) Costs of administration and other indirect costs of the project, subject to such limitations as are set forth in Subpart Q of Part 74 of this title, and as the Commissioner may establish; and

(f) Such other items as are included in the approved application.

Expenditures shall be in connection with the conduct of the project as approved.

§ 1323.9 Audits.

All fiscal transactions by a grantee relating to grants under this part are subject to audit by the Department to determine whether expenditures have been made in accordance with the Act and this part.

CONTRACTS

§ 1323.10 Contracts.

(a) *Eligibility.* The Commissioner is authorized to make contracts to carry out the purposes of this part with any agency, organization or institution (except Federal agencies and institutions), after consulting with the designated State agency.

(b) *Provisions.* Any contract under this part shall be entered into in accordance with and shall conform to all applicable laws, regulations and department policy.

(c) *Payments.* Payments may be made in advance or by way of reimbursement, and in such installments and on such conditions, as the Commissioner may determine. To the extent he deems it appropriate, the Commissioner shall require the contractor to contribute money, facilities, or services for carrying out the project for which the contract was made.

EVALUATION

§ 1323.11 Evaluation.

Projects supported under this Part will be evaluated in accordance with the criteria set forth in the notice published in the FEDERAL REGISTER on June 28, 1973 (38 FR 17030) which promulgates the evaluation standards for programs and projects assisted under section 308 of title IV of the Older Americans Act of 1965, as amended. This notice is set forth as Appendix A to this subchapter.

PART 1324—NUTRITION PROGRAM FOR THE ELDERLY

Subpart A—General

Sec.
1324.1 Purposes of the program.
1324.2 Applicability.
1324.3 Definitions.

Subpart B—The State Plan

1324.4 Purpose.
1324.5 Plan development.
1324.6 Plan submission and approval.
1324.7 Plan amendments.
1324.8 Plan review.
1324.9 Plan disapproval.
1324.10 Withholding of funds.
1324.11 Appeal procedures.
1324.12 Review of plan by Governor.

Subpart C—State Agency

1324.13 State agency.
1324.14 Authority of the State agency.
1324.15 Organization of the State agency.

Subpart D—State Administration

1324.16 Annual State operating plan.
1324.17 Program evaluation.
1324.18 Staffing.
1324.19 Training of State agency personnel.
1324.20 Advisory assistance.
1324.21 Coordination with other agencies.
1324.22 Identification of target groups to be served.
1324.23 Selection of areas for project awards.

Sec.
1324.24 Project awards.
1324.25 Strengthening of existing programs.
1324.26 Opportunity for hearing.
1324.27 Public information.
1324.28 State administration costs.
1324.29 Reports.
1324.30 Fiscal control and accounting.
1324.31 Methods of administration.
1324.32 Standards of personnel administration.

Subpart E—Standards for Nutrition Projects

1324.33 Project objectives.
1324.34 Evaluation.
1324.34a Temporary postponement of certain requirement.
1324.35 Staffing of projects.
1324.36 Training of personnel.
1324.37 Project councils.
1324.38 Selection of congregate meal sites.
1324.39 Identification of persons to be served.
1324.40 Nutrition requirements.
1324.41 Home delivered meals.
1324.42 Supporting social services.
1324.43 Use of existing resources.
1324.44 Charges to recipients for costs of meals.
1324.45 Food coupons and donated foods.
1324.46 Confidentiality.
1324.47 Local public information.
1324.48 Project record keeping and reports.
1324.49 State and local standards.
1324.50 Purchase of goods and services.

Subpart F—Allotment of Funds

1324.51 Allotment formula.
1324.52 Reallotment.
1324.53 Failure to qualify.
1324.54 Disbursement of withheld allotment.
1324.55 Payments.
1324.56 Obligation of allotment.
1324.57 Audit.

Subpart G—Program Costs

Sec.
1324.58 Cost sharing.
1324.59 Maintenance of effort.
1324.60 Allowable costs.

Subpart H—Availability of Surplus Commodities

1324.61 Department of Agriculture food assistance.
1324.62 State agency purchase of commodities.

Subpart I—Treatment of Income

1324.63 Relationship to other laws.

AUTHORITY: Pub. L. 89-73, 79 Stat. 218-226 (42 U.S.C. 3001 et seq.), as amended by sec. 2, Pub. L. 92-258, 86 Stat. 88-95; sec. 701, Pub. L. 93-29, 87 Stat. 56-57; secs. 1, 5, Pub. L. 93-351, 88 Stat. 357, 358; secs. 111, 114, Pub. L. 94-135, 89 Stat. 718-719, 725-726 (42 U.S.C. 3045 et seq.)

Subpart A—General

§ 1324.1 Purposes of the program.

(a) Many elderly persons do not eat adequately because:

(1) They cannot afford to do so;

(2) They lack the knowledge and/or skills to select and prepare nourishing and well-balanced meals;

(3) They have limited mobility which may impair their capacity to shop and cook for themselves; and

(4) They have feelings of rejection and loneliness which obliterate the incentive necessary to prepare and eat a meal alone.

These and other physiological, psychological, social, and economic changes that can occur with aging result in a pattern of living which may cause malnutrition and further physical and mental deterioration.

(b) The purpose of this program is to provide older Americans, particularly those with low incomes, with low costs, nutritionally sound meals served in strategically located centers such as schools, churches, community centers, senior citizen centers, and other public or private facilities where they can obtain other social and rehabilitative services. Besides promoting better health among the older segment of the population through improved nutrition, such a program is aimed at reducing the isolation of old age, offering older Americans an opportunity to live their remaining years in dignity.

§ 1324.2 Applicability.

This part applies to the program under title VII of the Older Americans Act.

§ 1324.3 Definitions.

For the purposes of this part, in addition to the definitions in § 1320.2, the following definitions apply:

(a) "Eligible individuals" are those persons who are aged 60 or over and who:

(1) Cannot afford to eat adequately;

(2) Lack the skills and/or knowledge to select and prepare nourishing and well-balanced meals;

(3 Have limited mobility which may impair their capacity to shop and cook for themselves; or

(4) Have feelings of rejection and loneliness which obliterate the incentive necessary to prepare and eat a meal alone.

The spouses of such individuals are also considered eligible individuals.

(b) "Minority individuals" are those persons who identify themselves as American Indian, Negro, Oriental, or Spanish language and members of any additional limited English-speaking groups designated as minority within the State by the State agency.

(c) "Project area" means the geographic area for which a single project award is made.

(d) "State agency" means the agency designated by the Governor and approved pursuant to § 1324.13 to administer the nutrition program under this part.

Subpart B—The State Plan

§ 1324.4 Purpose.

The basic condition for receiving Federal funds under title VII of the Older Americans Act is the submission by the State agency of a State plan, or an amendment to the existing State plan under title III of the Act, meeting the requirements of title VII and of this part, in the form and containing the information prescribed by the Administration on Aging. The State plan is a commitment by the State to carry out the nutrition program in keeping with the provisions of title VII of the Act and all regulations, policies and procedures established by the Commissioner. As used in this part, State plan refers either to an amendment to the existing State plan under title III of the Act, or to a separate State plan for this program.

§ 1324.5 Plan development.

The State plan will be developed by the State agency designated under § 1324.13. If this State agency is also the agency designated pursuant to section 303 of the Older Americans Act, this State plan will be in the form of an amendment to the State plan provided in section 303 of the Act; and will fulfill only the requirements of this part which are not already fulfilled in compliance with Part 1321 of this subchapter.

§ 1324.6 Plan submission and approval.

The State plan and all amendments thereto shall be submitted by a duly authorized officer of the State agency to the Commissioner each fiscal year in accordance with such procedures as he may prescribe. Any State plan or amendments meeting the requirements of title VII of the Act and of this part shall be approved.

§ 1324.7 Plan amendments.

The State agency's administration of the program shall be in conformity with the State plan as approved. Whenever there is any material change in the content or administration of the State plan as approved, or when there has been a change in pertinent State law or in operations of the State agency affecting the plan, the State plan shall be appropriately amended.

§ 1324.8 Plan review.

The approved State plan and all amendments shall be subject to review as the Commissioner may prescribe.

§ 1324.9 Plan disapproval.

No State plan or any modification thereof submitted under title VII of the Act shall be finally disapproved by the Secretary without first affording the State reasonable notice and opportunity for a hearing.

§ 1324.10 Withholding of funds.

Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of a State plan approved under title VII of the Act finds that:

(a) The State plan no longer complies with the provisions of title VII of the Act; or

(b) In the administration of the plan, there is a failure to comply substantially with any such provision or with any requirements set forth in the application of a recipient of a grant or contract approved pursuant to such plan, the Commissioner shall notify such State agency that further payments will not be made to the State under the provisions of title VII of this Act (or in his discretion, that further payments to the State will be limited to programs or projects under the State plan, or portions thereof, not

affected by the failure, or that the State agency shall not make further payments under this part to specified local agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, the Commissioner shall make no further payments to the State under title VII of the Act, or shall limit payments to recipients of grants or contracts under, or parts of, the State plan not affected by the failure or payments to the State agency under this part shall be limited to recipients of grants or contracts not affected by the failure as the case may be.

§ 1324.11 Appeal procedures.

If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under this part, or with respect to termination of payments in whole or in part under § 1324.10, such State may, within 60 days after notice of such action, file with the U.S. court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

§ 1324.12 Review of plan by Governor.

The State plan must be submitted to the State Governor for his review and approval, and the State plan must provide that the Governor will be given an opportunity to review and approve all amendments to the State plan.

Subpart C—State Agency

§ 1324.13 State agency.

(a) The State plan shall identify the single State agency that has been established or designated as the sole agency for administering or supervising the administration of the State plan under title VII of the Act, and coordinating operations under this plan with other agencies providing services to the elderly.

(b) This State agency shall be the agency designated pursuant to section 303(a)(7) of the Act, unless the Governor of such State shall, with the approval of the Commissioner, designate another agency. Such other agency will be approved by the Commissioner only if the Governor shows that such agency is more capable than the State agency designated under section 303(a)(1) of the Act to:

(1) Administer the Nutrition Program for the Elderly, including necessary supporting social services, for the purposes described in this part; and

(2) Coordinate this nutrition program with other programs for the aging in the State.

(c) If another agency is so designated and approved by the Commissioner, the State plan must assure that the planning and implementation of the program will be conducted in close coordination with the title III program under this Act.

§ 1324.14 Authority of the State agency.

The State plan shall contain a certification by the State attorney general that the State agency has the authority to submit the State plan; is the sole State agency responsible for administering or supervising the administration of the State plan; and that nothing in the State plan is inconsistent with State law.

§ 1324.15 Organization of the State agency.

The State plan shall provide that there will be a single organizational unit within the State agency with delegated authority for the administration of the State plan under title VII of the Act. If the State agency is an independent single purpose agency, such agency in its entirety, may constitute the single unit. If the State agency designated to administer the program under title VII of the Act is the same agency designated to administer title III of the Act and this agency is a multipurpose agency, the single organizational unit designated pursuant to this part shall be the same unit designated pursuant to § 1321.12 of this subchapter.

Subpart D—State Administration

§ 1324.16 Annual State operating plan.

The State plan shall provide that the State agency will submit, at least 60 days prior to the beginning of each fiscal year, an annual State operating plan which will describe how the program will be implemented throughout the State. Such plan will be developed and submitted in accordance with guidelines issued by the Administration on Aging.

§ 1324.17 Program evaluation.

