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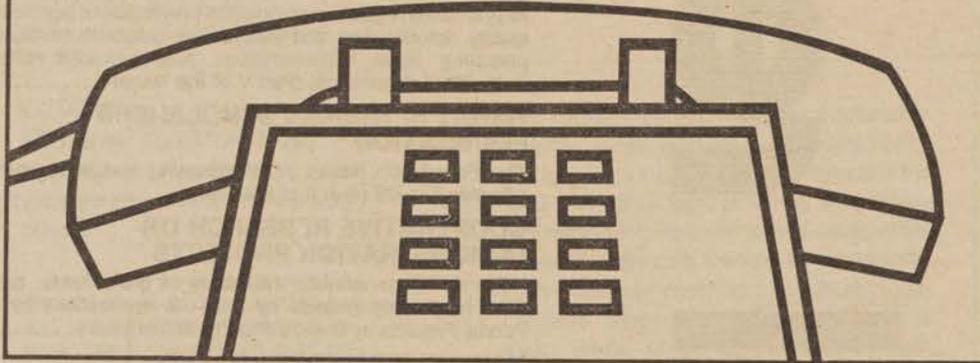
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# rules and regulations

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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.

[3410-16]

## Title 7—Agriculture

### CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

#### SUBCHAPTER F—SUPPORT ACTIVITIES

#### PART 656—PROCEDURES FOR THE PROTECTION OF ARCHEOLOGICAL AND HISTORICAL PROPERTIES ENCOUNTERED IN SCS-ASSISTED PROGRAMS

##### Addition of More Detailed Actions

AGENCY: Soil Conservation Service (SCS), U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule amends section 656.7 by adding more detailed actions to be taken if significant cultural properties are discovered during construction activities in project-type federally assisted actions of SCS. These actions have been developed in consultation with the Interagency Archeology Staff of the Heritage Conservation and Recreation Service, U.S. Department of the Interior.

EFFECTIVE DATE: June 19, 1978.

##### FOR FURTHER INFORMATION CONTACT:

William M. Johnson, Deputy Administrator for Technical Services, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C., telephone 202-447-3905.

SUPPLEMENTARY INFORMATION: This amendment to Section 656.7 of SCS's final rules Section 656, Procedures for the Protection of Archeological and Historical Properties Encountered in SCS-Assisted Programs will not have significant impacts on the economic and social well-being of our society. Therefore, a regulatory analysis impact statement will not be necessary in accordance with Executive Order 12044, Improving Government Regulations, dated March 24, 1978.

(Catalog of Federal Domestic Assistance Programs numbered 10.900 (Great Plains), 10.901 (Resource Conservation and Development), 10.902 (Soil and Water Conservation), 10.904 (Watershed Protection and

Flood Prevention), and 10.905 (Plant Materials.)

Dated: June 12, 1978.

NORMAN A. BERG,  
Associate Administrator.

Section 656.7 is amended as follows:

§ 656.7 Steps necessary to determine the effects of planned SCS assisted actions on archeological and historical properties, occurring on nonfederal land, during the environmental assessment of a project in the operations stage (parts 622.4, 622.5, and 623 of this chapter).

If cultural properties are discovered during construction, the responsible Federal official (RFO) will take the following actions:

(a) When archeological or historical properties which appear to be of significant value, as defined in section 656.4, are discovered (by contractor, SCS employee, or others) during construction, the project engineer will ask the contractor to avoid further excavation or other work which might destroy the cultural property and immediately notify the RFO.

(b) The RFO will notify the Department of the Interior's Heritage Conservation and Recreation Service (HCRS) (Atlanta, Denver, or San Francisco) and the State Historic Preservation Officer (SHPO). If the notification is via telephone, the conversation will be documented by a followup telegram or letter.

(c) The RFO will request HCRS to provide onsite consultation and advice on the significance of the find within 48 hours. HCRS will recommend whether work should be stopped or delayed. The legislative authority for this action is 16 U.S.C. 469a-2 (Pub. L. 93-291). Because of the nature of the discovery and the time constraints necessary to avoid delays in construction and/or damage to a public entity or loss of the use of private or nonfederally owned land, procedures under Section 106 of the Historic Preservation Act (16 U.S.C. 470) are to be expedited by immediate telephone contact with appropriate agencies.

(d) If HCRS declines to recommend work stoppage and the assumption of liability for delays in construction as authorized by 16 U.S.C. 469a-2d, the RFO will cause photographs to be taken of the find, prepare a brief description of the site, and resume construction activities.

(e) If HCRS provides consultation within the 48-hour time constraint and recommends that construction be stopped or delayed in order for appropriate detailed survey, recovery, protection, or preservation to be accomplished, the RFO will:

(1) Determine if the HCRS is willing to assume liability since SCS is not authorized to pay damages for such delays. If HCRS is not willing to assume liability for delays in construction, the RFO will proceed as noted in (d) above.

(2) If HCRS is willing to assume liability for delays, and this fact is documented in writing, the RFO will inform the contractor or the local contracting organization to delay or terminate the contract. If the find is determined to be of significant value, SCS may transfer up to one percent of the Federal share of the construction cost of the structures or measure in question, to the HCRS to assist them in detailed survey, recovery, and/or preservation.

(f) The RFO will cause construction to be resumed (if federally administered contract) or recommend resumption of construction (if locally administered contract) after HCRS has completed its work.

(g) Easements and other landrights instruments should be checked to see if archeological or historical salvage can be accomplished without amendment.

(h) Since SCS does not have ownership or jurisdiction over the land, HCRS and the landowner must determine ownership of any salvaged artifacts. Curation should be accomplished consistent with guidelines of HCRS.

(i) Each step in this procedure will be appropriately documented.

[FR Doc. 78-16897 Filed 6-16-78; 8:45 am]

[3410-07]

**CHAPTER XVIII—FARMERS HOME  
ADMINISTRATION, DEPARTMENT  
OF AGRICULTURE**

**SUBCHAPTER B—LOANS AND GRANTS  
PRIMARILY FOR REAL ESTATE PURPOSES**

[FmHA Instruction 444.5]

**PART 1822—RURAL HOUSING  
LOANS AND GRANTS**

**Subpart D—Rural Rental Housing  
Loan Policies, Procedures, and Au-  
thorizations**

**SECURITY PROVISIONS**

AGENCY: Farmers Home Administra-  
tion, USDA.

ACTION: Interim Rule.

SUMMARY: FmHA revises its regula-  
tions regarding security for Rural  
Rental Housing loans. The intended  
effect of this action is to eliminate the  
personal liability requirement for  
partners in a limited partnership and  
to clarify that there will be no waiver  
of personal liability for other kinds of  
partnerships. This change is necessary  
in order to provide nationwide pro-  
gram consistency.

EFFECTIVE DATE: Date of publica-  
tion in the FEDERAL REGISTER. Com-  
ments must be received on or before  
July 19, 1978.

ADDRESSES: Submit written com-  
ments to the Office of the Chief, Di-  
rectives Management Branch, Farmers  
Home Administration, U.S. Depart-  
ment of Agriculture, Room 6316,  
Washington, D.C. 20250. All written  
comments made pursuant to this  
notice will be available for public in-  
spection at the address given above.

FOR FURTHER INFORMATION  
CONTACT:

Paul R. Conn, 202-447-7207.

SUPPLEMENTARY INFORMATION:  
Paragraph (b) of § 1822.89, Subpart D,  
Part 1822 of Title 7, Code of Federal  
Regulations, is amended so that per-  
sonal liability will not be required for  
any partners in a limited partnership.  
Personal liability will be required of  
all members of all other partnerships.

It is the policy of this Department  
that rules relating to public property,  
loans, grants, benefits, or contracts  
shall be published for comment not-  
withstanding the exemption of 5  
U.S.C. 553 with respect to such rules.  
This amendment, however, is being  
published effective on an interim  
basis. This action is being taken to  
eliminate the liability requirement of  
all partners in a limited partnership  
and at the same time permit public  
participation in the rulemaking pro-  
cess. Any delay in implementing this  
amendment would be contrary to the

public interest because construction of  
needed rental housing in rural areas  
would be delayed. Comments made  
pursuant to this notice will be consid-  
ered in the development of the final  
rule.

As revised § 1822.89(b) reads as fol-  
lows:

§ 1822.89 Security.

(b) Personal liability will not be re-  
quired for the members or stockhold-  
ers of any corporation or any partners  
in a limited partnership. Personal li-  
ability will be required of all members  
of other partnerships. For limited  
partnerships, the State Director will  
obtain the advice of the Regional At-  
torney as to any modifications needed  
in the Promissory Note and mortgage.

(AUTHORITIES: 42 U.S.C. 1480; delegation  
of authority by the Secretary of Agricul-  
ture, 7 CFR 2.23; delegation of authority by  
the Assistant Secretary for Rural Develop-  
ment, 7 CFR 2.70.)

Dated: June 15, 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.

[FR Doc. 78-16944 Filed 6-16-78; 8:45 am]

[8025-01]

**Title 13—Business Credit and  
Assistance**

**CHAPTER I—SMALL BUSINESS  
ADMINISTRATION**

[Rev. 6 Amdt. 16]

**PART 120—BUSINESS LOAN POLICY**

**Variable Interest Rates**

AGENCY: Small Business Administra-  
tion.

ACTION: Final rule.

SUMMARY: The Small Business Ad-  
ministration (SBA) permits participat-  
ing lending institutions to utilize a  
fluctuating interest rate on loans to  
small businesses. Fluctuating interest  
rates encourage term loans by allow-  
ing the lender to match the interest  
rate with the future cost of funds in  
the money markets. The amendment  
adds an incentive to make loans with a  
maturity of 7 or more years.

EFFECTIVE DATE: These amend-  
ments are effective on June 19, 1978.

FOR FURTHER INFORMATION  
CONTACT:

Robert N. Marshall, Director, Office  
of Program Development, 202-653-  
6830.

**SUPPLEMENTARY INFORMATION:**

On March 27, 1978, the SBA published a  
notice of proposed rulemaking (43  
FR 12720) to amend Part 120, Business  
Loan Policy pertaining to fluctuating  
rate loans. The amendment continues  
to provide a method for establishing a  
constant addition (often called the  
"spread") that a lender may add to  
the selected peg rate (or base rate) to  
arrive at variations in interest rates  
during the term of the loan but for  
the first time permits a higher addi-  
tion or a wider spread for loans with a  
maturity of seven or more years. The  
existing method for establishing the  
constant addition or spread made no  
distinction for loan maturity.

It is to be noted that loans may con-  
tinue to be made with a fixed rate of  
interest; the use of a fluctuating rate  
only provides an alternative method  
for establishing a variable rate of in-  
terest during the term of the loan.

A total of 69 comments on the pro-  
posal were received. Most of the com-  
ments were from banks (57), with 48  
supporting the proposal, and 9 oppos-  
ing. The reason most often given by  
those opposing were: preference for  
lending at a fixed rate; the new spread  
ceilings will encourage automatic use  
by lenders; the new ceiling should not  
be scaled according to length of loan  
maturity.

Two trade associations for bankers  
also supported the proposal. One asso-  
ciation felt that SBA should drop the  
requirement that longer maturity  
loans (seven years or more) be subject,  
during the initial period of the loan, to  
the current SBA maximum allowable  
interest rate.

NOTE.—The "initial period" of an SBA  
fluctuating rate loan runs from disburse-  
ment through the end of the first adjust-  
ment interval. Adjustments must fall on  
the first date of a fluctuating time period,  
and may be yearly, semiannually, or quarterly.  
The initial period, therefore, will include  
not only a regular adjustment interval but  
also the time from disbursement to the start  
of the first interval.

Other comments to the proposal  
were mainly from securities dealers  
having an interest in the investor  
market for the guaranteed portion of  
SBA loans and generally were favora-  
ble.

After reviewing these comments,  
SBA has decided to adopt the amend-  
ment as proposed. Those lenders and  
borrowers that prefer to use a fixed in-  
terest rate can continue to do so. In  
loans with fluctuating rates, a larger  
spread will be permitted only for loans  
with 7 or more years maturity to en-  
courage longer term loans for small  
business concerns. In all loans the  
maximum rates established by SBA  
will be equally applicable to the initial  
note rate. In loans with variable rates  
the interest rate will change in accord-  
ance with the fluctuating formula.

Further explanation appears appropriate for loans with fluctuating interest rates. When the lender submits the participation loan application for approval by SBA, the lender specifies the initial note rate and the current peg rate, and identifies the daily publication in which the peg or base rate appears. When SBA approves the making of the loan it issues a loan authorization which states the loan conditions, and usually accepts the interest rate formula submitted by the lender. The repayment (amortization) schedule is based upon the initial interest rate.

In loans with a maturity of less than 7 years, the difference between the initial note rate and the peg rate (as of the date the lender submitted the loan application) becomes the addition or spread to be added to the peg rate as of the first day of each successive fluctuating period, but the spread cannot exceed 2½ percentage points. In such loans the addition or spread is fixed by the difference between the initial note rate and the peg rate as of the date of the lender's application to SBA, and the spread or addition remains the same for the term of the loan.

However, in loans with a maturity of 7 or more years, a spread or addition of up to 3 percentage points can be designated by the lender even though such a spread may exceed the difference between the initial note rate and the peg rate as of the date of the lender's application to SBA. Of course, the initial rate must continue in effect through the first fluctuation period.

For example: If the initial note rate was 10 percent and the peg rate as of the date of the lender's application was 8 percent, then the addition in interest rate to be added to the peg rate for future interest rate fluctuations must be two (2) percentage points for loans with a maturity of less than 7 years. If the peg rate increased to 9 percent as of the first day of the first fluctuation period, then the note rate as of that date becomes 11 percent, since the spread was 2 percent in addition to the peg rate.

However, if this same loan had had a maturity of 7 or more years, the lender could have designated an addition or spread of 3 percent. While the initial note rate would have been subject to the limitation of SBA's maximum rate, the note rate would change to 3 percentage points in addition to the peg rate as of the first fluctuation period and each successive fluctuation period. Thus, although the initial note rate was 10 percent and the peg rate was 8 percent, when the peg rate became 9 percent on the first day of the first fluctuation period the note rate as of that date would be 12 percent.

Accordingly, pursuant to the authority of Section 5 of the Small Business

Act, 72 Stat. 385, 15 U.S.C. 634, and Section 7 of such Act, as amended, 72 Stat. 387, 15 U.S.C. 636, Part 120 is amended as follows:

§ 120.3 Terms and conditions of business loans and guarantees.

- • • • •
- (b) • • •
- (2) • • •

(ii) Subject to approval of SBA a participating lending institution may establish such rate of interest on guaranteed loans, and on its share of immediate participation loans, as may be legal and reasonable, subject to the maximum acceptable interest rate under subdivision (iv) of this subparagraph hereof.

(iii) Subject to subdivision (ii) of this subparagraph, a participating lending institution (lender) may utilize a fluctuating rate of interest. The fluctuations may occur not more often than quarterly, and must rise or fall on the same basis. The initial interest rate on the loan shall not exceed SBA's maximum acceptable rate as of the date the loan application was submitted by the lender to SBA, and the initial rate must remain in effect for not less than one full fluctuation period (e.g., one full calendar quarter); thereafter, the publication of, or variations in, SBA's maximum acceptable rate shall have no further effect or application when the interest rate fluctuates as the base rate fluctuates. The fluctuating interest may only be based either on the prime rate in effect on the first date of the fluctuation period and published daily in a public print media, or on the SBA Optional Peg Rate which is published by SBA. For loans with maturities under seven (7) years, the increase in interest added to the base rate cannot exceed the lesser of (A) the difference in interest rates between the base rate and SBA's maximum acceptable rate as of the date the loan application was submitted by the lender to SBA, or (B) two and one-half (2½) percentage points. For loans with maturities of seven (7) or more years, the increase in interest to be added to the base rate may be arbitrarily established by the lender up to, but not to exceed, three (3) percentage points, without regard to SBA's maximum acceptable rate, except as to the limitation on the initial interest rate as provided in this subparagraph.

• • • • •  
(Catalog of Federal Domestic Assistance Programs, No. 59012 Small Business Loans.)

Dated: June 13, 1978.

A. VERNON WEAVER,  
Administrator.

[FR Doc. 78-16858 Filed 6-16-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 17968; Amdt. 39-3243]

PART 39—AIRWORTHINESS DIRECTIVES

Short Bros. Ltd. Model SD3-30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires installation of a one-way restrictor valve in the main landing gear retraction system on early production Short Bros. Ltd. Model SD3-30 airplanes. Addition of the valve is necessary to ensure positive downlock of main landing gear. The AD is prompted by a report of an incident where collapse of one side of the main gear occurred after landing.

EFFECTIVE DATE: July 5, 1978.  
Compliance schedule: As prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from: Manager-Spares Support, Product Support Department, Short Bros. Ltd., P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. A copy of the service bulletin is contained in the rules docket for this amendment in Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: There has been a reported incident, where after landing, one side of the main landing gear collapsed on a Short Bros. Ltd. Model SD3-30 airplane. The gear collapse resulted from the downlock piston not being able to effect a positive lock in the down position. Addition of a one-way restrictor valve will provide for retention of pressure on the downlock piston preventing its release until the gear is in the fully down position. Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is being issued to require the installation of the valve which will assure a positive downlock capability of the main landing gear on

Short Bros. Ltd. Model SD3-30 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

#### DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, and S. Podberesky, Office of the Chief Counsel.

#### ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

**SHORT BROTHERS LTD.** Applies to Model SD3-30 airplanes, S/N's 3003 through 3015, certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent possible collapse of the main landing gear, prior to the accumulation of 50 landings after the effective date of this AD, install a one way restrictor valve, Menasco P/N 17516-1 or 17517-1, and associated hardware in the main landing gear retraction/extension system (R/H and L/H) in accordance with section 2, "Accomplishment Instructions" and figures 1, 2, and 3, of Short Brothers Ltd. Service Bulletin SD3-32-41, dated March 23, 1978, or an FAA approved equivalent.

This amendment becomes effective July 5, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

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

Issued in Washington, D.C., on June 8, 1978.

J. A. FERRARESE,  
*Acting Director,*  
*Flight Standards Service.*

[FR Doc. 78-16834 Filed 6-16-78; 8:45 am]

#### [4910-13]

[Docket No. 17967; Amdt. 39-3244]

#### PART 39—AIRWORTHINESS DIRECTIVES

##### Burkhart-Grob Model G102 Astir CS Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adds a new airworthiness directive (AD) which requires installation of a mechanical stop on an elevator control pivot bolt on certain Burkhart-Grob Model G102 Astir CS gliders. The AD is needed to reduce the possibility of elevator control failure due to possible loss of an elevator control pivot bolt.

**EFFECTIVE DATE:** July 5, 1978. Compliance required within the next 25 hours time in service after the effective date of this AD, unless already accomplished.

**ADDRESSES:** The applicable Technical Information may be obtained from: Burkhart Grob Flugzeugbau, Postfach—Industriestrasse, 8948 Mindelheim, West Germany. A copy of the Technical Information is contained in the rules docket for this amendment in Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

#### FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

**SUPPLEMENTARY INFORMATION:** Service experience has shown that the elevator control pivot (bearing) bolt, identified in Grob Technical Information TM 102-4 as part No. 4205.06, is subject to loosening and could work its way out of the elevator control pivot on certain Burkhart Grob Model G102 Astir CS gliders. Elevator control is not effective if the elevator control pivot bolt is not secured in place. Since this condition is likely to exist or develop on other gliders of the same type design, an airworthiness directive is being issued which requires the installation of a mechanical stop on the elevator control mechanism on Grob Model G102 Astir CS gliders to prevent the elevator control pivot bolt, part No. 4205.06, from axially shifting from its secured position.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

#### DRAFTING INFORMATION

The principal authors of this document are Mr. P. A. Cormaci, Europe, Africa, and Middle East Region, and Mr. S. Podberesky, Office of the Chief Counsel.

#### ADOPTION OF AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Admin-

istrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

**Burkhart Grob.** Applies to Model G102 Astir CS gliders, Serial Nos. 1001 to 1234 and 1300 to 1315, certificated in all categories.

Compliance is required within the next 25 hours time in service after the effective date of this AD, unless already accomplished.

To reduce the possibility of elevator control failure due to possible loss of an elevator control pivot bolt, modify the elevator control assembly by installing a mechanical stop to the elevator control pivot (bearing) bolt, part No. 4205.06, in accordance with Burkhart Grob Technical Information TM102-4 dated August 16, 1976, or an equivalent, approved by the Chief, Aircraft Certification Staff, FAA Europe, Africa and Middle East Region.

This amendment becomes effective July 5, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

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

Issued in Washington, D.C., on June 8, 1978.

J. A. FERRARESE,  
*Acting Director,*  
*Flight Standards Service.*

[FR Doc. 78-16835 Filed 6-16-78; 8:45 am]

#### [4910-13]

[Docket No. 17970; Amdt. 39-3245]

#### PART 39—AIRWORTHINESS DIRECTIVES

##### British Aerospace (Formerly Hawker Siddeley) Model BH/HS-125 Series 600A and 700A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adds a new airworthiness directive (AD) which requires repetitive inspections for cracks in the support brackets and for failure for the "T" bolt brazing of the weather radar receiver/transmitter mounting tray on certain British Aerospace Model BH/HS-125 series 600A and 700A airplanes. There have been reports of cracks in the support brackets and failure of the "T" bolt brazing which if undetected could result in complete failure of the restraint provisions for the radar unit, possible destruction of electrical units, and electrical fire.