The State plan shall provide that the State agency will conduct an ongoing evaluation of the nutrition program on a statewide as well as individual project basis. The evaluation system developed and carried out by the State must be designed so as to measure the impact of the nutrition program on the target group of eligible individuals determined by the State agency. As a part of its evaluation, the State shall conduct onsite evaluations of each nutrition project within the State at least quarterly.

§ 1324.18 Staffing.

(a) The State plan must assure that there will be adequate numbers of qualified staff, including persons knowledgeable in nutrition or dietetic services and supporting social services essential for the nutrition program, within the single organizational unit designated under § 1324.15.

(b) Such staff, supplemented as necessary by qualified consultants, must be adequate to provide effective implementation of the program at the State level, and to provide technical assistance to local projects, in such program areas as planning, nutrition and nutrition education, dietetics, food preparation and delivery, cost allocation, purchasing, general operations and evaluation.

(c) If the State agency designated is not the agency designated pursuant to section 303(a)(1) of the Act, the unit within the agency shall be headed by an individual qualified by education and experience to assume leadership of the program, assigned full time solely to this activity.

(d) The State plan shall set forth the proposed staffing pattern for the administration of this program.

§ 1324.19 Training of State agency personnel.

The State plan shall provide that the State agency will provide for training of State agency staff as may be necessary to administer the program effectively throughout the State. All such training must be in conformance with training standards prescribed by the Administration on Aging, and include attendance at training specifically provided for by the Administration on Aging in the Office of Human Development Services with regard to this program.

§ 1324.20 Advisory assistance.

(a) The State plan shall provide that the State agency shall obtain advisory assistance from consumers of service under this part, including members of minority groups, and persons knowledgeable in the provision of nutrition services.

(b) The State plan shall provide that advisory assistance will be obtained by the State agency on all aspects of the nutrition program within the State and will include review of and advice on the annual State operating plan.

(c) The State plan shall set forth the method by which such advisory assistance shall be obtained.

(d) The advisory assistance for this program must be functional prior to the approval by the State agency of awards under this part.

§1324.21 Coordination with other agencies.

The State plan shall provide that in the development and implementation of this program, the State agency shall consult with and utilize the resources of appropriate public and private agencies,

to the extent possible. Such agencies shall include health and mental health, public assistance, medicaid, social services, rehabilitation, education, economic opportunity, and food and agricultural agencies. These relationships shall include joint planning, the sharing of information, and the negotiation of working agreements necessary to carry out the purposes of this part, and specifically the purposes of § 1324.43. The purpose of this activity shall be to assure the development and delivery of comprehensive and coordinated services in connection with the services provided under this part.

§ 1324.22 Identification of target groups to be served.

(a) The State plan shall provide that the State agency will identify target groups of eligible individuals in the State having greatest need for nutrition services. The criteria to be used by the State in selecting such target groups shall include those factors set forth in § 1324.1.

(b) The State plan shall contain assurances that the projects approved under this part will be designed to serve primarily those target group individuals determined to be in greatest need of such services.

§ 1324.23 Selection of areas for project awards.

(a) The State plan shall provide that:

(1) Each urban area selected to receive an award will include major concentrations of target group older persons identified pursuant to § 1324.22 whose income is below the current Department of Commerce, Bureau of the Census poverty threshold;

(2) Each rural area selected to receive an award will contain a high proportion of target group older persons identified pursuant to § 1324.22 whose income is below the current Department of Commerce, Bureau of the Census poverty threshold.

(b) In selecting areas for project awards, the State agency should consider the number of minority group eligible individuals in such areas, in order to assure that of the total number of elderly served each fiscal year, minority individuals will be served, at least in proportion to their numbers of the eligible individuals in the State.

§ 1324.24 Project awards.

The State plan shall provide that:

(a) In implementing this program, the State agency may make awards in cash or in kind in the form of grants to, or contracts with, any public or private nonprofit institution or organization, agency, political subdivision of a State, or Indian tribal organization, which submits an application in keeping with guidelines established by the Administration on Aging and the State agency and which meets the other conditions of this part.

(b) The State agency will, to the extent feasible, make awards to projects, or provide for subcontracts within such awards, to be operated by minority individuals, at least in proportion to their numbers of eligible individuals in the State.

(c) The State agency will establish criteria for the minimum size of projects to be approved in the State. The criteria shall be designed to assure that projects are sufficiently large for effective achievement of the purposes of the program, including:

(1) Economical delivery of meals;

(2) Provision of needed supporting social services; and

(3) Coordination and linkage of project activities with other related service programs in the project area.

The criteria established shall be set forth in the State plan.

(d) Each project must serve an average of at least 100 meals daily throughout the project area. Projects operated in sparsely populated rural areas may serve less than 100 meals daily when the need for an exception is documented by the State agency.

(e) For each project area selected by the State agency to receive funds under this part, there shall be a single recipient of such award for the entire project area. Any recipient of a project award must have the capacity to assure effective implementation of the program throughout the project area.

(f) If the applicant agency is not a public agency, the State agency shall secure comments on the proposed project from the appropriate major units(s) of local general purpose government.

(g) Each project application to be considered for approval must be submitted for comment to the area or local office on aging (if any) having jurisdiction over the geographic area from which the proposal is submitted.

(h) Each project application to be considered for approval must contain an assurance by the applicant that, if the project is funded, the recipient of the grant or contract will cooperate in joint planning with existing and any future area or local agencies responsible for comprehensive planning in aging, and with providers of service to the aging in order to provide additional needed services to nutrition project participants.

§ 1324.25 Strengthening of existing programs.

In implementing this program in project areas selected by the State agency, the State agency should, to the maximum extent feasible, strengthen existing successful nutrition service programs. However, such projects must fully comply with all standards prescribed in this part and in guidelines issued by the Administration on Aging and the State agency.

§ 1324.26 Opportunity for hearing.

The State plan shall provide that the State agency will provide that any nutrition project applicant, whose application for approval is denied, will be afforded an opportunity for a hearing before the State agency.

§ 1324.27 Public information.

(a) The State plan must provide for a continuing program of public information specifically designed to assure that information about the nutrition program, its objectives and its results, is effectively and appropriately promulgated throughout the State in a manner designed to reach potential applicant agencies for nutrition projects, particularly potential applicants representing those target groups and areas identified pursuant to §§ 1324.22 and 1324.23.

(b) The State plan shall provide that the State agency will pursue a policy of freedom of information and that the annual State operating plan, approved project applications, all periodic reports made by the State agency to the Commissioner in accord with § 1324.29, and all Federal and State policies governing the administration of the nutrition program in the State will be reasonably available at the offices of the State agency for review upon request by interested persons.

§ 1324.28 State administration costs.

The State plan shall provide that not more than 10 percent of the allotment made available to each State for any fiscal year under title VII shall be available to provide for the proper and efficient administration of the State plan at the least possible administrative cost. Any such use of funds must be justified on an annual basis. Only with the prior approval of the Commissioner may a larger amount be used for State plan administration.

§ 1324.29 Reports.

The State plan shall provide that the State agency will make such reports to the Commissioner in such form and containing such information as may reasonably be necessary to enable him to perform his functions under the Act, and will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

§ 1324.30 Fiscal control and accounting.

The State plan shall provide that the State agency will develop accounting systems and procedures as are adequate to control and support all fiscal activities under title VII, in accordance with guidelines issued by the Administration on Aging. The State agency and all recipients of nutrition project awards shall maintain such accounts and documents as will serve to permit an accurate and expeditious determination to be made at any time of the status of Federal grants, including the disposition of all moneys received and the nature and amount of all charges claimed to be against the allotments to the States.

§ 1324.31 Methods of administration.

The State plan shall provide that the State agency will provide for such methods of administration as are necessary for the proper and efficient operation of the plan.

§ 1324.32 Standards of personnel administration.

(a) The State plan shall provide that methods of personnel administration will be established and maintained in the State agency administering the State plan in conformity with the standards for a Merit System of Personnel Administration, Part 70 of this title and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding such standards. Under this requirement, laws, rules, regulations, and policy statements effectuating such methods of personnel administration are a part of the State plan. Citations of applicable State laws, rules, regulations, and policies which provide assurance of conformity to the standards in Part 70 of this title or to modifying or superseding standards issued by the Commission must be submitted with the State plan. Copies of the materials cited must be furnished on request.

(b) The State plan shall provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity in all aspects of personnel administration as specified in § 70.4 of this title. The affirmative action plan will provide for specific action steps and timetables to assure equal employment opportunity. This plan shall be made available for review upon request.

(c) The Commission shall exercise no authority with respect to the selection tenure of office or compensation of any individual employed in accordance with such methods.

Subpart E—Standards for Nutrition Projects

§ 1324.33 Project objectives.

The State plan shall provide that each recipient of a grant or contract will establish measurable program objectives for its nutrition and supporting social service activities and will monitor on a regular basis its progress against such objectives.

§ 1324.34 Evaluation.

The State plan shall provide that recipients of grants or contracts will cooperate and assist in efforts to evaluate the effectiveness, feasibility, and cost of the nutrition projects.

§ 1324.34a Temporary postponement of certain requirements.

(a) If the State agency determines that a project would be prevented from beginning the prompt service of meals to elderly persons by having to comply immediately with requirements under the State plan under §§ 909.35(a) and 909.42(a), the State agency, in making a grant or contract under this part, may postpone temporarily compliance with any or all of those requirements. However, it may not postpone requirements under portions of § 909.35(a) dealing with employment of persons aged 60 or over and members of minority groups.

(b) Such a postponement may be granted by the State agency for an initial period not to exceed ninety days from the beginning date of the project, and, with the approval of the Commissioner, for one additional period not to exceed ninety days.

(c) Such a postponement may be granted only if a State agency makes a determination that the recipient of the grant or contract is taking positive steps to comply with the requirements, and that compliance within the postponement period is feasible.

(d) The Commissioner may approve a continuation of the initial postponement if the State agency shows that the recipient of the grant or contract is taking positive steps to comply with the requirements, and that compliance within the postponement period is feasible, and that the State agency will accept review and technical assistance as deemed appropriate by the Commissioner. At the end of the second 90-day postponement period, no further postponement shall be granted.

(e) The State agency shall report in writing any initial postponement for ninety days or less to the Commissioner within five days.

[38 FR 24900, Sept. 11, 1973]

§ 1324.35 Staffing of projects.

The State plan shall provide that:

(a) Each recipient of a grant or contract will provide for adequate numbers of qualified staff, supplemented as necessary by qualified consultants, to assure satisfactory conduct of the following functions:

(1) Project leadership;

(2) Program planning;

(3) Provision of nutrition or dietetic services;

(4) Outreach, transportation, information and referral, health and welfare counseling, nutrition education, shopping assistance and recreation incidental to the project, to the extent that such services are provided in accordance with § 1324.42;

(5) Volunteer activities; and

(6) Financial management and data collection and analysis.

The project director must be a qualified individual working full-time on the nutrition project. Preference must be given to persons aged 60 or over in the hiring for all staff positions. Project staff at all levels must be, to the extent feasible, representative of the minority individuals participating in the project.

(b) Each recipient of a grant or contract will encourage the voluntary participation of other groups in the conduct of the project, such as college and high school students.

§ 1324.36 Training of personnel.

The State plan shall provide that each recipient of a grant or contract under this part provide for such training as may be necessary to enable personnel providing services under the project to administer projects in accordance with the purposes of this Act. All such training must be in conformance with training standards prescribed by the Administration on Aging and include attendance at training specifically provided for by the Administration on Aging with regard to this program.

§ 1324.37 Project councils.

The State plan shall provide that:

(a) Each project shall have a project council. It shall be the responsibility of the council to advise the recipient of a grant or contract on all matters relating to the delivery of nutrition services within the project and to approve all policy decisions related to:

(1) The determination of general menus to meet the cultural and other dietary preferences of participants;

(2) The establishment of suggested fee guidelines;

(3) The days and hours of operation of the project; and

(4) The decorating and furnishing of the meal site.

(b) More than one-half of the membership of this council shall be actual consumers of the nutrition services of the project. Consumer members shall be representative of congregate meal sites and be elected by participants in such sites. Other members of the council shall include persons competent in the field of service in which the nutrition program is being provided and persons who are knowledgeable with regard to the needs of elderly persons.

(c) The State agency shall develop formal procedures regarding the tenure of members, responsibilities and operations of the project council prescribed in this section, in keeping with guidelines established by the Administration on Aging.

§ 1324.38 Selection of congregate meal sites.

(a) The State plan shall provide that within project areas selected to receive awards, congregate meal sites will be located in areas having major concentrations of older persons whose income falls below the current Department of Commerce, Bureau of the Census poverty threshold. In rural areas, congregate meal sites will be located so as to serve the largest proportion feasible of older persons whose income falls below the current Department of Commerce, Bureau of the Census poverty threshold.

(b) Such congregate meal sites shall be located as close as possible, preferably within walking distance, to these older persons. Such sites may include schools, churches, senior centers and other appropriate facilities.

(c) The congregate meal sites selected must assure an atmosphere appropriate for pleasant dining, and a setting conducive to expanding the project and for providing necessary and related social services to recipients of nutrition services.

§ 1324.39 Identification of persons to be served.

The State plan shall provide that each project shall undertake those activities necessary to identify:

(a) The total numbers of target group eligible individuals in the project area;

(b) The general locations of concentrations of such individuals; and

(c) The nutrition and related supporting social service needs of such individuals.

§ 1324.40 Nutrition requirements.

The State plan shall provide that:

(a) Each project will provide meals in a congregate setting.

(b) Each congregate meal site established by the project must provide at least one hot meal per day, 5 or more days a week, and any additional hot or cold meals which the project may elect to provide. Sites operated in sparsely populated rural areas may serve meals less than 5 days a week when the need for an exception is documented by the State agency and if, at sites throughout the project area, the project provides hot meals at least 5 days a week. A hot meal for purposes of this program is one in which the principal food item of the meal is hot at the time of serving.

(c) Each meal served must contain at least one-third of the current daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Science-National Research Council.

(d) Special menus, where feasible and appropriate, shall be provided at each congregate meal site for meeting the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of participants.

§ 1324.41 Home delivered meals.

The State plan shall provide that recipients of grants or contracts will provide home delivered meals where necessary and feasible to meet the needs of target group eligible individuals who are homebound. Home delivered meals must meet standards set forth in § 1324.40.

§ 1324.42 Supporting social services.

The State plan shall provide that:

(a) Each recipient of a grant or contract must provide for the provision of comprehensive and ongoing outreach activities from each congregate meal site to assure that the maximum number of the hard-to-reach target group eligible individuals participate in the nutrition project. The following supporting social services must also be provided to the extent that such services are needed and are not already available and accessible to the individuals participating in the nutrition project:

(1) Transportation of individuals and personal escort services to and from the congregate meal sites;

(2) Information and referral services;

(3) Health and welfare counseling services;

(4) Nutrition education;

(5) Shopping assistance; and

(6) Recreation activities incidental to the project.

(b) Not more than 20 per centum of a State's allotment for a given fiscal year, excluding that necessary for administering the State plan, shall be used for the provision of the supporting social services prescribed in this section.

(c) All such supporting social services shall be in keeping with program standards and guidelines issued by the Administration on Aging.

§ 1324.43 Use of existing resources.

In order to assure the development and provision of needed social services, including those set forth in § 1324.42, and to maximize access to all services in the community which are needed by individuals participating in the project, the State plan shall provide that each project will undertake those activities necessary to assure maximum utilization of all other public and private resources and services in the conduct of this program. Such activities shall include joint planning, the sharing of information, and the negotiation of agreements for joint funding and operation of programs for the elderly with agencies such as health, mental health, public assistance, medicaid, social services, rehabilitation, education, economic opportunity, and food and agricultural agencies.

§ 1324.44 Charges to recipients for costs of meals.

The State plan shall provide that:

(a) Recipients of grants or contracts under this part will provide opportunity for the participants in nutrition projects to pay all or part of the cost of the meals served under this program.

(b) Recipients of grants or contracts will establish schedules of suggested fees, which could include a suggested flat fee, for contributions by participants toward the cost of the meal. Such schedules must take into consideration the income ranges of eligible individuals. However, each individual participant shall determine for himself what he is able to contribute toward the cost of a meal. Each participant shall be informed of his responsibility to decide for himself what he should pay, including the right to obtain meals free of charge if the participant decides he is unable to pay for such meals. No individual shall be denied participation in the nutrition program because of the inability to pay all or part of the cost of the meals served.

(c) Sugugested contribution schedules shall in no case be used as means tests to determine the eligibility of individuals to participate in the nutrition project.

(d) Methods of receiving contributions from individuals shall be handled in such a manner so as not to differentiate among individuals' contributions publicly.

(e) If the food stamp program is operating in the project area, recipients of grants or contracts under this part which deliver meals to the homes of individuals shall take such actions as are necessary to be authorized by the United States Department of Agriculture to accept food coupons issued under the food stamp program in exchange for meals delivered to the homes of persons eligible to utilize their allotment of food coupons for the purchase of such meals.

§ 1324.45 Food coupons and donated foods.

The State plan shall provide that recipients of grants or contracts under this part will, to the maximum extent feasible, inform participants of the benefits available under the food stamp or food distribution programs operated by the U.S. Department of Agriculture to improve home food consumption, and in cooperation with the appropriate agencies of the State and local governments undertake activities to facilitate participation of eligible households in such programs.

§ 1324.46 Confidentiality.

The State plan shall provide that each recipient of a grant or contract assure that no personal information obtained from an individual in conjunction with the project shall be disclosed in a form in which it is identified with him, without written consent of the individual concerned.

§ 1324.47 Local public information.

The State plan shall provide that each recipient of a grant or contract conduct ongoing public information activities designed specifically to inform target group eligible individuals in the project area of the services of the project.

§ 1324.48 Project record keeping and reports.

The State plan shall provide that each recipient of a grant or contract will keep such records and make such reports in such form and containing such information as may be required in guidelines issued by the Administration on Aging.

§ 1324.49 State and local standards.

The State plan shall provide that recipients of grants or contracts will operate fully in conformance with all applicable State and local standards, including fire, health, safety and sanitation standards, prescribed in law or regulations.

§ 1324.50 Purchase of goods and services.

(a) None of the provisions of this part shall be construed to prevent a recipient of a grant or contract from entering into an agreement, subject to the approval of the State agency in accordance with guidelines issued by the Administration on Aging, with profitmaking organizations to carry out activities under a project.

(b) The State plan shall provide that recipients of project grants or contracts must assure that costs for goods and services do not exceed the amounts reasonable and necessary to assure quality and that the sources from which goods or

services are purchased meet applicable State and local laws and standards, and all provisions of this part.

(c) The State plan shall provide that recipients of grants or contracts obliged by State or local law to employ competitive bidding or other procedures for purchases shall employ such procedures in purchases for the project. Other recipients of grants or contracts shall employ purchase procedures prescribed for projects by the State agency.

Subpart F—Allotment of Funds

§ 1324.51 Allotment formula.

The funds appropriated, pursuant to section 708 of the Act for any fiscal year shall be allotted among the States in the following manner:

(a) From the sums appropriated for any fiscal year under section 708 of the Act, each State shall be alloted an amount which bears the same ratio to such sum as the population aged 60 or over in such State bears to the population aged 60 or over in all States, except that:

(1) No State shall be allotted less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made; and

(2) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount equal to one-fourth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made. For the purpose of the exception contained in this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The number of persons aged 60 or over in any State and for all States shall be determined by the Commissioner on the basis of the most satisfactory data available to him.

§ 1324.52 Reallotment.

The amount of any State's allotment under § 1324.51 of any fiscal year which the Commissioner determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under § 1324.51 for that year, but with such proportionate amount for any other State being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Such reallotments shall be made on the basis of the State plan so approved, after taking into consideration the population aged 60 or over. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under § 1324.51 for that year.

§ 1324.53 Failure to qualify.

If the Commissioner finds that any State has failed to qualify under the State plan requirements of section 705 of the Act, the Commissioner shall withhold the allotment of funds to such State referred to in § 1324.51.

§ 1324.54 Disbursement of withheld allotment.

The Commissioner, after giving the State reasonable opportunity to qualify, shall disburse the funds so withheld directly to any public or private nonprofit institution or organization, agency or political subdivision of such State submitting an approved plan in accordance with the provisions of this part, including the requirement that any such payment or payments shall be matched in the proportion specified in § 1324.58 for such State, by funds or in kind resources from non-Federal sources.

§ 1324.55 Payments.

Payments under title VII of the Act may be made (after necessary adjustment on account of previously made overpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

§ 1324.56 Obligation of allotment.

Allotments of funds made available under title VII which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure during such succeeding fiscal year.

§ 1324.57 Audit.

(a) The State plan shall provide that all fiscal transactions by the State agency and any other agency (if any) administering part of the plan and recipients of grants or contracts under title VII of the Act are subject to audit by or on behalf of the Department to determine whether expenditures have been made in acordance with the Act and this part.

(b) The Commissioner and the Comptroller General of the United States or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers, and records that are pertinent to a grant or contract received under this part.

Subpart G—Program Costs

§ 1324.58 Cost sharing.

The State plan shall provide that the Federal funds made available under title VII of the Act for any fiscal year will be expended to pay not in excess of 90 percent of the administration and operations costs of the nutrition program throughout the State. The total Federal allotment must be matched during each fiscal year by a total of 10 per centum, or more, as the case may be, from funds or in kind resources from non-Federal sources. Amounts expended by the State for State plan administration must be matched by State resources.

§ 1324.59 Maintenance of effort.

Reasonable assurance shall be provided by all recipients of grants or contracts that there will be expended for the nutrition project for the year for which such payments are made, from non-Federal resources, not less than the amount expended for nutrition programs for the elderly from such funds for the fiscal year prior to the funding of the project under title VII of the Act.

§ 1324.60 Allowable costs.

Allowable costs for Federal financial participation under title VII of the Act must be both reasonable and necessary for the conduct of nutrition projects within the State. The types of expenditures of grant funds which are recognized and the conditions under which such expenditures are recognized are set forth in Subpart Q of Part 74 of this title, and in manuals and other issuances of the Administration on Aging.

Subpart H—Availability of Surplus Commodities

§ 1324.61 Department of Agriculture food assistance.

The State plan shall provide that recipients of grants or contracts under this part shall, to the extent practical and feasible, utilize foods designated as being in abundant supply by the U.S. Department of Agriculture. It shall also provide that such recipients shall apply to the appropriate agency of the State government for participation in the program of food donations operated by the U.S. Department of Agriculture under the provisions of 7 CFR Part 250.

§ 1324.62 State agency purchase of commodities.

The State agency may, upon the request of one or more recipients of a grant or contract, purchase agricultural commodities and other foods to be provided to such nutrition projects assisted under this part. Reports from State agencies concerning requests by recipients of grants or contracts for the purchase of such agricultural commodities and other foods, and action taken thereon may be requested by the Commissioner on Aging in such form and detail as he may prescribe.