**EFFECTIVE DATE:** July 5, 1978. Compliance schedule as prescribed in body of AD.

**ADDRESSES:** The applicable service bulletin may be obtained from: British Aerospace Inc., U.S.A. Spares Department, 13850 McLearen Road, Herndon, Va. 22070. A copy of the service bulletin is contained in the rules docket for this amendment in Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

**FOR FURTHER INFORMATION CONTACT:**

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

**SUPPLEMENTARY INFORMATION:** There have been reports of cracks in the support brackets and failure of the "T" bolt brazing which are a part of the restraint provisions for the weather radar receiver/transmitter installed in certain British Aerospace Model BH/HS-125 series 600A and 700A airplanes. This could result in a failure of the restraint provisions. Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is being issued to require repetitive inspections of the restraint provisions for the radar unit mounted in certain British Aerospace Model BH/HS-125 series 600A and 700A airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

**DRAFTING INFORMATION**

The principal authors of this amendment are F. J. Karnowski, Europe, Africa, and Middle East Region and S. Poderesky, Office of the Chief Counsel.

**ADOPTION OF THE AMENDMENT**

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

**BRITISH AEROSPACE.** Applies to Hawker Siddeley Model BH/HS-125 Series 600A and 700A airplanes, certificated in all categories, that have either the RCA AVQ21 or Primus 40 weather radar systems installed.

Compliance required as indicated.

To prevent failure of the restraint provisions for the weather radar receiver/transmitter, accomplish the following:

(a) Within 10 hours time in service after the effective date of this AD, unless already

accomplished within the last 40 hours time in service, and thereafter at intervals not to exceed 50 hours time in service from the last inspection, inspect the support brackets for cracks and "T" bolts for failure of the brazing in accordance with section 2, "Accomplishment Instructions" of British Aerospace Alert Service Bulletin 34-A134, dated April 1, 1978, or an FAA approved equivalent.

(b) If a crack in a support bracket or a failure of the brazing of the "T" bolt is found during an inspection required by paragraph (a) of this AD, before further flight, except that the airplane may be flown in accordance with FAR 21.197 and 21.199 to a base where the replacement can be accomplished, replace the mounting tray with a serviceable part of the same part number, or repair the existing mounting tray in accordance with an FAA approved repair scheme and continue to inspect in accordance with paragraph (a) of this AD, or replace the mounting tray in accordance with paragraph (c) of this AD.

(c) The inspections required by this AD may be discontinued upon replacement of the mounting tray with an improved standard tray, P/N 1719353-501 (Rev. E), in accordance with British Aerospace Modification 258171 or an FAA approved equivalent.

This amendment becomes effective July 5, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

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

Issued in Washington, D.C., on June 8, 1978.

J. A. FERRARESE,  
Acting Director,  
Flight Standards Service.

[FR Doc. 78-16836 Filed 6-16-78; 8:45 am]

**[4910-13]**

[Docket No. 78-EA-25; Amdt. 39-3239]

**PART 39—AIRWORTHINESS DIRECTIVES**

**AVCO Lycoming**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment (AD) adopts a new airworthiness directive applicable to AVCO Lycoming type aircraft engines and requires inspection and alteration of the oil pump body and replacement of the impeller so as to prevent oil pump failure. Such failures which have been reported result from impeller cavitation and close clearances of oil pump body to impeller.

**EFFECTIVE DATE:** June 20, 1978. Compliance is required within the next 10 hours in service.

**ADDRESSES:** AVCO Lycoming Service Bulletins may be obtained from the manufacturer at AVCO Lycoming Division, Williamsport, Pa. 17701.

**FOR FURTHER INFORMATION CONTACT:**

E. Manzi, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430; tel. 212-995-2894.

**SUPPLEMENTARY INFORMATION:** There have been reports of failures of the oil pump impellers resulting from cavitation and close tolerances. Since this is a condition likely to exist or develop in other engines of similar type design, an AD is being issued which will require inspection and alteration of the oil pump body and replacement of the driving impeller. This information was published by transmittal of an air mail letter to all known owners and operators of the subject engines under date of March 31, 1978.

Since a situation still exists that requires the immediate adoption of this amendment, it is found that notice and public procedure are impractical and good cause exists for making the amendment effective in less than 30 days.

**DRAFTING INFORMATION**

The principal authors of this document are E. Manzi, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

**ADOPTION OF THE AMENDMENT**

Accordingly, and pursuant to the authority delegated to me by the Administrator, section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive as follows:

**AVCO Lycoming Applies to O-320-H series engines Serial Numbers L-101-76 through L-3829-76, L-3831-76, L-3843-76 through L-3859-76, L-3864-76, L-3866-76, L-3871-76, L-3902-76 through L-3907-76 and all O-320-H series engines overhauled (Remanufactured by Lycoming) before March 24, 1978.**

Compliance required within the next 10 hours in service, unless already accomplished.

a. To prevent oil pump failures, remove, inspect and alter the oil pump body and replace the oil pump driving impeller with driving impeller P/N LW-15998 and the oil pump driven impeller with driven impeller P/N LW-15999 in accordance with AVCO Lycoming Service Bulletin No. 423 dated March 24, 1978, or FAA approved equivalent.

b. Equivalent methods of compliance must be approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

**Effective Date:** This amendment is effective June 20, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

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

Issued in Jamaica, N.Y., on June 6, 1978.

R. J. VAN VUREN,  
Acting Director, Eastern Region.

[FR Doc. 78-16841 Filed 6-16-78; 8:45 am] §

#### [4910-13]

[Docket No. 78-EA-24; Amdt. 39-3238]

### PART 39—AIRWORTHINESS DIRECTIVES

#### AVCO Lycoming

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment (AD) adopts a new airworthiness directive applicable to AVCO Lycoming 0-320-H type aircraft engines. It requires replacement of the crankshaft assembly to prevent crankshaft gear failure. Failure can result from the gear having been overstressed when removed and reinstalled during initial assembly.

EFFECTIVE DATE: June 20, 1978. Compliance is required before further flight.

ADDRESSES: AVCO Lycoming Service Bulletins may be obtained from the manufacturer at AVCO Lycoming Division, Williamsport, Pa. 17701.

FOR FURTHER INFORMATION CONTACT:

E. Manzi, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430; tel. 212-995-2804.

SUPPLEMENTARY INFORMATION: There have been reports of crankshaft gear failures where there has been a record of the crankshaft assembly having been removed and reinstalled during initial assembly. This condition is likely to exist or develop in similarly designed aircraft engines. This information was originally published by transmittal via airmail letter to all known owners of the subject engines and was effective as to the recipients of those letters upon receipt. Since the situation still exists, this amendment (AD) is being issued to require removal and replacement of the crankshaft assembly.

Since a situation exists that requires immediate adoption of this amendment, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

#### DRAFTING INFORMATION

The principal authors of this document are E. Manzi, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

#### ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive as follows:

AVCO LYCOMING. Applies to 0-320-H series engines with the following serial numbers, unless already accomplished.

L-103-76, L-104-76, L-272-76, L-283-76, L-288-76, L-290-76, L-336-76, L-337-76, L-341-76, L-404-76, L-431-76, L-468-76, L-469-76, L-471-76, L-494-76, L-548-76, L-589-76, L-590-76, L-592-76, L-650-76, L-684-76, L-689-76, L-698-76, L-736-76, L-737-76, L-738-76, L-743-76, L-754-76, L-763-76, L-768-76, L-769-76, L-772-76, L-774-76, L-777-76, L-778-76, L-802-76, L-824-76, L-834-76, L-846-76, L-903-76, L-904-76, L-929-76, L-940-76, L-945-76, L-948-76, L-949-76, L-1054-76, L-1115-76, L-1119-76, L-1122-76 through L-1129-76, L-1131-76 through L-1134-76, L-1144-76, L-1156-76, L-1181-76, L-1186-76, L-1191-76, L-1200-76, L-1205-76, L-1207-76, L-1237-76, L-1255-76, L-1304-76, L-1305-76, L-1352-76, L-1354-76, L-1374-76, L-1375-76, L-1379-76, L-1460-76, L-1478-76, L-1489-76, L-1492-76, L-1513-76, L-1568-76, L-1577-76, L-1626-76, L-1630-76, L-1639-76, L-1644-76, L-1657-76, L-1658-76, L-1665-76, L-1668-76, L-1678-76, L-1679-76, L-1687-76, L-1693-76, L-1694-76, L-1697-76, L-1795-76, L-1796-76, L-1824-76, L-1825-76, L-1826-76, L-1870-76, L-1885-76, L-1934-76, L-2002-76, L-2007-76, L-2016-76, L-2025-76 through L-2032-76, L-2041-76, L-2047-76, L-2065-76 through L-2068-76, L-2071-76 through L-2077-76, L-2148-76, L-2157-76, L-2159-76 through L-2163-76, L-2165-76, L-2187-76, L-2168-76, L-2171-76, L-2174-76 through L-2182-76, L-2189-76, L-2190-76, L-2191-76, L-2192-76, L-2198-76, L-2260-76, L-2293-76, L-2294-76, L-2308-76, L-2338-76, L-2339-76, L-2340-76, L-2343-76, L-2344-76, L-2350-76, L-2365-76, L-2556-76, L-2596-76, L-2635-76, L-2636-76, L-2637-76, L-2644-76, L-2666-76, L-2697-76, L-2728-76, L-2731-76, L-2758-76, L-2762-76, L-2763-76, L-2774-76, L-2777-76, L-2782-76, L-2784-76, L-2790-76, L-2816-76, L-2832-76, L-2842-76, L-2843-76, L-2845-76, L-2857-76, L-2914-76, L-2922-76, L-2924-76, L-2930-76, L-2932-76 through L-2938-76, L-2942-76, L-2947-76, L-2948-76, L-2962-76, L-2963-76, L-2966-76, L-2975-76, L-2980-76, L-2985-76, L-2987-76, L-2988-76, L-2989-76, L-2992-76, L-3004-76, L-3010-76, L-3016-76, L-3034-76, L-3035-76, L-3041-76, L-3047-76, L-3063-76, L-3067-76, L-3068-76, L-3155-76, L-3170-76, L-3172-76, L-3240-76, L-3262-76, L-3288-

76, L-3289-76, L-3291-76, L-3292-76, L-3293-76, L-3295-76, L-3296-76, L-3308-76, L-3313-76, L-3319-76, L-3384-76, L-3395-76 through L-3400-76, L-3403-76, L-3404-76, L-3406-76, L-3412-76, L-3413-76, L-3414-76, L-3428-76, L-3467-76, L-3551-76, L-4311-76, RL-114-76, RL-124-76, RL-133-76, RL-162-76, RL-176-76, RL-186-76, RL-205-76, RL-249-76, RL-254-76, RL-328-76, RL-332-76, RL-351-76, RL-367-76, RL-384-76, RL-408-76, RL-416-76, RL-418-76, RL-419-76, RL-435-76, RL-442-76, RL-443-76, RL-477-76, RL-510-76, RL-543-76, RL-550-76, RL-612-76, RL-652-76, RL-673-76, RL-695-76, RL-832-76, RL-1022-76, RL-1082-76, RL-1173-76, RL-1218-76, RL-2141-76.