Subpart I—Treatment of Income

§ 1324.63 Relationship to other laws.

Benefits received under this program shall not be treated as income or benefits for the purpose of any other program or provision of State or Federal law.

PART 1325—MODEL PROJECTS ON AGING

GENERAL

Sec.
1325.1 General.

GRANTS

1325.2 Project awards.
1325.3 Application submission and review procedures.
1325.4 Condition of awards.
1325.5 Confidentiality.
1325.6 Project revisions.
1325.7 Reports.

CONTRACTS

1325.8 Contracts.

EVALUATION

1325.9 Evaluation.

AUTHORITY: Pub. L. 89-73, 79 Stat. 218-226 (42 U.S.C. 3001 et seq.), as amended by sec. 301, Pub. L. 93-29, 87 Stat. 36-44; secs. 108, 112, Pub. L. 94-135, 89 Stat. 717, 719-720 (42 U.S.C. 3021-3022, 3028).

GENERAL

§ 1325.1 General.

The Commissioner may, after consultation with the State agency designated under § 1321.13 of this chapter, make grants to any public or nonprofit private agency or contracts with any agency or organization within such State for paying part or all of the cost of developing or operating statewide, regional, metropolitan area, county, city or community model projects which will expand or improve social services or otherwise promote the well-being of older persons.

GRANTS

§ 1325.2 Project awards.

(a) In making grants under this part, the Commissioner will give special consideration to projects designed to:

(1) Assist in meeting the special housing needs of older persons by:

(i) Providing financial assistance to such persons who own their own homes, necessary to enable them to make the repairs and renovations to their homes which are necessary for them to meet minimum standards. Such financial assistance may be granted to older persons up to a maximum of $1500 per dwelling for the purchase of necessary materials such as paint, roofing materials, plumbing and heating fixtures, or needed sanitary facilities and for the procurement of necessary labor to perform the repairs. Only those older persons whose incomes fall below the Department of Commerce, Bureau of Census poverty threshold shall be eligible for this financial assistance. Any home repair or renovation activity should be developed by the grantee in consultation with representatives of labor, and local officials concerned with enforcement of building codes and public health.

(ii) Studying and demonstrating methods of adapting existing housing or construction of new housing to meet the needs of older persons suffering from physical disabilities;

(iii) Demonstrating alternative methods of relieving older persons of the burden of real property taxes on their homes. These methods may not include payment of property taxes for older persons or reimbursement of older persons for property taxes paid by them.

(2) Provide continuing education to older persons designed to enable them to lead more productive lives by broadening the educational, cultural, or social awareness of such older persons, emphasizing, where possible, free tuition arrangements with colleges and universities;

(3) Provide preretirement education, information, and relevant services (including the training of personnel to carry out such programs and the conducting of research with respect to the development and operation of such programs) to persons planning retirement; or

(4) Provide services to assist in meeting the particular needs of the physically and mentally impaired older persons including special transportation and escort services, homemaker, home health and shopping services, and other services designed to assist such individuals in leading a more independent life.

(5) Enable State agencies on aging and other public and private nonprofit organizations to assist in the promotion and development of ombudsman services for residents of nursing homes;

(6) Meet the special needs of, and improve the delivery of services to, older persons who are not receiving adequate services under other provisions of this Act, with emphasis on the needs of low-income, minority, Indian, and limited-English speaking individuals, and the rural elderly; or

(7) Assist older persons to remain within their communities and out of institutions and to maintain their independent living by (i) providing financial assistance for the establishment and operation of senior ambulatory care day centers (providing a planned schedule of health, therapeutic, educational, nutritional, recreational, and social services at least twenty-four hours per week, transportation arrangements at low or no cost for participants to and from the center, a hot mid-day meal, outreach and public information programs, and opportunities for maximum participation of senior participants and senior volunteers in the planning and operation of such center), and (ii) maintaining or initiating arrangements (or providing reasonable assurances that such arrangements will be maintained or initiated) with the agency of the State concerned which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act, and with other appropriate social services agencies receiving, or reimbursed through, Federal financial assistance, for the payment of all or a part of such center's costs in providing services to eligible persons.

(b) The Commissioner will also give special consideration to projects designed to:

(1) Serve those older persons in greatest need, particularly low income and minority older persons; and

(2) Further efforts to foster the development of coordinated and comprehensive service systems for older persons;

(3) Initiate or expand information and referral sources and services on a Statewide or areawide basis;

(4) Assist older persons in national disasters, and other crises of national scope or significance; or

(5) Facilitate the use of findings from model projects in order to provide immediate benefits to Older Americans from proven research knowledge which can sustain and improve health and happiness.

§ 1325.3 Application submission and review procedures.

(a) Application for funds under this part shall be submitted in writing and in accordance with guidelines established by the Commissioner. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of any award, including the regulations of this chapter.

(b) When applications are submitted by agencies or organizations other than the State agency, the State agency shall have the opportunity for review and comment. Comments, if any, and recommendations made by the State agency shall be part of the application for a Model Project on Aging. If the proposed project is located within a planning and service area with an area agency designated under § 1321.63 of this subchapter, the area agency shall have the opportunity for review and comment.

(c) Applicants may be requested to submit additional information while a project application is being considered by the Commissioner. All applications which meet the legal requirements for an award will be considered for funding. The Commissioner will determine the action to be taken with respect to each application and notify the applicant accordingly in writing.

§ 1325.4 Condition of awards.

Within the limits of funds available for such purpose, the Commissioner will award a grant to those applicants whose proposed projects will, in his judgment, best promote the purposes of this part and title III of the Act. All awards shall be in writing, shall set forth the amount of funds awarded, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award. The initial award shall also specify the project period for which support is contemplated if the project is carried out satisfactorily and Federal funds are available. For continuation support within the project period, grantees must make separate application in accordance with the guidelines established.

§ 1325.5 Confidentiality.

No information about, or obtained from, an individual, and in possession of an agency providing services to such individual under a project under this part, shall be disclosed in a form identifiable with the individual without the individual's informed consent.

§ 1325.6 Project revisions.

Projects shall be conducted in accordance with the provisions of the application as approved by the Commissioner. A recipient of an award shall request in writing that the approved plan of operation or method of financing will be mate-

rially changed. The request for revision shall be submitted for approval in the same manner as the original application. Project revisions may be initiated by the Commissioner, if, on the basis of reports, it appears that the project is ineffective, or if changes are made in Federal appropriations, laws, regulations, or policies governing Model Projects on Aging.

§ 1325.7 Reports.

Recipients of awards shall make such reports to the Commissioner including reports of findings and results of evaluation, in such form and containing such information as may reasonably be necessary to enable him to perform his functions under this part and shall keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

CONTRACTS

§ 1325.8 Contracts.

(a) *Eligibility.* Subject to applicable provisions in this part, the Commissioner may enter into contracts with any public or private agency or organization to carry out the purposes of title III and this part.

(b) *Provisions.* Any contract under this part shall be entered into in accordance with, and shall conform to all applicable laws, regulations and Department policy.

(c) *Payments.* Payments under any contract under this part may be made in advance or by way of reimbursement and in such installments and on such conditions as the Commissioner may determine.

EVALUATION

§ 1325.9 Evaluation.

Projects supported under this part will be evaluated in accordance with the criteria set forth in the notice published in the FEDERAL REGISTER on June 28, 1973 (38 FR 17030) which promulgates the evaluation standards for programs and projects assisted under section 308 or title IV of the Older Americans Act of 1965, as amended. This notice is set forth as Appendix A to this subchapter.

PART 1326—MULTIPURPOSE SENIOR CENTERS

Subpart A—Purpose

Sec.
1326.1 Purpose.

Subpart B—Definitions

1326.2 Definitions.

Subpart C—Grants Authorized

1326.3 Eligible applicants.
1326.4 Procedures for making awards.

Subpart D—Assurances Required for Grants

1326.5 Assurances required when State agencies are applicants.
1326.6 Assurances required for all other applicants.

Subpart E—Assurances Applicable to Facilities Financed Under This Part

1326.7 Assurances applicable to all facilities.
1326.8 Special assurances applicable to facilities to be acquired.
1326.9 Special assurances applicable to structural changes in the altering or renovating of facilities.

Subpart F—General Requirements

1326.10 Federal and non-Federal participation.
1326.11 Unallowable expenditures.
1326.12 Administrative costs.
1326.13 Grantee administrative requirements.
1326.14 A-95 clearinghouse requirements.
1326.15 Reports and records.
1326.16 Civil rights.
1326.17 Nondiscrimination on basis of handicap.
1326.18 Monitoring activities.
1326.19 Recapture of payments applicable to acquired facilities.
1326.20 Notification of action taken on proposals.
1326.21 Project period.
1326.22 Payments.

Subpart G—Contract Authority

1326.23 Authority.

AUTHORITY: Pub. L. 89-73, 79 Stat. 218-226 (42 U.S.C. 3001 et seq.), as amended by sec. 501, Pub. L. 93-29, 87 Stat. 49-51; sec. 112, Pub. L. 94-135, 89 Stat. 720 (42 U.S.C. 3041-3041e).

Subpart A—Purpose

§ 1326.1 Purpose.

The purpose of these regulations is to establish procedures for implementing sections 501-505 of Title V of the Older Americans Act of 1965, as amended, which provide for the making of grants and contracts to pay part of the costs of acquiring, altering or renovating existing facilities, including the initial equipment of such facilities, to serve as multipurpose senior centers.

Subpart B—Definitions

§ 1326.2 Definitions.

In addition to the definitions set forth in §§ 1320.2 and 1321.2 of this chapter, the following definitions are applicable for the purpose of this part.

(a) "Acquiring" means obtaining ownership of an existing facility.

(b) "Altering or renovating" means modifications upon or in connection with an existing facility which are necessary for its effective utilization as a multipurpose senior center, including restoring, repairing, and expanding which is not in excess of double the square footage of the original facility, and all such related physical improvements.

(c) "Multipurpose senior center" means a community facility for the organization and provision of a broad spectrum of services (including provision of health, social, and educational services and provision of facilities for recreation activities) for older persons.

(d) "Structural change" means any changes to the load bearing members of a building.

Subpart C—Grants Authorized

§ 1326.3 Eligible applicants.

(a) Eligible applicants include units of general purpose local government or other public or nonprofit private agencies or organizations, including State or Area Agencies on Aging.

(b) In order to assure that multipurpose senior center facilities supported under this part are integrated with the comprehensive and coordinated service system established under Title III and Title VII of the Act, State Agencies on Aging will be given priority in the application and award of funds.

§ 1326.4 Procedures for making awards.

(a) From the amount appropriated for multipurpose senior centers under section 501 of the Act each fiscal year, the Commissioner shall reserve an amount for making awards under this part for each State. The amount reserved for each State shall be determined in keeping with the principles which guide the allocation of funds made each year under section 303 of the Act, except that total funds awarded to any State in any fiscal year shall not exceed ten percent of the funds appropriated by the Congress for the nation for that fiscal year.

(b) As set forth in § 1326.3(b) of this part, State Agencies will be given first priority to apply for the funds reserved for the State. Upon the request of the Commissioner each fiscal year, each State shall indicate in writing its intent to apply for the entire amount of funds reserved for the State.