Compliance required before further flight except that the aircraft may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(a) To prevent possible crankshaft gear failure, remove and replace the crankshaft assembly and install crankshaft assembly P/N LW-15917 in accordance with AVCO Lycoming Service Bulletin No. 422, dated March 24, 1978, or FAA-approved equipment.

(b) Equivalent methods of compliance must be approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

Effective Date: This amendment is effective June 20, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

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

Issued in Jamaica, N.Y., on June 6, 1978.

R. J. VAN VUREN,  
Acting Director, Eastern Region.

[FR Doc. 78-16890 Filed 6-16-78; 8:45 am]

#### [4910-13]

[Airspace Docket No. 78-EA-32]

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

#### Alteration of Control Zone and Transition Area: Islip, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Islip, N.Y., Control Zone and Transition Area by changing the reference of Islip Mac Arthur Airport, to Long Island Mac Arthur Airport.

EFFECTIVE DATE: 0901 G.m.t. June 8, 1978.

## FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430, Telephone 212-995-3391.

**SUPPLEMENTARY INFORMATION:** The purpose of this amendment to Subparts F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the subject control zone and transition area. The rule resulted from a change in the name of the referenced airport. The change in name is editorial and will impose no additional burden on any person and thus notice or public procedure hereon are unnecessary, and good cause exists for making the amendment effective in less than 30 days.

**DRAFTING INFORMATION**

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

**ADOPTION OF THE AMENDMENT**

Accordingly, pursuant to the authority delegated to me by the Administrator, Subparts F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. June 8, 1978, as follows:

1. Amend Section 71.171 of part 71 of the Federal Aviation Regulations by amending the description of the Islip, N.Y. control zone by deleting, "Islip-MacArthur Airport" and by inserting, "Long Island Mac Arthur Airport" in lieu thereof.

2. Amend Section 71.181 of Part 71 of the Federal Aviation Regulations by amending the description of the Islip, N.Y. 700-foot floor transition area by deleting, "Islip-MacArthur Airport" wherever it appears and by inserting "Long Island Mac Arthur Airport" in lieu thereof.  
(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

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

Issued in Jamaica, N.Y., on May 22, 1978.

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

[FR Doc. 78-16839 Filed 6-16-78; 8:45 am]

[6355-01]

**Title 16—Commercial Practices****CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION****SUBCHAPTER B—CONSUMER PRODUCT SAFETY COMMISSION REGULATIONS****PART 1301—BAN OF UNSTABLE REFUSE BINS****Denial of Petition and Advice on Enforcement**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Denial of petition and statement of enforcement policy.

**SUMMARY:** In this notice, the Commission denies a petition to extend, for 180 days, the effective date of its rule banning certain unstable refuse bins. The petitioner's main concern is that adverse winter weather delayed the modification of refuse bins necessary to make them comply with the rule. In noting the adverse effects of the winter on retrofitting schedules, the Commission advises that for a period of 60 days after the effective date of the rule, June 13, 1978, the Commission's compliance effort will be devoted to locating noncomplying refuse bins and informing owners about the rule in order to help insure that these bins are quickly retrofitted. However, no actions as to violations found during this period will be brought. This effectively permits an additional two-month period for retrofitting to compensate for time lost due to severe winter weather.

**EFFECTIVE DATES:** June 13, 1978. However, for 60 days after June 13, 1978, through August 14, 1978, the Commission will bring no enforcement action under this rule.

**FOR FURTHER INFORMATION CONTACT:**

Paul Galvydis, Compliance and Enforcement, Division of Regulatory Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6400.

**SUPPLEMENTARY INFORMATION:** *Background.* On June 13, 1977, the Commission issued a consumer product safety rule (42 FR 30296) declaring that certain unstable refuse bins are banned hazardous products. The Commission determined that such bins are subject to tip over and that they have been associated with death or injury to consumers, particularly to children.

On April 21, 1978, the Commission received a petition, CP 78-13, from Mr. Philip P. Nowers of the National Solid Wastes Management Association (NSWMA) to extend the effective date of the ban for 180 days, from June 13,

1978 to December 13, 1978. The reasons given for this request were: (1) industry questions on the interpretation of the rule's banning criteria which, the petitioner thought, might involve a longer period for retrofitting than is permitted by the present effective date of June 13, 1978; and, (2) delay and disruption of retrofitting caused by severe winter weather.

*Banning criteria.* The NSWMA petition questioned whether refuse bins are required to be built so as to "pass the stability test from sides other than the front, sloped side". If this were so, NSWMA believes that considerable additional work would be needed to retrofit unstable refuse bins and a major revision in retrofit schedules would be required.

Section 1301.7 of the banning rule provides that horizontal and vertical forces shall be applied separately "at a point and in a direction most likely to cause tipping". Section 1301.6 also states that "[f]or purposes of enforcement, bins will be tested by the Commission in that position which *most adversely affects their stability*" (emphasis added).

Thus, for purposes of enforcement, if a refuse bin has a slant-side configuration, the test forces would be applied to the slanted portion of the bin since the center of gravity is offset due to such a design. This means that the slanted (sloped) side of such a bin would be the side tested for enforcement purposes since the slanted side would "most adversely affect" the bin's stability. However, if a refuse bin has another configuration (for example, a bin with equally slanted front and rear sides), both the front and rear sides would be tested for stability.

As the petition states, the Commission is not aware of any injuries from rearward or sideward tip over associated with refuse bins that have one slant-side in the front. Further, the Commission's present field testing procedure calls for enforcement tests to be conducted on the slanted side of a slant-sided refuse bin. Of course, should future injuries reveal a pattern of rearward or sideward tip over of refuse bins having slanted sides in the front, or tip over of refuse bins of other configurations, the field test procedure would be reconsidered by the Commission's Compliance and Enforcement Directorate.

Accordingly, since it is not now necessary to retrofit any sides of a slant-sided refuse bin other than the slanted side(s), the Commission concludes that an extension of the effective date is not necessary for the purpose of meeting the banning criteria in the rule on unstable refuse bins.

*Winter weather.* The Commission recognizes that harsh winter weather in parts of the country may have delayed schedules for retrofitting refuse

bins. Therefore, the Commission believes that a period to make up for this lost retrofitting time would result in more effective compliance with the ban. The Commission is aware that extra time for retrofitting could help avert a health hazard that could exist during the hot summer months if sufficient numbers of refuse bins are not available to the public. This could happen if unstable refuse bins are not retrofitted in time for the June 13, 1978, effective date and are consequently withdrawn from use as would be required by the banning rule. Further, an extra time period for retrofitting would allow time to advise those who may yet be unaware of their responsibilities under the rule, such as very small or recently-formed trash collection businesses.

However, there are factors which indicate that the effective date of June 13, 1978, should be either retained or adhered to as closely as possible. For example, a review of injury information shows that since 1971, 49 deaths or serious injuries have been associated with unstable refuse bins; a substantial number of these deaths occurred during the month of August. This suggests that the ban should be in place in August. The Commission notes too that agreements with state and local agencies to locate unstable refuse bins are scheduled to begin on June 13, 1978, and it would be difficult to delay these agreements.

In considering these matters, the Commission concludes that the petition to extend the effective date of the ban for 180 days from June 13, 1978, to December 13, 1978, should be denied. The Commission also concludes that a 60-day period to make up for retrofitting time lost because of severe winter weather will help assure compliance. Therefore, although the effective date of the rule remains June 13, 1978, the Commission takes this opportunity to advise the public of its enforcement policy for the rule on unstable refuse bins.

On June 13, 1978, State and local agencies will begin to assist the Commission's enforcement effort by helping to locate banned refuse bins. Also at this time, Commission staff will continue to attempt to seek out very small or recently-formed trash collection firms to advise them of their compliance responsibilities under the rule. For 60 days after June 13, 1978, through August 14, 1978, the Commission will bring no enforcement actions under this rule.

The Commission also advises that on August 15, 1978, enforcement will be

vigorously begun for all products subject to the rule, including those located during the 60-day surveillance/education period between June 13, 1978, and August 15, 1978, that have not been retrofitted by the end of this period. Those affected should be aware that the Consumer Product Safety Act provides for the assessment of a civil penalty of up to \$2,000 for each knowing violation of a consumer product safety rule, as well as for criminal penalties.

Accordingly, pursuant to section 10 of the Consumer Product Safety Act (15 U.S.C. 2059), the petition of NSWMA to amend the rule declaring that certain unstable refuse bins are banned hazardous products, by extending the effective date of the rule, is denied.

Dated: June 13, 1978.

SHELDON D. BUTTS,  
Assistant Secretary, Consumer  
Product Safety Commission.

[FR Doc. 78-16857 Filed 6-16-78; 8:45 am]

#### [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-4221]

#### PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

#### Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410,

202-755-5581 or toll-free line 800-424-8872.

#### SUPPLEMENTARY INFORMATION:

The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since publication of a flood insurance map. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Hazard area identified	Date <sup>1</sup>
California	El Dorado	South Lake Tahoe, city of	065060-B	Jan. 28, 1972, emergency, July 3, 1978, regular, July 3, 1978, suspended.	July 19, 1974 Oct. 10, 1975	July 3, 1978.
Colorado	Mesa	Unincorporated areas	080115-A	July 26, 1973, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Oct. 18, 1974	Do.
Do	El Paso	Palmer Lake, town of	080065-B	Aug. 16, 1973, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Nov. 16, 1973 Nov. 19, 1976	Do.
Do	Las Animas	Trinidad, city of	080107-A	Oct. 15, 1971, emergency, July 3, 1978, regular, July 3, 1978, suspended.	June 28, 1974	Do.
Connecticut	New Haven	North Branford, town of	090085-B	Oct. 20, 1972, emergency, July 3, 1978, regular, July 3, 1978, suspended.	June 21, 1974 Nov. 5, 1976	Do.
Do	Middlesex	Old Saybrook, town of	090069-A	Mar. 31, 1972, emergency, July 3, 1978, regular, July 3, 1978, suspended.	July 26, 1974	Do.
Do	do	Portland, town of	09130-B	Oct. 31, 1973, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Mar. 15, 1974	Do.
Do	New Haven	Seymour, town of	09088-B	Dec. 18, 1974, emergency, July 3, 1978, regular, July 3, 1978, suspended.	July 26, 1974 Jan. 7, 1977	Do.
Do	Litchfield	Torrington, city of	095081-A	June 30, 1970, emergency, May 19, 1972, regular, July 3, 1978, suspended.	July 1, 1970	Do.
Do	Hartford	West Hartford, town of	090092	June 19, 1970, emergency, Sept. 24, 1971, regular, July 3, 1978, suspended.	Sept. 25, 1971	Do.
Florida	Broward	Hacienda, village of	120038-A	July 25, 1975, emergency, June 1, 1978, regular, July 3, 1978, suspended.	Sept. 6, 1974	Do.
Illinois	St. Clair	Fairview Heights, city of	170895-A	Jan. 14, 1975, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Apr. 2, 1976	Do.
Iowa	Dubuque	Dubuque, city of	195180-A	May 15, 1970, emergency, Apr. 2, 1971, regular, July 3, 1978, suspended.	May 15, 1970	Do.
Louisiana	Iberia	Unincorporated areas	220078-B	Apr. 27, 1973, emergency, July 3, 1978, regular, July 3, 1978, suspended.	June 28, 1977	Do.
Do	St. Landry	Melville, town of	220172-B	May 31, 1973, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Apr. 12, 1974 Jan. 23, 1976	Do.
Do	St. Mary	Patterson, town of	220197-A	Apr. 16, 1973, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Aug. 6, 1976	Do.
Maine	Penobscot	Eddington, town of	230382-B	Feb. 9, 1976, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Jan. 24, 1975 Sept. 17, 1976	Do.
Do	do	Orono, town of	230113-B	Apr. 3, 1975, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Dec. 13, 1974 Oct. 15, 1976	Do.
Massachusetts	Middlesex	Bedford, town of	255209-A	Apr. 2, 1971, emergency, Sept. 7, 1973, regular, July 3, 1978, suspended.	Sept. 7, 1973	Do.
Do	Plymouth	Duxbury, town of	250263-A	Sept. 29, 1972, emergency, May 2, 1977, regular, July 3, 1978, suspended.	Aug. 30, 1974	Do.
Do	Bristol	Fairhaven, town of	250054-A	Oct. 8, 1971, emergency, Mar. 16, 1976, regular, July 3, 1978, suspended.	May 31, 1974	Do.
Do	Hampshire	Hadley, town of	250163-B	Feb. 11, 1972, emergency, June 1, 1978, regular, July 3, 1978, suspended.	Dec. 20, 1974 Oct. 29, 1976	Do.
Do	Norfolk	Holbrook, town of	255212-A	July 31, 1970, emergency, Apr. 28, 1972, regular, July 3, 1978, suspended.	Apr. 28, 1972	Do.
Do	Plymouth	Marion, town of	255213-A	Oct. 8, 1971, emergency, Apr. 6, 1973, regular, July 3, 1978, suspended.	Apr. 6, 1973	Do.
Do	do	Mattapoisett, town of	255214-A	June 18, 1971, emergency, Mar. 16, 1973, regular, July 3, 1978, suspended.	Mar. 16, 1973	Do.
Do	Essex	Nahant, town of	250095-A	Sept. 22, 1972, emergency, July 19, 1976, regular, July 3, 1978, suspended.	June 7, 1974	Do.
Do	Bristol	New Bedford, city of	255216-A	Feb. 25, 1972, emergency, July 6, 1973, regular, July 3, 1978, suspended.	July 6, 1973	Do.
Do	Norfolk	Norfolk, town of	255217-A	July 10, 1970, emergency, Aug. 20, 1971, regular, July 3, 1978, suspended.	Aug. 7, 1970	Do.
Do	do	Quincy, city of	255219-A	June 19, 1970, emergency, Sept. 21, 1973, regular, July 3, 1978, suspended.	Sept. 21, 1973	Do.

## RULES AND REGULATIONS

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date
Do	Bristol	Somerset, town of	255220-A	Nov. 13, 1970, emergency, Mar. 17, 1972, regular, July 3, 1978, suspended.	Mar. 18, 1972	Do.
Do	do	Swansea, town of	255221-A	June 12, 1970, emergency, Aug. 6, 1971, regular, July 3, 1978, suspended.	June 20, 1970	Do.
Do	Plymouth	Wareham, town of	255223-A	July 10, 1970, emergency, May 28, 1971, regular, July 3, 1978, suspended.	May 27, 1971	Do.
Do	Norfolk	Westwood, town of	255225-A	Jan. 14, 1972, emergency, Nov. 2, 1973, regular, July 3, 1978, suspended.	Nov. 2, 1973	Do.
Do	Suffolk	Winthrop, town of	250389-A	Nov. 3, 1972, emergency, Oct. 8, 1976, regular, July 3, 1978, suspended.	June 28, 1974	Do.
Michigan	Macomb	Chesterfield, township of	260120-B	Nov. 24, 1972, emergency, July 3, 1978, regular, July 3, 1978, suspended.	June 28, 1974 July 16, 1976	Do.
Do	St. Clair	East China, township of	260197-B	Feb. 9, 1973, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Apr. 12, 1974	Do.
Mississippi	Carroll	Unincorporated areas	280191-B	Jan. 28, 1974, emergency, July 3, 1978, regular, July 3, 1978, suspended.	July 3, 1978	Do.
Do	Humphreys	Isola, town of	280190-B	Jan. 14, 1974, emergency, July 3, 1978, regular, July 3, 1978, suspended.	July 3, 1978	Do.
Missouri	St. Louis	Olivette, city of	290374-B	Feb. 19, 1974, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Feb. 22, 1974 Oct. 22, 1976	Do.
New Hampshire	Merrimack	Epsom, town of	330112-B	Nov. 11, 1976, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Mar. 15, 1974	Do.
Do	Grafton	Hanover, town of	330056-B	Aug. 6, 1973, emergency, July 3, 1978, regular, July 3, 1978, suspended.	May 31, 1974 Oct. 29, 1976	Do.
Do	Coos	Lancaster, town of	335277-A	Nov. 12, 1971, emergency, Apr. 13, 1973, regular, July 3, 1978, suspended.	Apr. 13, 1973	Do.
New Jersey	Union	Summit, city of	340476-A	Nov. 24, 1972, emergency, Feb. 2, 1977, regular, July 3, 1978, suspended.	Mar. 16, 1973	Do.
Do	Passaic	Wayne, township of	345327-A	July 10, 1970, emergency, Feb. 16, 1972, regular, July 3, 1978, suspended.	Feb. 20, 1973	Do.
New York	Washington	Fort Edward, village of	361536-B	Mar. 15, 1974, emergency, June 15, 1978, regular, July 3, 1978, suspended.	Apr. 12, 1974 July 9, 1976	Do.
Do	Herkimer	Herkimer, village of	360307-B	Feb. 12, 1974, emergency, June 1, 1978, regular, July 3, 1978, suspended.	May 10, 1974 May 28, 1976	Do.
Do	Orange	Port Jervis, city of	360976-B	Dec. 26, 1973, emergency, June 1, 1978, regular, July 3, 1978, suspended.	June 28, 1974 Nov. 19, 1976	Do.
Do	Ontario	West Bloomfield, town of	360607-B	Apr. 19, 1973, emergency, June 1, 1978, regular, July 3, 1978, suspended.	May 10, 1974 July 16, 1976	Do.
North Carolina	Rowan	East Spencer, town of	370211-B	Mar. 31, 1975, emergency, July 3, 1978, regular, July 3, 1978, suspended.	June 7, 1974 July 9, 1976	Do.
Do	Macon	Franklin, town of	375350-A	Sept. 18, 1970, emergency, Feb. 23, 1971, regular, July 3, 1978, suspended.	Feb. 23, 1971	Do.
Do	Wake	Garner, town of	370240-B	Nov. 29, 1974, emergency, July 3, 1978, regular, July 3, 1978, suspended.	July 19, 1974 Dec. 26, 1975	Do.
Do	Pitt	Greenville, city of	370191-A	Jan. 15, 1974, emergency, July 3, 1978, regular, July 3, 1978, suspended.	June 14, 1974	Do.
Do	Wake	Zebulon, town of	370246-B	Aug. 7, 1974, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Mar. 8, 1974 Aug. 20, 1976	Do.
Oregon	Clatsop	Unincorporated areas	410027-A	Feb. 7, 1974, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Dec. 20, 1974	Do.
Pennsylvania	LeHigh and Northampton	Bethlehem, city of	420718-B	Sept. 1, 1972, emergency, July 3, 1978, regular, July 3, 1978, suspended.	June 15, 1974 Sept. 19, 1975	Do.
Do	Monthomery	Upper Providence, township of	420709-A	Jan. 21, 1972, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Jan. 9, 1974	Do.
Rhode Island	Bristol	Barrington, town of	445392-B	May 15, 1970, emergency, Apr. 16, 1971, regular, July 3, 1978, suspended.	May 15, 1970	Do.
Do	do	Bristol, town of Bristol	445393-B	Oct. 30, 1970, emergency, Dec. 1, 1972, regular, July 3, 1978, suspended.	Dec. 2, 1972	Do.
Do	Providence	Central Falls, city of	445394-A	Nov. 6, 1970, emergency, May 28, 1971, regular, July 3, 1978, suspended.	May 27, 1971	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Hazard area identified	Date <sup>1</sup>
Do	Washington	Charlestown, town of	445395-A	Oct. 30, 1970, emergency, June 23, 1972, regular, July 3, 1978, suspended.	July 13, 1972	Do.
Do	Providence	Cranston, city of	445396-A	Sept. 11, 1970, emergency, Aug. 27, 1971, regular, July 3, 1978, suspended.	Sept. 11, 1970	Do.
Do	Kent	East Greenwich, town of	445397-A	July 16, 1971, emergency, Feb. 9, 1973, regular, July 3, 1978, suspended.	Feb. 8, 1973	Do.
Do	Providence	East Providence, city of	445398-A	June 5, 1970, emergency, May 18, 1973, regular, July 3, 1978, suspended.	June 5, 1970 May 18, 1973	Do.
Do	Newport	Jamestown, town of	445399-A	Nov. 20, 1970, emergency, Apr. 21, 1972, regular, July 3, 1978, suspended.	Apr. 20, 1972	Do.
Do	Providence	Lincoln, town of	445400-A	May 5, 1972, emergency, Nov. 30, 1973, regular, July 3, 1978, suspended.	Nov. 30, 1973	Do.
Do	Newport	Middletown, town of	445401-B	Sept. 11, 1970, emergency, Apr. 9, 1971, regular, July 3, 1978, suspended.	Apr. 9, 1971	Do.
Do	Washington	Narragansett, town of	445402-B	Sept. 18, 1970, emergency, Dec. 3, 1971, regular, July 3, 1978, suspended.	Sept. 18, 1970 Dec. 3, 1976	Do.
Do	Newport	Newport, city of	445903-B	June 19, 1970, emergency, Dec. 4, 1970, regular, July 3, 1978, suspended.	June 17, 1970	Do.
Do	Providence	Pawtucket, city of	440022-B	Jan. 15, 1971, emergency, July 16, 1971, regular, July 3, 1978, suspended.	July 16, 1971	Do.
Do	Newport	Portsmouth, town of	445405-B	July 30, 1971, emergency, Aug. 24, 1973, regular, July 3, 1978, suspended.	Aug. 24, 1973	Do.
Do	Providence	Providence, city of	445406-D	Sept. 11, 1970, emergency, Dec. 11, 1970, regular, July 3, 1978, suspended.	Dec. 15, 1970 Nov. 28, 1975	Do.
Do	Washington	South Kingston, town of	445407-B	Sept. 11, 1970, emergency, June 23, 1972, regular, July 3, 1978, suspended.	July 13, 1972	Do.
Do	Bristol	Warren, town of	445408-A	Sept. 11, 1970, emergency, July 28, 1972, regular, July 3, 1978, suspended.	July 28, 1978	Do.
Do	Kent	Warwick, city of	445409-B	June 19, 1970, emergency, Apr. 6, 1973, regular, July 3, 1978, suspended.	Apr. 6, 1973	Do.
Do	Washington	Westerly, town of	445410-A	Aug. 14, 1970, emergency, July 28, 1972, regular, July 3, 1978, suspended.	July 28, 1972	Do.
South Carolina	Horry	Grand Strand flood district	450107-A	Aug. 11, 1972, emergency, July 3, 1978, regular, July 3, 1978, suspended.	July 3, 1978	Do.
Vermont	Grand Isle	South Hero, town of	500226-B	July 10, 1975, emergency, June 15, 1978, regular, July 3, 1978, suspended.	Oct. 18, 1974 Aug. 27, 1976	Do.
Do	Bennington	Stamford, town of	500020-B	June 10, 1975, emergency, July 3, 1978, regular, July 3, 1978, suspended.	May 31, 1974 Dec. 3, 1976	Do.
Wisconsin	Crawford	Gays Mill, village of	550071-B	Apr. 12, 1973, emergency, June 15, 1978, regular, July 3, 1978, suspended.	Oct. 5, 1973 Apr. 23, 1976	Do.
North Carolina	Wake	Wake Forest, town of	370244-B	Mar. 15, 1974, emergency, July 3, 1978, regular, July 3, 1978, suspended.	Mar. 15, 1974 Aug. 27, 1976	Do.