(c) In those cases where the State Agency notifies the Commissioner that it will not apply for the funds reserved for that State:

(1) The State Agency will be asked to designate an amount, within the total amount reserved for the State, for each planning and service area in the State;

(2) Eligible agencies and organizations in the State will be notified of the funds designated under this part for each planning and service area by the State and Area Agencies on Aging; and

(3) Applications from eligible agencies or organizations within the State shall be forwarded to the Commissioner on Aging, through Area and State Agencies on Aging, and will be ranked by such agencies by planning and service area, in order of their recommended priority for funding before being forwarded to the Commissioner. The Commissioner will make awards to such eligible agencies and organizations in accord with these recommended priorities, provided all Title V requirements contained in this part are met.

(d) If eligible agencies or organizations fail to request funds within a time limit set by the Commissioner each fiscal year up to the level of the funds reserved for a planning and service area or a State, the Commissioner may make grants of such funds to eligible agencies or organizations in other planning and service areas of the State or other States, as appropriate.

(e) All requests for funds under this part shall be on forms prescribed for this purpose by the Commissioner.

Subpart D—Assurances Required for Grants Under This Part

§ 1326.5 Assurances required when State agencies are applicants.

Where the State Agency makes application for funds under this part for the entire State, the State Agency must assure that:

(a) Each planning and service area in the State will receive an equitable portion of the funds awarded to carry out the purposes of this part, except that, where justification exists, the State Agency may request in writing from the Commissioner an exception to this requirement for a given planning and service area;

(b) Where Area Agencies on Aging exist, they will be involved, together with their Advisory Council, in determining the most feasible facilities to serve as multipurpose senior centers and the most qualified local agencies to operate the programs in such centers in their jurisdictions; and that their approval will be obtained before any contract is awarded in their jurisdiction as a result of a grant under this part;

(c) In planning and service areas that contain rural areas, plans will be made to meet the special needs of the scattered populations of older persons, especially the low income and minority older persons;

(d) In assisting facilities under this part in urban areas, priority consideration will be given in locating such facilities in those parts of such areas having high concentrations of low-income and minority older persons;

(e) A multipurpose senior center program will be developed and operated in any facilities assisted under this part;

(f) The multipurpose senior center programs operated in any facility assisted under this part will be made part of the Comprehensive Program of the Area Agency on Aging where such programs exist; and

(g) Any agency or organization which will operate a mutipurpose senior center program in a facility assisted under this part will be required to develop a plan designed to obtain written commitments from other public and private nonprofit agencies to use the facility to deliver services to older persons or contribute resources to expand the program of the center.

§ 1326.6 Assurances required for all other applicants.

(a) In those cases where the State Agency elects not to apply for the funds reserved for the State, other eligible agencies or organizations in the State may submit applications to the Commissioner which provide adequate assurances that:

(1) The facility for which funds are requested is adaptable for serving as a multipurpose senior center;

(2) A multipurpose senior center program will be operated in the facility;

(3) The agency or organization which will operate the multipurpose senior center program in the facility for which funds are requested is qualified to operate such a program;

(4) The facility for which funds are requested is located so as to be accessible to a high proportion of minority and low-income older persons; and

(5) The agency or organization which will operate the multipurpose senior center assisted under this part will develop a plan designed to obtain written commitments from other public and private nonprofit agencies to use the facility to deliver services to older persons or to contribute resources to expand the program of the center.

(b) For such applications, the Area Agency on Aging, if applicable, will also be required to assure that the points in paragraph (a) (1–5) of this section will be met. In addition, the Area Agency will be asked to assure that the multipurpose senior center program proposed for the facility will be made part of the Comprehensive Program of the Area Agency on Aging.

Subpart E—Assurances Applicable to Facilities Financed Under This Part

§ 1326.7 Assurances applicable to all facilities.

(a) The applicant shall assure that any facility for which funds are awarded under this part shall comply, before the multipurpose senior center program is operated in such facility, with all applicable State and local health, fire, safety, zoning, and sanitation codes. With special regard to life/safety conditions, work will comply with the provisions of the National Fire Protection Association 101 Life Safety Code for the applicable building occupancy classification or State and local codes, whichever is the more stringent.

(b) The applicant, in order to comply with the requirements of the Davis-Bacon Act and other mandatory Federal labor standards, shall assure that HEW Requirements for Federally Assisted Construction Regarding Labor Standards and Equal Employment Opportunity, Form HEW–514 (July 1976) are included in all construction contracts for alteration and renovation of facilities. For the purpose of this part, the term "construction" is limited to altering or renovating existing facilities.

(c) The applicant shall assure that if a facility to be acquired, altered or renovated will be shared with other age groups, that funds under this part will be used only for that portion of the facility that will be used by older persons. Where the same floor space is to be shared with different age groups, funds under this part may be used proportionately for acquiring, altering, or renovating the facility only to the extent that such floor space will be used by older persons.

(d) The applicant shall assure that the applicable requirements contained in the following statutes and executive order are satisfied:

(1) Uniform Relocation Act, Pub. L. 91–646;

(2) Flood Protection Act, Pub. L. 93–234;

(3) National Historic Preservation Act, Pub. L. 89–665; and

(4) Executive Order on Flood Plains, E.O. 11988.

§ 1326.8 Special assurances applicable to facilities to be acquired.

(a) The applicant shall assure that there are no existing facilities in the community suitable for leasing as a multipurpose senior center.

(b) The applicant shall assure that any facility to be acquired under this part will conform with the Architectural Barriers Act of 1968 (41 CFR 101–17 703).

(c) The applicant shall assure that the facility will be used for the purposes for which it is acquired for not less than ten years after the date acquired.

(d) The applicant shall assure that the facility will not be used, and is not intended to be used for sectarian instruction or as a place for religious worship.

(e) The applicant shall assure that sufficient funds will be available to meet the non-Federal share of the cost of purchase of the facility.

(f) The applicant shall assure that sufficient funds will be available when purchase is completed, for effective use of the facility for the purpose for which it is being purchased.

§ 1326.9 Special assurances applicable to structural changes in the altering or renovating of facilities.

Where structural changes will be undertaken in the course of altering or renovating a facility, the applicant shall assure compliance concerning all applicable local or State ordinances, laws, or building codes. In the absence of such codes, such structural changes must conform to Chapter 23 of the Uniform Building Code, or Article 7 of the Basic Building Code, or Chapter 12 of the Standard Building Code.

Subpart F—General Requirements

§ 1326.10 Federal and non-Federal participation.

The Commissioner is authorized to pay up to 75 percent of the costs of acquiring, altering or renovating facilities to serve as multipurpose senior centers. The non-Federal share of proposed costs under this part shall be identified by the applicant in the application.

§ 1326.11 Unallowable expenditures.

Federal financial participation, and the appropriate non-Federal share, may not be used for any of the following:

(a) New construction or the completion of a partially completed facility;

(b) The purchase of land not related to the acquiring of an existing facility;

(c) Expanding of a facility in excess of double the square footage of the original facility; and

(d) Any cost associated with the operation of the multipurpose senior center, including rent, maintenance, personnel and supplies.

§ 1326.12 Administrative costs.

Applicants are authorized to be reimbursed for administrative costs associated with administering grants under this part. Such costs must be set forth in the proposal.

§ 1326.13 Grantee administrative requirements.

All of the provisions of 45 CFR Part 74 apply to grants awarded under this part.

§ 1326.14 A–95 Clearinghouse requirements.

All applications submitted under this part are subject to requirements of Part I, OMB Circular A–95.

§ 1326.15 Reports and records.

(a) Agencies or organizations receiving funds under this part shall make such reports in such form and containing such information as the Commissioner may determine.

(b) Agencies or organizations receiving awards shall maintain such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

§ 1326.16 Civil rights.

The applicant shall assure that all activities undertaken under this part shall conform to the Civil Rights Act of 1964 and all applicable policies and procedures established relating to such Act. In addition, the applicant shall develop and implement an affirmative action plan in the area of employment, and the development and implementation of a plan designed to provide maximum opportunity for participation in the service programs operating out of the center by low-income and minority persons.

§ 1326.17 Nondiscrimination on basis of handicap.

The applicant shall assure that the requirements set forth in sec. 504 of the Rehabilitation Act of 1973 and HEW regulations (45 CFR, Part 84) and guidelines are met.

§ 1326.18 Monitoring activities.

Agencies or organizations which receive awards shall establish monitoring procedures which will assure that any activity for which a grant is made under this part will be carried out in keeping with the provisions of the application as approved by the Commissioner.

§ 1326.19 Recapture of payments applicable to acquired facilities.

If, within ten years after acquiring a facility under this part, either the owner of the facility ceases to be a public or nonprofit private agency or organization, or the facility ceases to be used for the purposes for which it was acquired, the Department shall be entitled to recover from the agency or other owner of the facility an amount, which bears to the then value of the facility, or so much thereof as constituted an approved project award or awards, the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States District Court for the district in which such facility is situated. Release by the Department from recapturing the payment may occur if the facility as originally acquired is no longer adequate as a setting to provide the type and level of services now required by older persons in the community, and therefore the facility, as originally acquired, will be sold at a price, determined as reasonable by the Department, and that such funds resulting from the sale of the original facility will be used to purchase another facility in the community which meets the standards of this part.

§ 1326.20 Notification of action taken on proposals.

Applicants will be notified in writing by issuance of a "Notice of Grant Awarded" of the final action taken by the Commissioner on each application. For those applications approved by the Commissioner, this notification shall set forth the amount of funds awarded, and shall constitute for such amounts the incumbrance of Federal funds for such proposal on the date of the award.

§ 1326.21 Project period.

Except for those instances where an exception is approved by the Commissioner based on an inability to complete a project within the project period due to circumstances beyond the control of a grantee:

(a) The period of a grant award approved in any fiscal year will not exceed 12 months following the effective date of the "Notice of Grant Awarded" relating to such grant; and

(b) All activities relating to the acquiring, altering or renovating of a facility under this part shall be completed, and the multipurpose program operational in such facility within 12 months following the effective date of the grant relating to that activity.

§ 1326.22 Payments.

Upon approval of any application for a grant or contract under this part, the Commissioner shall reserve, from any appropriation available therefore, the amount of such grant or contract. The amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with progress in altering or renovating a facility, as the Commissioner may determine. The Commissioner's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of altering or renovating the facility.

Subpart G—Contract Authority

§ 1326.23 Authority.

(a) The Commissioner is authorized to make contracts to carry out the purposes of this part with any agency or organization to pay not to exceed 75 per centum of the costs of such program, subject to the ten per centum maximum payments in any State in any fiscal year.

(b) Any contract under this part shall be entered into in accordance with and shall conform to all of the relevant regulations relating to this title as well as to all other applicable laws, regulations and Department policy.

(c) Payments may be made in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

APPENDIX A

EVALUATION STANDARDS FOR PROGRAMS AND PROJECTS ASSISTED UNDER SECTION 308 OR TITLE IV OF THE OLDER AMERICANS ACT OF 1965, AS AMENDED

(The standards reprinted below appear at 38 FR 17030, June 28, 1973.)

OFFICE OF HUMAN DEVELOPMENT SERVICES

ADMINISTRATION ON AGING

Evaluation Standards for Programs and Projects

Under section 207(b) of the Older Americans Act of 1965, as amended by the Older Americans Comprehensive Services Amendments of 1973 (PL 93–29), the Secretary of Health, Education, and Welfare must develop and publish general standards to be used in evaluating the programs and projects assisted under section 308 or Title IV of the Act. Such standards must be published before grants or contracts are made.

The standards set forth below are the implementation of this requirement. They apply to the following programs:

Model Projects Program (Section 308)
Training Programs (Title IV, Part A)
Research and Demonstration Projects (Title IV, Part B)
Multidisciplinary Centers of Gerontology (Title IV, Part C)

The standards will be used by the Administration on Aging in making grants and contracts under these programs; and are effective immediately.