<sup>1</sup>Certain Federal assistance no longer available in special flood hazard areas.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: June 8, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16693 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-42201]

**PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE**

**Suspension of Community Eligibility**

AGENCY: Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

**EFFECTIVE DATE:** The third date ("Susp.") listed in the fourth column.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-

## RULES AND REGULATIONS

755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities

listed in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of

buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since publication of a flood insurance map. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date <sup>1</sup>
Alabama	Mobile	Bayou La Batre, city of	015001-A	July 30, 1971, emergency, Mar. 17, 1972, regular, June 15, 1978, suspended.	Mar. 18, 1972	June 15, 1978
Colorado	Arapahoe	Aurora, city of	080002-A	Aug. 20, 1971, emergency, June 1, 1978, regular, June 15, 1978, suspended.	July 26, 1974	Do.
Do	Routt	Hayden, town of	080151-B	Oct. 10, 1973, emergency, June 1, 1978, regular, June 15, 1978, suspended.	June 28, 1974 May 21, 1976	Do.
Do	Adams	Thornton, city of	080007-B	July 31, 1975, emergency, June 15, 1978, regular, June 15, 1978, suspended.	Nov. 1, 1974 Oct. 1, 1976	Do.
Connecticut	Middlesex	Cromwell, town of	090123-B	Nov. 15, 1973, emergency, June 15, 1978, regular, June 15, 1978, suspended.	Mar. 22, 1974 Dec. 10, 1976	Do.
Do	Hartford	Glastonbury, town of	090124-A	Dec. 15, 1972, emergency, June 15, 1978, regular, June 15, 1978, suspended.	Apr. 20, 1973 Nov. 19, 1976	Do.
Delaware	New Castle	Newport, town of	100054-B	May 28, 1974, emergency, June 15, 1978, regular, June 15, 1978, suspended.	Dec. 20, 1974 Dec. 12, 1975	Do.
Florida	Brevard	Unincorporated areas	125092-B	Nov. 13, 1970, emergency, Sept. 22, 1972, regular, June 15, 1978, suspended.	Sept. 27, 1972	Do.
Do	Broward	do	125093-C	Dec. 18, 1970, emergency, Oct. 20, 1972, regular, June 15, 1978, suspended.	Oct. 26, 1972	Do.
Do	Palm Beach	Jupiter Inlet Colony, town of	125120-B	Nov. 5, 1971, emergency, Sept. 27, 1972, regular, June 15, 1978, suspended.	Sept. 27, 1972	Do.
Do	Broward	Lauderhill, city of	120044-B	Oct. 27, 1972, emergency, June 15, 1978, regular, June 15, 1978, suspended.	Feb. 8, 1974 Jan. 30, 1976	Do.
Idaho	Blaine	Ketchum, city of	160023-B	May 9, 1974, emergency, June 15, 1978, regular, June 15, 1978, suspended.	Feb. 15, 1974	Do.
Illinois	Dupage	Carol Stream, village of	170202-B	Sept. 4, 1973, emergency, June 15, 1978, regular, June 15, 1978, suspended.	Apr. 12, 1974 Aug. 27, 1976	Do.
Indiana	Monroe	Bloomington, city of	180169-B	July 28, 1972, emergency, June 15, 1978, regular, June 15, 1978, suspended.	June 21, 1974 June 25, 1976	Do.
Iowa	Pottawattamie	Council Bluffs, city of	190235-B	Apr. 11, 1973, emergency, June 15, 1978, regular, June 15, 1978, suspended.	June 28, 1974 July 23, 1976	Do.
Kentucky	Henderson	Henderson, city of	210109-B	Aug. 7, 1973, emergency, June 15, 1978, regular, June 15, 1978, suspended.	Feb. 15, 1974 July 9, 1976	Do.
Do	Woodford	Unincorporated areas	210230-A	Mar. 30, 1973, emergency, June 1, 1978, regular, June 15, 1978, suspended.	Oct. 18, 1974	Do.
Louisiana	Concordia	Vidalia, town of	220057-B	Apr. 30, 1973, emergency, June 15, 1978, regular, June 15, 1978, suspended.	Jan. 16, 1974 Nov. 14, 1975	Do.
Maine	Penobscott	Bangor, city of	230102-B	Apr. 3, 1975, emergency, June 15, 1978, regular, June 15, 1978, suspended.	Mar. 29, 1974 Oct. 31, 1974	Do.
Maryland	Frederick	Frederick, city of	240030-B	May 24, 1973, emergency, June 15, 1978, regular, June 15, 1978, suspended.	Oct. 18, 1974 Feb. 20, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date <sup>1</sup>
Michigan	Wayne	Ecorse, city of	260223-B	Aug. 1, 1973, emergency, May 1, 1978, regular, June 15, 1978, suspended.	May 3, 1974	Do.
Do	St. Clair	St. Clair, city of	280279-B	June 12, 1973, emergency, June 15, 1978, regular, June 15, 1978, suspended.	June 28, 1974 June 11, 1976	Do.
Do	Tuscola	Wisner, township of	260209-B	May 21, 1973, emergency, May 15, 1978, regular, June 15, 1978, suspended.	June 7, 1974 July 23, 1976	Do.
Minnesota	Hennepin	Plymouth, city of	270179-B	Apr. 15, 1974, emergency, May 15, 1978, regular, June 15, 1978, suspended.	Feb. 8, 1974 Mar. 19, 1976	Do.
Missouri	Stoddard	Advance, city of	290420-B	Aug. 9, 1974, emergency, June 15, 1978, regular, June 15, 1978, suspended.	Mar. 1, 1974 Oct. 31, 1975	Do.
New Jersey	Somerset	Branchburg, township of	340431-B	June 2, 1972, emergency, June 1, 1978, regular, June 15, 1978, suspended.	Apr. 12, 1974 Sept. 3, 1976	Do.
Do	Ocean	Point Pleasant, borough of	345313-A	Jan. 29, 1971, emergency, July 7, 1972, regular, June 15, 1978, suspended.	July 7, 1972	Do.
Do	Morris	Rockaway, borough of	345315-A	Oct. 11, 1970, emergency, Sept. 3, 1971, regular, June 15, 1978, suspended.	Sept. 3, 1971	Do.
Do	Bergen	Rutherford, borough of	340072-B	July 2, 1975, emergency, June 1, 1978, regular, June 15, 1978, suspended.	Mar. 8, 1974 July 30, 1976	Do.
New York	Cattaraugus	Ellicottville, town of	360069-B	May 28, 1975, emergency, May 15, 1978, regular, June 15, 1978, suspended.	May 31, 1974 July 23, 1976	Do.
Do	Broome	Endicott, village of	360045-A	July 5, 1973, emergency, May 15, 1978, regular, June 15, 1978, suspended.	Oct. 1, 1976	Do.
North Carolina	Dare	Nags Head, town of	375356-A	Dec. 17, 1972, emergency, Nov. 10, 1972, regular, June 15, 1978, suspended.	Nov. 10, 1972	Do.
Do	Rowan	Rockwell, town of	370214-B	May 13, 1975, emergency, May 15, 1978, regular, June 15, 1978, suspended.	Mar. 8, 1974	Do.
Oregon	Umatilla	Unincorporated areas	410204	Feb. 4, 1972, emergency, June 15, 1978, regular, June 15, 1978, suspended.	June 15, 1978	Do.
Vermont	Washington	Barre, town of	500273-B	Apr. 15, 1974, emergency, June 15, 1978, regular, June 15, 1978, suspended.	July 26, 1974 June 18, 1976	Do.
Do	Franklin	St. Albans, city of	500058	Dec. 28, 1973, emergency, June 15, 1978, regular, June 15, 1978, suspended.	May 17, 1974 Aug. 13, 1976	Do.
Do	Orleans	Barton, town of	500081-B	Feb. 18, 1972, emergency, Apr. 3, 1978, regular, June 15, 1978, suspended.	Nov. 15, 1974 Aug. 13, 1976	Do.
Do	do	Barton, village of	500082-B	Aug. 16, 1976, emergency, Apr. 3, 1978, regular, June 15, 1978, suspended.	Nov. 8, 1974 Apr. 16, 1976	Do.
Virginia	Smyth	Chilhowie, town of	510085-B	Jan. 15, 1974, emergency, June 15, 1978, regular, June 15, 1978, suspended.	May 10, 1974 Jan. 15, 1976	Do.
Virginia	Rockingham	Elkton, town of	510137-B	Jan. 20, 1975, emergency, June 15, 1978, regular, June 15, 1978, suspended.	June 28, 1974	Do.
Do	Betourt	Unincorporated areas	510018-A	Sept. 6, 1974, emergency, June 15, 1978, regular, June 15, 1978, suspended.	Sept. 6, 1974	Do.
Wisconsin	Buffalo	Fountain City, city of	555555-B	Mar. 26, 1971, emergency, Apr. 21, 1972, regular, June 15, 1978, suspended.	Apr. 20, 1972	Do.
Do	Dane	Monona, city of	550088-B	Mar. 25, 1975, emergency, June 15, 1978, regular, June 15, 1978, suspended.	Nov. 30, 1973 Apr. 16, 1976	Do.
West Virginia	Mason	Point Pleasant, town of	540250-A	Jan. 20, 1975, emergency, May 15, 1978, regular, June 15, 1978, suspended.	Feb. 7, 1975	Do.

<sup>1</sup> Certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: May 31, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16694 Filed 6-16-78; 8:45 am]

## [4210-01]

[Docket No. FI-3236]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW****Final Flood Elevation Determinations for the Town of Fuquay-Varina, Wake County, N.C.**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the town of Fuquay-Varina, 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).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the town of Fuquay-Varina, N.C.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Fuquay-Varina, are available for review at Town Hall, 131 South Fuquay Avenue, Fuquay-Varina, N.C.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Fuquay-Varina, N.C.

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
Terrible Creek.....	N.C. State Rd. 1301* .....	345
	N.C. State Rd. 1401* .....	390
Angler Creek.....	N.C. State Rd. 2770* .....	309
	N.C. State Rd. 2767* .....	340
Kenneth Creek.....	Durham and Southern RR* .....	363
	U.S. 401* .....	291
Bradley Creek.....	N.C. State Rd. 1100* .....	300
	Norfolk and Southern RR .....	344
Rocky Road Branch.....	N.C. State Rd. 1103* .....	362
	N.C. 42* .....	378
Kenneth Branch... ..	U.S. 401* .....	285
	Norfolk and Southern RR .....	345
Neil Creek .....	N.C. 42* .....	374
	N.C. State Rd. 1104* .....	377
Neil Branch.....	Norfolk and Southern RR* .....	381
	Angier Rd. (N.C. State Rd. 2770)* .....	314
Neil Branch.....	Holland Rd. (N.C. State Rd. 2767)* .....	324
	South Fuquay Ave.* .....	338
	East Spring Ave.* .....	344

\*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, 43 FR 7719).)

Issued: May 17, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16625 Filed 6-16-78; 8:45 am]

## [4210-01]

[Docket No. FI-3923]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW****Final Flood Elevation Determinations for the Town of Morrisville, Wake County, N.C.**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the town of Morris-

ville, 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).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the town of Morrisville, N.C.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Morrisville, are available for review at town hall, Morrisville, N.C.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Morrisville, N.C.

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
Crabtree Creek.....	North Carolina State Route 54 .....	289
	Southern Ry.....	290
Crabtree Creek tributary 6. Morrisville tributary.	Confluence with Crabtree Creek .....	283
	North Carolina State Road 1002* .....	293
Morrisville tributary.	North Carolina State Route 54* .....	300
	Southern Ry* .....	304

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hatchet Grove tributary.	Confluence with Crabtree Creek.	295
	Morrisville corporate limits (station 6200)**.	309
Coles Branch .....	Morrisville corporate limits (downstream crossing).	329
	Morrisville corporate limits (upstream crossing).	329

\*Upstream side  
 \*\*Station location is distance upstream from confluence with Crabtree Creek.

(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, 43 FR 7719.)

Issued: May 17, 1978.

GLORIA M. JIMENEZ,  
 Federal Insurance Administrator.

[FR Doc. 78-16626 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3567]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW**

**Final Flood Elevation Determinations for Wake County, N.C.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in 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).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for Wake County, N.C.

ADDRESS: Maps and other information showing the detailed outlines of

the flood-prone areas and the final elevations for Wake County, are available for review at 316 Fayetteville Street Mall, Raleigh, N.C.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:**  
 The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Wake County, N.C.

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
Morris Branch 29*/5**.	North Carolina State Road 1625***.	272
	County line.....	250
Panther Creek 29*/1**.	North Carolina State Road 1625***.	268
	North Carolina State Road 1626***.	251
Unnamed stream 27*/4**.	Apex extraterritorial boundary.	295
Beaver Creek 27*/2**.	North Carolina State Road 1611***.	352
	North Carolina 55*** .....	326
	U.S. 64*** .....	317
	North Carolina State Road 1160***.	298
Terrible Creek 22*/19**.	Dam by North Carolina State Road 404***.	324
	North Carolina State Road 2751***.	266
Basal Creek 22*/16**.	North Carolina 55*** .....	360
	Dam by North Carolina State Road 1393***.	328
Unnamed stream 22*/10**.	North Carolina State Road 1301***.	352
	Dam by N.C. State Road 1301***.	312
Unnamed stream 22*/9**.	North Carolina State Road 1390***.	333
Unnamed stream 22*/8**.	North Carolina State Road 1152***.	373
	North Carolina State Road 1390***.	317

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mills Branch 22*/5**.	Norfolk and Southern RR***.	286
	North Carolina State Road 2724***.	271
Middle Creek 22*/1**.	Lake Wheeler Rd*** .....	265
Lens Branch 20*/22**.	North Carolina State Road. 1385***.	316
Unnamed stream 20*/17**.	Dutchman Downs Rd.***.	381
	North Carolina State Road 1386***.	310
Echo Creek 20*/14**.	Legend Rd.*** .....	261
Yates Branch 20*/13**.	Dam by Lake Wheeler Rd.***.	296
	Southern RR.....	253
Unnamed stream 20*/8**.	North Carolina State Road 2707***.	257
Unnamed stream 20*/7**.	.....do.....	249
Mahlers Creek 20*/6**.	North Carolina State Road 2703***.	229
Swift Creek 20*/1**.	North Carolina State Road 1300***.	320
	Dam by Lake Wheeler Rd.***.	292
	Dam by North Carolina 50***.	241
Unnamed stream 19*/4**.	Southern RR.*** .....	291
Unnamed stream 19*/3**.	Southern RR*** .....	309
	U.S. 70*** .....	295
White Oak Stream 19*/1**.	North Carolina State Road 2555***.	251
Unnamed stream 18*/25**.	Dam*** .....	336
	North Carolina State Rd 1613***.	311
Coles Branch 18*/24**.	Dam*** .....	329
Morrisville tributary 18*/22**.	Morrisville extraterritorial boundary.	289
Turkey Creek 18*/23**.	North Carolina State Road 1615***.	320
Crabtree Creek tributary 6 18*/20**.	Morrisville extraterritorial boundary.	303
Unnamed stream* 18*/16**.	U.S. 70*** .....	353
	North Carolina State Road 1645***.	326
Little Brier Creek 18*/15**.	U.S. 70*** .....	340
	North Carolina State Road 1642***.	314
Brier Creek 18*/14**.	North Carolina State Road 1642***.	312
	I-40*** .....	299
Unnamed stream 18*/13**.	Dam by North Carolina State Road 1640***.	316
	North Carolina State Road 1640***.	292
Stirrup Iron Creek 18*/12**.	I-40*** .....	299
	North Carolina State Road 1002***.	282
Black Creek tributary A 18*/11**.	Cary extraterritorial boundary.	319
Haley Branch 18*/10**.	I-40*** .....	281
Crabtree Creek 18*/9**.	Dam by North Carolina State Road 1615***.	352
	North Carolina State Road 1650***.	276
	Duraleigh Rd.*** .....	249
Unnamed stream 18*/8**.	North Carolina State Road 1637***.	411
	U.S. 70*** .....	376
Sycamore Creek 18*/6**.	.....do.....	370
Turkey Creek 18*/5**.	.....do.....	347
	Dam*** .....	339