The standards will be revised in light of experience and public comment, and interested persons are requested to address comments, criticisms, and suggestions regarding the standards to the Commissioner on Aging, Room 3089, Mary E. Switzer Building, 330 C Street, S.W., Washington, D.C. 20201. Such comments should be sent in time to reach the Commissioner's office within 60 days of the date of publication of this notice.

1. *Purposes of the standards.*—These criteria are published to inform potential grantees and contractors of the standards which will be used to evaluate the programs and projects assisted under the following programs:

Model Projects Program (Section 308)
Training Programs (Title IV, Part A)
Research and Demonstration Project (Title IV, Part B)
Multidisciplinary Centers of Gerontology (Title IV, Part C)

The criteria will be used by the Administration on Aging (AoA), and it is recommended that they be employed by States and communities in evaluating these projects and programs. Specifically, they will be the basis for national evaluations conducted under section 207(g) of the Older Americans Act.

Not all criteria will be used to evaluate each program or project. However, at least some of the criteria will be applicable to

every project funded under the programs listed above.

Individual projects and programs will be evaluated as part of the overall effort under the Older Americans Act to improve the condition of the elderly. Individual projects and programs will be evaluated for the level of their contribution to the goals of the Older Americans Act.

2. *Criteria relating to all covered programs.*—(a) *Output goals.* Each project or program must have approved output goals for its own operations. Output goals state the expected results of the program, such as number of individuals trained, meals served, or specific elements of new and improved knowledge. Criteria relating to output goals are discussed under paragraph 3, Program efficiency.

(b) *Impact goals.* Impact goals will be developed by AoA for each program funded under the Act. These goals state the expected effects of outputs, e.g., improved health or nutrition for the elderly, more individuals working in programs for the elderly or more effective planning. Impact goals are discussed under paragraph 4, Program effectiveness.

3. *Program efficiency.*—Program efficiency will be measured by the extent to which project output goals are met, and by the comparative costs for meeting comparable goals. Specifically, projects and programs will be evaluated against the following criteria:

(a) The extent to which the grantee or contractor meets or exceeds the output goals established by the program or project.

(b) The extent to which the cost of a program or project is consonant with its level of output when compared to other methods of achieving similar goals.

4. *Program effectiveness.*—Measures of program effectiveness concern the extent to which the specific programs and projects will help to meet national goals and objectives. The effectiveness criteria are based on the purposes stated in Title I of the Older Americans Act, as amended and Title I of the Older Americans Comprehensive Services Amendments of 1973. Specifically, projects and programs will be evaluated against the following criteria:

(a) The extent to which the program or project contributes to the development or capability of comprehensive programs which approach a full range of health, education, and social services to older citizens who need them.

(b) The extent to which the program or project increases national and local capability to give full and special consideration to older citizens with special needs in the planning, development and operation of service delivery programs.

(c) The extent to which the program or project improves capacity for priority setting to insure the delivery of services to citizens with the greatest economic and social needs until such services are available to all elderly.

(d) The extent to which the program or project helps lead to the coordinated delivery of a full range of services to older citizens including, where applicable, meaningful employment opportunities for many individuals including older persons, young persons and volunteers from the community.

(e) The extent to which the program or project develops or provides resources and techniques for insuring that the planning and operation of comprehensive programs will be undertaken as a partnership of older citizens, community agencies, State and local governments and other members of the community with appropriate assistance from the Federal Government.

5. *Criteria for model projects program.*—Each model project will be evaluated against the following criteria:

(a) The extent to which the project strengthens State, regional (intra-State), metropolitan area, county, city or community capacity for planning and coordinating programs.

(b) The extent to which the project suggests and develops innovations and improvements in programs, institutional practices, laws, and regulations which will improve the status of the elderly.

(c) The extent to which the project broadens the base of human and material resources invested by the community in activities which aid the elderly.

(d) The extent to which the project organizes or influences the organization of services needed by the elderly so that they will be more effectively delivered and more easily available.

(e) The extent to which the project or program increases the capability of service providers to meet specific needs, such as: transportation, housing, continuing education, preretirement planning and the needs of the physically and mentally impaired.

6. *Criteria for training.*—The criteria for the success of the training programs supported under Title IV of the Older Americans Act are based upon the goals for the program described in sections 401, 403, and 404 of the Act. Specifically, training programs will be measured against the following criteria:

(a) The extent to which the program contributes to the provision of a broad range of quality training and retraining opportunities responsive to changing needs of programs in the field of aging.

(b) The extent to which the program attracts additional people into the field of aging.

(c) The extent to which the program helps to make personnel training programs more responsive to the need for trained personnel in the field of aging.

(d) The extent to which the program results in educational institutions at all levels providing increased training opportunities in the field of aging.

7. *Criteria for research and development projects.*—The criteria for evaluating research and development grants and contracts concern both the quality and relevance of a research, development or demonstration project and the degree of utilization of the project's results. Specifically, R & D projects will be measured against the following criteria:

(a) The extent to which the project generates information on the current patterns and conditions of living of older persons and on their effect on wholesome and meaningful living for such persons.

(b) The extent to which the project develops or demonstrates new approaches, techniques, and methods which hold promise of a substantial contribution toward wholesome and meaningful lives for older persons.

(c) The extent to which the project develops or demonstrates approaches, methods and techniques for achieving or improving coordination of community services for older persons.

(d) The extent to which the project evaluates approaches, techniques and methods which may assist older persons to enjoy wholesome and meaningful lives and to contribute to the strength and welfare of the United States.

(e) The extent to which findings can be used to improve projects and programs by researchers, individuals conducting demonstrations, and those operating projects and programs to serve the elderly.

(f) The extent to which the results of R&D projects can be used for improved planning, decision making and policy making in programs for the elderly.

(g) The extent to which research and demonstration projects use standardized methods for collecting both cost data and estimates of physical and mental conditions so as to permit comparisons among projects and with other findings.

8. Criteria for multidisciplinary centers of gerontology. Multidisciplinary centers of gerontology will be evaluated against the same criteria for R&D and training activities as independent programs and projects. (See paragraphs 6 and 7). In addition, the centers will be measured against the following criteria:

(a) The extent to which the center performs the full range of activities described in section 421 of the Act.

(b) The extent to which the center increases the use of information on aging in the teaching of biological, behavioral, and social sciences at colleges or universities.

(c) The extent to which the center provides useful consultation to public and voluntary organizations with respect to the needs of older people and in planning and developing services for the elderly.

(d) The extent to which the center creates opportunities for innovative, multidisciplinary efforts in teaching, research, and demonstration projects with respect to aging.

Effective date: June 28, 1973.

Dated: June 25, 1973.

FRANK CARLUCCI,
Acting Secretary.

[FR Doc.77-32761 Filed 11-14-77;8:45 am]

federal register

TUESDAY, NOVEMBER 15, 1977
PART IV

OFFICE OF MANAGEMENT AND BUDGET

■

BUDGET RESCISSIONS AND DEFERRALS

Cumulative Report

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSION AND DEFERRALS

Cumulative Report

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith report four new deferrals totalling $908.6 million in budget authority. The deferrals affect the Departments of Defense and Energy, the National Science Foundation, and the Emergency refugee and migration assistance fund.

In addition, I am reporting revisions to five deferrals previously transmitted. Three of these revisions change the agency name and related identifiers of the deferrals from the abolished Energy Research and Development Administration to the new Department of Energy. The amount deferred for the Department of Energy's Plenum Fill experiment has also been increased by $0.8 million. In addition, two supplementary reports for deferrals in the Office of the Secretary of the Treasury report an increase of $26.3 million in the amount deferred.

The details of each deferral are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE, November 10, 1977.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Funds Appropriated to the President:	
D78-43	Emergency refugee and migration assistance fund	2,000
	Department of Defense - Military:	
D78-44	Shipbuilding and conversion, Navy	871,125
	Department of Energy:	
D78-31A	Energy (Plenum Fill experiment)	2,300
D78-32A	Energy (Clean boiler fuel from coal project)	46,660
D78-36A	Energy (Molten salt breeder reactor project)	1,500
D78-45	Energy (10 MW Central receiver solar thermal power plant)	31,000
	Department of the Treasury:	
	Office of the Secretary	
D78-26A	Antirecession financial assistance fund	10,609
D78-27A	State and local government fiscal assistance fund	69,901
	Other Independent Agencies:	
	National Science Foundation	
D78-46	Research and related activities	4,500
	Total, deferrals	1,039,595

SUMMARY OF SPECIAL MESSAGES
FOR FY 1978
(amounts in thousands of dollars)

	Rescissions	Deferrals
Third special message:		
New items	---	908,625
Changes to amounts previously submitted	---	27,130
Effect of the third special message	---	935,755
Previous special messages	2,668	1,480,612
Total amount proposed in special messages	2,668 (in 1 rescission proposal)	2,416,367 (in 46 deferrals)

NOTE: All amounts listed represent budget authority except for $391,000 consisting of one general revenue sharing deferral (of outlays only).

Deferral No: D78-43

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Funds Appropriated to the President	New budget authority (P.L. ___ ___ ___): $ ___
Bureau:	Other budgetary resources: $ 5,000,000
Appropriation title & symbol: Emergency Refugee and Migration Assistance Fund 1/ 11X0040	Total budgetary resources: 5,000,000
	Amount to be deferred: Part of year: $ 2,000,000
	Entire year: ___
OMB identification code: 11-0040-0-1-151	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [XX] No	[ ] Other ___
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year ___ (expiration date)	[ ] Contract authority
[XX] No-year	[ ] Other ___

Justification: Section 501(a) of the Foreign Relations Authorization Act, Fiscal Year 1976, P.L. 94-141, amended section 2(c) of the Refugee and Migration Assistance Act by authorizing a fund not to exceed $25 million to enable the President to provide emergency assistance for unexpected, urgent refugee and migration needs.

By Executive Order No. 11922 of June 16, 1976, the President allocated all funds appropriated to him for the Emergency Fund to the Secretary of State but reserved to himself the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

On October 1, 1977, a $5 million balance remained available in the Emergency Fund. Of this, the President has approved the use of $3 million to assist Indochinese refugees. Consonant with the President's reservations set out in Executive Order No. 11922 and to achieve the most economical use of appropriations (31 U.S.C. 655(c)(1)), the remaining $2 million available in the Fund has been deferred. It is anticipated that reapportionments may be made case-by-case as the President determines such assistance that may be furnished and designates the refugees who may be assisted by the Fund.

Estimated Effects: None.

Outlay Effect: No effect on outlays results from this deferral action.

1/ This account was the subject of a similar deferral during FY 1977.

Deferral No: D78-44

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. 95-111): $5,760,500,000
Bureau:	Other budgetary resources: 47,000,000
Appropriation title & symbol: Shipbuilding and Conversion, Navy 1/ 178/21611	Total budgetary resources: 5,807,500,000
	Amount to be deferred: Part of year: $ ___
	Entire year: 871,125,000
OMB identification code: 17-1611-0-1-051	Legal authority (in addition to sec. 1013): [x] Antideficiency Act
Grant program: [ ] Yes [x] No	[ ] Other ___
Type of account or fund: [ ] Annual	Type of budget authority: [x] Appropriation
[x] Multiple-year September 30, 1982 (expiration date)	[ ] Contract authority
[ ] No-year	[ ] Other ___

Justification:
These funds are proposed for deferral through September 30, 1978. Due to the long period of time required to build ships, the Congress makes appropriations available for five-year periods.

Since these funds are, by law, made available beyond the current year, they are not fully apportioned in the current year. The unapportioned amount is withheld and released as the program develops and additional funds are required. The amounts deferred are to be released contingent upon the development of program needs that arise in current and future years.

Prudent financial management requires the deferral of those funds that could not be used effectively during the current year even if made available for obligation.

The above multiple-year appropriation is currently being deferred under the provisions of the Antideficiency Act (31 U.S.C. 665), which authorize the establishment of reserves for contingencies.

Estimated Effects:
Deferral of $871.1 million will have no programmatic or budgetary effect since the funds could not be obligated at this time, even if made available.

Outlay Effects:
There is no outlay effect resulting from this deferral since the funds could not be used if made available.

1/ This account was the subject of a similar deferral in FY 1977.

D78-31A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D78-31 transmitted to the Congress on October 3, 1977, and printed as House Document No. 95-235.

This supplementary report contains the revisions necessary to change this deferral for the Plenum Fill experiment from the Energy Research and Development Administration to the new Department of Energy. These revisions include changes to the appropriation title and symbol, the identification code, and the budgetary resources for the account. In addition, this report increases the amount of the deferral by $800,000 (from $1,500,000 to $2,300,000) to correct a technical error that was made in establishing the amount of the deferral.

Deferral No: D78-31A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy *	New budget authority (P.L. 95-96 and 95-74): $4,806,722,000*
Bureau:	Other budgetary resources: 1,749,350,000*
Appropriation title & symbol *	Total budgetary resources: 6,556,072,000*
Energy 89X0203 1/ (Plenum Fill Experiment)	Amount to be deferred: Part of year: $2,300,000*
	Entire year:
CMB identification code: 89-0203-0-1-999 *	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year (expiration date)	☐ Contract authority
☒ No-year	☐ Other

Justification

It has been determined that the Plenum Fill project, an experimental fission reactor research facility, is not needed as part of the overall energy program. The deferred funds were provided for this experiment in prior years. The deferral is planned to be maintained while the desirability of future funding for related experiments is studied during the 1979 budget review process. Depending on the outcome of the review, the funds will either be proposed for reprogramming or rescission.

Estimated Effect

Since there has been no activity on this project since FY 1976, this deferral action has no effect on current program plans.

Outlay Effect

There is no outlay effect resulting from this deferral.

1/ This account is the subject of other deferrals, D78-30A, D78-32A, D78-33A, D78-34A, D78-36A, and D78-45.

* Revised from previous report.

D78-32A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D78-32 transmitted to the Congress on October 3, 1977, and printed as House Document No. 95-235.

This supplementary report contains the revisions necessary to change this deferral for the Clean Boiler Fuel from Coal project from the Energy Research and Development Administration to the new Department of Energy. These revisions include changes to the appropriation title and symbol, the identification code, and the budgetary resources for the account.

Deferral No: D78-32A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Energy *	New budget authority (P.L. 95-96 & 95-74) $4,806,722,000*
Bureau	Other budgetary resources 1,749,350,000*
Appropriation title & symbol *	Total budgetary resources 6,556,072,000*
Energy 1/ 2/ 89X0203 (Clean Boiler Fuel from Coal Project)	Amount to be deferred: Part of year $ ____ Entire year 46,660,000
CMB identification code: 89-0203-0-1-999 *	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification

The amount deferred is made up of unobligated balances appropriated for 1977 and prior years for the Clean Boiler Fuel from Coal project (Coalcon). These balances are not required for obligation in FY 1978 due to technical difficulties which prevent further work on the project. These funds will be held in reserve pending a decision on reprogramming options. Funds not needed for reprogramming to other activities will be proposed for rescission in FY 1978.

Estimated Effect

There are no programmatic or budgetary effects resulting from the deferral. Funds are not now planned to be obligated because the project is undergoing a technical review.

Outlay Effect

Since technical difficulties with the project prevent the use of these funds, no outlay savings are attributable to this deferral action.

1/ This account is the subject of other deferrals, D78-30A, D78-31A, D78-33A, D78-34A, D78-36A, and D78-45.
2/ This project was the subject of a similar deferral during FY 1977.

D78-36A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D78-36 transmitted to the Congress on October 3, 1977, and printed as House Document No. 95-235.

This supplementary report contains the revisions necessary to change this deferral for the Molten Salt Breeder Reactor project from the Energy Research and Development Administration to the new Department of Energy. These revisions include changes to the appropriation title and symbol, the identification code, and the budgetary resources for the account.

Deferral No: D78-36A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Energy *	New budget authority (P.L. 95-96 & 95-74) $4,806,722,000*
Bureau	Other budgetary resources 1,749,350,000*
Appropriation title & symbol *	Total budgetary resources 6,556,072,000*
Energy 1/ 89X0203 (Molten Salt Breeder Reactor Project)	Amount to be deferred: Part of year $1,500,000
	Entire year
OMB identification code: 89-0203-0-1-999 *	1/Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year (expiration date)	☐ Contract authority
☒ No-year	☐ Other

Justification: *

The Administration believes that completion of the Molten Salt Breeder Reactor project is not necessary for the overall energy program. The Administration's proposed FY 1978 energy research and development authorization bill includes a provision to eliminate the existing authorization for appropriations for this project. The funds previously appropriated for the project are deferred pending final congressional action on the FY 1978 energy research and development authorization bill.

Estimated Effect:

Since there has been no activity on this project since FY 1976, this deferral action has no effect on current program plans.

Outlay effect:

There is no outlay effect resulting from this deferral action.

1/ This account is the subject of other deferrals, D78-30A, D78-31A, D78-32A, D78-33A, D78-34A, and D78-45.

* Revised from previous report.

Deferral No: D78-45

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Energy	New budget authority (P.L. 95-96 and 95-74) $4,806,722,000
Bureau	Other budgetary resources 1,749,350,000
Appropriation title & symbol	Total budgetary resources 6,556,072,000
Energy 1/ 89X0203 10 MW Central Receiver Solar Thermal Power Plant	Amount to be deferred: Part of year $31,000,000
	Entire year
OMB identification code: 89-0203-0-1-999	1/Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year (expiration date)	☐ Contract authority
☒ No-year	☐ Other

Justification: This action defers funding for a period of 60 to 90 days for a solar energy research and development construction project, the 10 MW Central Receiver Solar Thermal Power Plant, contained in P.L. 95-96, the Public Works for Water and Power Development and Energy Research Appropriation Act, 1978. These funds are being deferred to permit a review and evaluation of the project in the context of the Department of Energy's overall missions and responsibilities. During this period, research and development, design efforts, and acquisition of components of the project that require a long lead time to procure will continue.

Estimated Effects: This deferral action is being taken to allow for normal program review. The deferral will have no adverse effect on current plans for the project.

Outlay Effect: There is no outlay effect resulting from this deferral since it will be maintained for only a short period of time.

1/ This account is the subject of other deferrals, D78-30A, D78-31A, D78-32A, D78-33A, D78-34A, and D78-36A.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D78-26 transmitted to the Congress on October 3, 1977, and printed as House Document 95-235.

This revision of a deferral for the Antirecession financial assistance fund in the Office of the Secretary of the Treasury increases the previously reported deferral from $8,184,000 to $10,609,000. This increase of $2,425,000 is the result of additional budgetary resources made available to this account in Public Law 95-119.

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. 95-119): $1,400,000,000*
Bureau: Office of the Secretary	Other budgetary resources: 83,063,000*
Appropriation title & symbol: Antirecession Financial 1/ Assistance Fund 207/80108 208/90108	Total budgetary resources: 1,483,063,000*
	Amount to be deferred: Part of year: $8,463,000*
	Entire year: 2,146,000*
OMB identification code: 20-0108-0-1-852	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [X] Yes [ ] No	[X] Other P.L. 94-369, P.L. 95-30
Type of account or fund: [ ] Annual; [X] Multiple-year September 30, 1978 2/ September 30, 1979 (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification*

This deferral represents the remaining portion of the transition quarter and FY 1977 appropriation, and a portion of the FY 1978 appropriation which the Secretary of the Treasury must hold in reserve to meet valid claims from State and local governments that past antirecession financial assistance payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 22,930 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing has withheld from obligation an amount equal to one-half of one percent of the amounts appropriated for the transition quarter, FY 1977, and the first quarter of FY 1978.

This cumulative unobligated reserve, totaling $10.6 million, is available to the Secretary of the Treasury to satisfy legitimate claims against the fund for prior entitlement periods. The unobligated amount retained in the fund will be reduced whenever the Secretary determines that a lesser amount is adequate to meet foreseeable liabilities against the fund. This reduction will be made by paying the additional amount to recipients as part of a regular distribution of the program.

Estimated Effect*

This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program.

1/ This account was the subject of a similar deferral during FY 1977.

2/ The availability of the $8,463,000 deferred for part of the year ends on this date. These funds will be made available in enough time to permit orderly obligation before their availability ends.

* Revised from previous report.

Outlay Effect * (estimated in millions of dollars)

Comparison with President's FY 1978 Budget:

1. Budget outlay estimate for FY 1978	$1,550.0
2. Outlay savings, if any, included in the budget outlay estimate	-0-
Current Outlay Estimates for FY 1978:	
3. Without deferral	1,580.3
4. With deferral	1,578.2
5. Current outlay savings (line 3 - line 4)	+2.1
Outlay savings for FY 1979	-2.1
Outlay savings for FY 1980	-0-

*Revised from previous report.

D78-27A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D78-27 transmitted to the Congress on October 3, 1977, and printed as House Document 95-235.

This revision of a deferral for the State and local government fiscal assistance trust fund in the Office of the Secretary of the Treasury increases the previously reported deferral from $45,996,000 to $69,901,000. This increase of $23,905,000 is the result of additional budgetary resources made available to this account in Public Law 95-119.

Deferral No: D78-27A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. 95-119): $6,854,924,000*
Bureau: Office of the Secretary	Other budgetary resources: 46,347,000*
Appropriation title & symbol: State and Local Government Fiscal Assistance Trust Fund 1/ 2/ 20X8111	Total budgetary resources: 6,901,271,000*
	Amount to be deferred: Part of year: $10,550,000
	Entire year: 59,351,000*
CMB identification code: 20-8111-0-7-851	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[X] Other P.L. 92-512, P.L. 94-488 (Section 6)
Type of account or fund: [ ] Annual; [ ] Multiple-year _____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other _____

Justification*

The Secretary of the Treasury must hold in reserve an amount to meet valid claims from State and local governments that past general revenue sharing payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 39,170 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing withheld from obligation an amount equal to one-half of one percent of the amounts appropriated for each entitlement period through FY 1975. In addition, one-half of one percent of the $4,991 million appropriated for general revenue sharing in the Economic Stimulus Appropriations Act, 1977 (Public Law 95-29), and the FY 1978 Appropriation (Public Law 95-119) was also withheld from obligation.

This cumulative unobligated reserve is available to the Secretary of the Treasury to satisfy legitimate claims against the Trust Fund for prior entitlement periods. The amount now deferred is $70 million. The unobligated amount of $70 million retained in the Trust Fund will be further reduced whenever the Secretary determines the amount is adequate to meet foreseeable liabilities against the Trust Fund. The reduction will be made by paying the additional amount to recipients as part of a regular distribution.

1/ This account is the subject of another deferral, D78-28.
2/ This account was the subject of a similar deferral during FY 1977.
* Revised from previous report.

Estimated Effect

This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program.

Outlay Effect* (estimated in millions of dollars)

Comparison with President's FY 1978 Budget:

1. Budget outlay estimate for FY 1978	$6,813.9
2. Outlay savings, if any, included in the budget outlay estimate	-0-
Current Outlay Estimates for FY 1978:	
3. Without deferral	6,873.3
4. With deferral	6,813.9
5. Current outlay savings (line 3 - line 4)	+59.4
Outlay savings for FY 1979	-29.7
Outlay savings for FY 1980	-29.7

*Revised from previous report.

Deferral No: D78-46

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency National Science Foundation	New budget authority (P.L. 95-119) $783,200,000
Bureau	Other budgetary resources 20,000,000
Appropriation title & symbol Research and Related Activities 497/80100 498/90100	Total budgetary resources 803,200,000
	Amount to be deferred: Part of year $ 4,500,000 Entire year
CMB identification code: 49-0100-0-1-251	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1978 1/ September 30, 1979 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The amount deferred was appropriated in the Department of Housing and Urban Development--Independent Agencies Appropriation Act, 1978, for the Basic research stability grant program. The Administration has not yet fully reviewed the role of this new program in the context of its overall research efforts. Such a review is being conducted as part of the 1979 budget review process. The deferral is planned to be in effect until the review is completed.

Estimated effects:

This deferral action is being taken to allow normal program review. This action will delay the start of the program for only a short time.

Outlay effect:

No outlay effect is expected from this deferral, since it will be in effect for only a short time.

1/ None of these funds are deferred.

[FR Doc.77-33096 Filed 11-11-77;2:25 pm]

[3110-01]

RESCISSIONS AND DEFERRALS

Cumulative Report, November 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 budget authority for this fiscal year 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 November 1, 1977, of four rescissions contained in the fourteenth, fifteenth, and seventeenth special messages of FY 1977 and one rescission and 42 deferrals contained in the first two special messages for fiscal year 1978. These messages were transmitted to the Congress on July 19 (both the fourteenth and fifteenth messages), July 26, September 23, and October 3, 1977.

RESCISSIONS (ATTACHMENT A)

One rescission proposal totaling $2.7 million in budget authority is presently before the Congress. In addition, four rescission proposals totaling $643.4 million (in funds that the presently available) were carried into FY 1978 and are listed in this report. Attachment A shows the history and status of the rescission proposals.

DEFERRALS (ATTACHMENT B)

As of November 1, 1977, $1,465.4 million in budget authority was being deferred from obligation and another $0.4 million in 1978 obligations was being deferred from expenditure. Attachment B shows the history and status of each deferral proposed during fiscal year 1978.

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).
Friday, Octboer 7, 1977 (Vol. 42, No. 195, Part IV).

JAMES T. MCINTYRE, Jr.,
Acting Director.

ATTACHMENT A

STATUS OF RESCISSIONS

FISCAL YEAR 1978
(Amounts in thousands of dollars)

As of November 1, 1977

Agency/Bureau/Account	Rescission Number	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	1/	07-19-77	1/	462,000	10-05-77
Missile procurement, Air Force	R77-19	1,400	1/	07-19-77	1/	1,400	10-05-77
Missile procurement, Air Force	R77-20	105,000		07-26-77		105,000	10-14-77
Department of Justice							
Law Enforcement Assistance Administration: Salaries and expenses	R78-1 2/		2,668	09-23-77			
General Services Administration: Federal Buildings Fund.	R77-17	75,000	3/	07-19-77	3/	75,000	10-04-77
TOTAL:		643,400	4/ 2,668			643,400	

1/ On November 1, 1977, a proposal to rescind these funds was being considered by the Congress. The rescission proposals were included in the Senate passed version of H.R. 9375, the First Supplemental, 1978.
2/ This rescission proposal is related to a 1978 supplemental request for transfer of the same funds within the Department of Justice. An opinion issued by the Comptroller General on October 28, 1977, holds that this proposal should have been classified as a deferral.
3/ A rescission bill (H.R. 9019) which includes this proposal had passed both Houses of Congress as of November 1, 1977.
4/ This amount was proposed for rescission in FY 1977.

ATTACHMENT B

R-1

STATUS OF DEFERRALS
FISCAL YEAR 1978

(amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Original Request	Amount Transmitted in Special Message: Subsequent Change	Date Special Message Transmitted	Cumulative OMB/Agency Releases	Congressionally Required Releases	Cumulative Adjustments	Amount Deferred as of 11-01-77
AGENCY: DEPARTMENT OF AGRICULTURE								
Foreign Agricultural Service: Salaries and expenses (special foreign currency program)	D78-1	988		10-03-77				988
Agricultural Stabilization and Conservation Service: Commodity credit corporation	D78-2	2,871		10-03-77				2,871
Forest Service: Permanent appropriations, Expenses, brush disposal	D78-3	31,312		10-03-77				31,312
Permanent appropriations, Licensee programs	D78-4	141		10-03-77				141
TOTAL:		35,312						35,312
AGENCY: DEPARTMENT OF COMMERCE								
Economic Development Administration: Local public works	D78-5	4,000		10-03-77				4,000
Financial and technical assistance	D78-6	3,900		10-03-77				3,900
National Oceanic and Atmospheric Administration: Operations, research, and facilities	D78-7	3,750		10-03-77				3,750
Promote and develop fishery products and research pertaining to American fisheries	D78-8	5,429		10-03-77				5,429

B-2

STATUS OF DEFERRALS
FISCAL YEAR 1978

(amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Original Request	Amount Transmitted in Special Message: Subsequent "Change"	Date Special Message Transmitted	Cumulative OMB/Agency "Releases"	Congressionally Required Releases	Cumulative Adjustments	Amount Deferred as of 11-01-77
AGENCY: DEPARTMENT OF COMMERCE - Continued								
Fisheries loan fund...	D78-9	6,177		10-03-77				6,177
Fishermen's guaranty fund.....	D78-10	716		10-03-77				716
TOTAL:		23,972						23,972
AGENCY: DEPARTMENT OF DEFENSE-MILITARY								
Military construction, all services.....	D78-11	438,439		10-03-77	-1,800			436,639
TOTAL:		438,439			-1,800			436,639
AGENCY: DEPARTMENT OF DEFENSE-CIVIL								
Miscellaneous accounts, Wildlife conservation, etc. military reservations.....	D78-12	458		10-03-77				458
TOTAL:		458						458
AGENCY: DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Office of Education								
Higher education.....	D78-13	3,740		10-03-77				3,740
Social Security Administration								
Limitation on construction.....	D78-14	13,865		10-03-77				13,865
TOTAL:		17,605						17,605

B-3

STATUS OF DEFERRALS
FISCAL YEAR 1978

(amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Original Request	Amount Transmitted in Special Message: Subsequent "Change"	Date Special Message Transmitted	Cumulative OMB/Agency "Releases"	Congressionally Required Releases	Cumulative Adjustments	Amount Deferred as of 11-01-77
AGENCY: DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Oregon and California grant lands.	D78-15	31,200		10-03-77				31,200
Bureau of Outdoor Recreation								
Land and water conservation fund.....	D78-16	30,000		10-03-77				30,000
Geological Survey								
Payment from proceeds, sale of water.....	D78-17	34		10-03-77				34
Bureau of Mines								
Miscellaneous appropriations Drainage of anthracite mines.....	D78-18	3,500		10-03-77				3,500
Office of Territorial Affairs								
Trust territory of the Pacific Islands.....	D78-19	12,000		10-03-77				12,000
TOTAL:		76,734						76,734
AGENCY: DEPARTMENT OF JUSTICE								
Federal Prison System								
Buildings and facilities.....	D78-20	42,245		10-03-77				42,245
TOTAL:		42,245						42,245

STATUS OF DEFERRALS
FISCAL YEAR 1978

(amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Original Request	Amount Transmitted in Special Message: Subsequent Change	Date Special Message Transmitted	Cumulative OMB/Agency Releases	Congressionally Required Releases	Cumulative Adjustments	Amount Deferred as of 11-01-77
AGENCY: DEPARTMENT OF TRANSPORTATION								
Coast Guard								
Acquisition, construction, and improvements.....	D78-21	13,031		10-03-77	-13,031	1/		0
Federal Aviation Administration								
Construction, Metropolitan Washington Airports..	D78-22	1,010		10-03-77				1,010
Civil Supersonic aircraft development termination.....	D78-23	134		10-03-77				134
Facilities and equipment (Airport and airway trust fund.	D78-24	320,650		10-03-77				320,650
Federal Highway Administration								
Trust fund share of other highway programs.....	D78-25	74,880		10-03-77				74,880
TOTAL:		409,705			-13,031			396,674

1/ Impoundment resolution, S. Res. 282, passed the Senate on November 1, 1977, rejecting this deferral. The funds, however, were made available for obligation on October 31, 1977.

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B-6

STATUS OF DEFERRALS
FISCAL YEAR 1978

(amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Original Request	Amount Transmitted in Special Message: Subsequent Change	Date Special Message Transmitted	Cumulative OMB/Agency Releases	Congressionally Required Releases	Cumulative Adjustments	Amount Deferred as of 11-01-77
AGENCY: ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION - Continued								
Plant and capital equipment (Intersecting storage ring accelerator).....	D78-35	5,000		10-03-77				5,000
Plant and capital equipment (Molten salt breeder reactor project).....	D78-36	1,500		10-03-77				1,500
TOTAL:		88,460						88,460
AGENCY: GENERAL SERVICES ADMINISTRATION								
Rare silver dollar program.....	D78-37	1,710		10-03-77				1,710
Federal Preparedness Agency								
State and local preparedness.....	D78-38	80		10-03-77				80
TOTAL:		1,790						1,790
AGENCY: OTHER INDEPENDENT AGENCIES								
Foreign Claims Settlement Commission								
Payment of Vietnam prisoner of war claims.....	D78-39	10,738		10-03-77				10,738
Interstate Commerce Commission								
Payment of directed rail service.....	D78-40	13,700		10-03-77				13,700
United States Information Agency								
Salaries and expenses (special foreign currency program)..	D78-41	1,153		10-03-77				1,153
United States Railway Association								
Payment for purchase of Conrail securities..	D78-42	260,000		10-03-77				260,000
TOTAL:		285,591						285,591
TOTAL: ALL DEFERRALS BA		1,480,221			-14,831			1,465,390
O		391			-40			351

[FR Doc.77-33097 Filed 11-11-77;2:25 pm]

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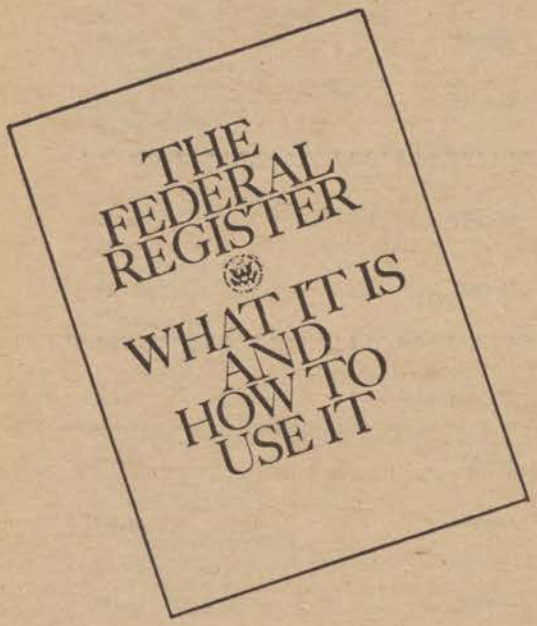

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