Source of flooding	Location	Elevation in feet, national geodetic vertical datum	Source of flooding	Location	Elevation in feet, national geodetic vertical datum	Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Unnamed stream 18*/4**	U.S. 70***	305	Mingo Creek 12*/2**	Knighdale extraterritorial boundary.	227		North Carolina State Road 1909***	250
Hare Snipe Creek 18*/1**	Leesville Rd	301	Beaverdam Creek 12*/1**	North Carolina State Road 2228***	236	Little Beaverdam Creek 2*/2**	County line	323
Unnamed stream 17*/4**	North Carolina State Road 1830***	361		Dam by North Carolina State Road 2217***	195	Unnamed stream 1*/9**	North Carolina State Road 1901***	262
	North Carolina State Road 1826***	346	Beaverdam Creek 11*/3**	North Carolina State Road 1001***	301	Ledge Creek 1*/1**	County line	257
Lower Barton Creek 17*/1**	North Carolina State Road 1834***	385		North Carolina 39***	230		North Carolina State Road 1900	253
	North Carolina State Road 1847	272	Little Creek 11*/2**	Zebulin extraterritorial boundary.	239			
	North Carolina State Road 1847	236	Unnamed stream 10*/10**	North Carolina 39***	229			
Unnamed stream 16*/5**	Dam***	292		North Carolina 96***	275			
	North Carolina State Road 1846***	284	Unnamed stream 10*/9**	North Carolina State Road 2308	260			
Unnamed stream 16*/2**	North Carolina State Road 1841***	334	Unnamed stream 10*/8**	North Carolina 96***	290			
	North Carolina State Road 1841***	293	Hominy Creek 10*/7**	North Carolina State Road 2329	253			
Upper Barton Creek 16*/1**	North Carolina State Road 1841***	361		(downstream).				
	North Carolina State Road 1841***	288	Unnamed stream 10*/6**	North Carolina State Road 2329	254			
	North Carolina State Road 1841***	240	Unnamed stream 10*/5**	North Carolina State Road 2329	290			
Cedar Creek 15*/34**	North Carolina State Road 2005***	305	Hominy Branch 10*/4**	Wendell extraterritorial boundary.	251			
	North Carolina State Road 2002***	249	Unnamed stream 10*/3**	North Carolina State Road 2350***	231			
Unnamed stream 15*/33**	North Carolina State Road 2005***	306	Unnamed stream 10*/2**	North Carolina State Road 2353***	220			
Unnamed stream 15*/32**	North Carolina State Road 2010***	280	Little River 10*/1**	North Carolina State Road 2333***	255			
Honeycutt Creek 15*/31**	North Carolina State Road 2010***	253		North Carolina State Road 2352***	220			
	North Carolina State Road 2002***	222	Buffalo Creek 9*/1**	Dam by North Carolina State Road 2324***	292			
Perry Creek 15*/27**	North Carolina State Road 2132***	285		North Carolina State Road 1003***	280			
	North Carolina State Road 2006***	208	Powell Creek 8*/7**	North Carolina State Road 2226***	239			
Unnamed stream 15*/25**	North Carolina State Road 2049***	251		Dam by North Carolina State Road 2227***	215			
Unnamed stream 15*/22**	.....do.....	220	Hodges Creek 8*/1**	North Carolina State Road 2228***	222			
Unnamed stream 15*/15**	North Carolina State Road 2548***	214		North Carolina State Road 2049***	198			
Big Branch 15*/14**	.....do.....	264	Toms Creek 7*/1**	North Carolina State Road 2049***	250			
	North Carolina State Road 2542***	185		North Carolina State Road 2044	205			
Walnut Creek 15*/10**	North Carolina State Road 2551***	183	Unnamed stream 6*/9**	North Carolina State Road 2052***	306			
Mango Creek 15*/11**	Knighdale extraterritorial boundary.	226	Reedy Creek 6*/8**	North Carolina State Road 2052***	261			
	Norfolk and Southern RR.***	185	Sanford Creek 6*/7**	North Carolina State Road 2049***	223			
Unnamed stream 15*/9**	North Carolina State Road 2552***	208	Dunn Creek 6*/5**	Wake Forest extraterritorial boundary.	235			
Unnamed stream 15*/8**	North Carolina State Road 2511***	216	Smith Creek 6*/1**	North Carolina State Road 2049***	229			
Unnamed stream 15*/7**	North Carolina State Road 2601***	236		North Carolina State Road 2045	206			
	North Carolina State Road 1007***	199	Richland Creek 5*/1**	Wake Forest extraterritorial boundary.	242			
Neuse River 15*/1**	County line	256		U.S. 1***	232			
	North Carolina 50***	252	Mud Branch 4*/15**	North Carolina State Road 1909***	440			
	North Carolina State Road 2000	213		Dam downstream of North Carolina State Road 1909	342			
	U.S. 64	187	Lowery Creek 4*/10**	North Carolina State Road 1909***	378			
	North Carolina State Road 2509***	172	Water Fork 4*/7**	Lowery Creek confluence.	248			
Marks Creek 14*/1**	North Carolina State Road 2500***	257		North Carolina State Road 1909***	248			
	North Carolina State Road 2501***	221	Horse Creek 4*/1**	North Carolina State Road 1909***	332			
Poplar Creek 13*/1**	Knighdale extraterritorial boundary.	212		North Carolina 98***	236			
	North Carolina State Road 2040	174	Unnamed stream 3*/3**	North Carolina State Road 1918***	247			
Unnamed stream 12*/3**	North Carolina State Road 2228***	258	Newlight Creek 3*/1**	North Carolina State Road 1912***	289			

\*Basin No.  
\*\*Stream No.  
\*\*\*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, 43 FR 7719.)

Issued: May 22, 1978.  
GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 78-16627 Filed 6-16-78; 8:45 am]

[4210-01]  
[Docket No. FI-3994]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW**

**Final Flood Elevation Determinations for the City of Bexley, Franklin County, Ohio**

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 Bexley, Franklin County, Ohio. 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 Bexley, Ohio.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Bexley, are available for review at City Hall, 2242 East Main Street, Bexley, Ohio.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Ad-

ministrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Bexley, Ohio.

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
Alum Creek.....	Penn Central and Baltimore & Ohio RR.	757
	Clifton Ave .....	755
	U.S. Route 40 (Broad St.)	753
	U.S. Route 33 (Main St.)	750
	Livingston Ave .....	748

(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, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16628 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3471]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the City of Canfield, Mahoning County, Ohio**

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 Canfield, Mahoning County, Ohio. 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 Canfield, Mahoning County, Ohio.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Canfield, Mahoning County, Ohio, are available for review at the Canfield City Building, 104 Lisbon Street, Canfield, Ohio.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Canfield, Mahoning County, Ohio.

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, above mean sea level
Sawmill Creek .....	Corporate limits .....	1,050
	Camelot Ct .....	1,065
	Sleepy Hollow Dr .....	1,080
	Garwood Dr .....	1,088

(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 43 FR 7719.)

Issued: May 17, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16629 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-39261]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW**

**Final Flood Elevation Determinations for the Village of Murray City, Hocking County, Ohio**

AGENCY: Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the village of Murray City, Hocking County, Ohio. 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 village of Murray City, Ohio.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of Murray City, are available for review at Village Hall, Murray City, Ohio.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the village of Murray City, Ohio.

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
Snow Fork.....	Long St.....	714
	State Route 78.....	712

(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, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16630 Filed 6-16-78; 8:45 am]

#### [4210-01]

[Docket No. FI-3930]

### PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

#### Final Flood Elevation Determinations for the City of Elgin, Union County, Ore.

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 Elgin, Union County, Ore. 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 Elgin, Ore.

ADDRESSES: Maps and other information showing the detailed outlines

of the flood-prone areas and the final elevations for the city of Elgin, are available for review at City Hall, Elgin, Ore.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Elgin, Ore.

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
Grande Ronde River.	Downstream corporate limits.	2,646
	Highway 82 Bridge.....	2,649
	New Cedar Street Bridge.	2,654
	Upstream corporate limits.	2,658
Phillip's Creek.....	Downstream corporate limits.	2,656
	Highway 82 Bridge.....	2,664
	Union Pacific RR. Bridge.	2,677
	16th Avenue Bridge.....	2,688
	Lumber yard access bridge.	2,730

(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, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16631 Filed 6-16-78; 8:45 am]

#### [4210-01]

[Docket No. FI-3877]

### PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

#### Final Flood Elevation Determination for the Township of Allegheny, Westmoreland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Allegheny, Westmoreland County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Allegheny, Westmoreland County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Allegheny, Westmoreland County, Pa., are available for review at the Kiski Park Plaza, R.F.D. No. 3, Leechburg, Pa.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the township of Allegheny, Westmoreland County, Pa.

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, above mean sea level
Allegheny River ....	State Route 356 bridge...	769
	Conrail bridge .....	771
Pine Run .....	Township Route 550 bridge.	971
	Chamber Road Bridge....	984
Kiskiminetas River Tributary No. 3.	State Route 56 North culvert.	1,018
	State Route 56 and 356 ..	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 43 FR 7719.)

Issued: May 17, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16632 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3878]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the Township of Bear Creek, Luzerne County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Bear Creek, Luzerne County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Bear Creek, Luzerne County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Bear Creek, Luzerne County, Pa., are available for review at the Municipal Building, R.F.D. No. 1, Trailwood, Wilkes-Barre, Pa.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:**  
The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the township of Bear Creek, Luzerne County, Pa.

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
Ten Mile Run .....	Confluence with Bear Creek.	1,530
	0.5 mi from confluence with Bear Creek.	1,563
	0.7 mi from confluence with Bear Creek.	1,602
	0.9 mi from confluence with Bear Creek.	1,634
	Dam No. 1 .....	1,684
	Downstream Route 115 ..	1,727
	Upstream Route 115 .....	1,734
	Confluence with Mud Creek.	1,768
	Confluence with Geneceda Creek.	1,778
	0.5 mi upstream confluence with Mud Creek.	1,783
	Downstream northeast extension Pennsylvania Turnpike.	1,818
	Upstream northeast extension Pennsylvania Turnpike.	1,820
	Downstream Laurel Run Rd.	1,832
Upstream Laurel Run Rd.	1,834	
0.3 mi upstream Laurel Run Rd.	1,837	
Bear Creek .....	0.68 mi downstream from dam No. 1.	1,490
	Dam No. 1 .....	1,502
	Bear Creek Lake Dam ....	1,524
	Confluence with Ten Mile Run.	1,530

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	1.4 mi upstream confluence with Ten Mile Run.	1,552
Pine Creek.....	Pennsylvania Turnpike..	1,311
	Dam No. 1 .....	1,339
Geneceda Creek ....	0.3 mi upstream dam No. 1.	1,364
	Confluence with Ten Mile Run.	1,778
	Upstream Trailwood Lake Rd.	1,810
	Upstream unnamed road No. 1.	1,814
	0.4 mi upstream from unnamed road No. 1.	1,824

(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, 43 FR 7719.)

Issued: May 17, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16633 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-4015]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the Borough of Dalton, Lackawanna County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Dalton, Lackawanna County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Dalton, Lackawanna County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Dalton, Lackawanna County, Pa., are available for review at the Dalton Community Library, Dalton, Pa.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Dalton, Lackawanna County, Pa.

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
South branch of Tunkhannock Creek tributary.	Maple St..... Main St..... Upstream side of Turnpike Rd.	922 976 985
Branch I .....	North Turnpike Rd..... Willow St .....	975 983
	Lilly Lake Rd .....	1,004
	Cemetery Rd .....	1,067
	Armstrong Rd .....	1,078

(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, 43 FR 7719.)

Issued: May 17, 1978.

**GLORIA M. JIMENEZ,**  
*Federal Insurance Administrator.*

[FR Doc. 78-16634 Filed 6-16-78; 8:45 am]

**[4210-01]**

[Docket No. FI-3880]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the Borough of East Stroudsburg, Monroe County, Pa.**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Borough of East Stroudsburg, Monroe County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of East Stroudsburg, Monroe County, Pa.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of East Stroudsburg, Monroe County, Pa., are available for review at the East Stroudsburg Borough Office, 24 Analomink Street, East Stroudsburg, Pa.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of East Stroudsburg, Monroe County, Pa.

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
Brodhead Creek ....	I-80 Bridge (downstream).	393
	I-80 Bridge (upstream)...	395
	Washington St. (downstream).	395
	Washington St. (upstream).	395
	Confluence with Sambo Creek.	411
Sambo Creek.....	Confluence with Brodhead Creek.	411
	Southern Georgellen Ave.	427
	Northern Georgellen Ave.	439
	King St.....	443
	ConRail .....	444
	Route 447.....	451

(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, 43 FR 7719.)

Issued: May 17, 1978.

**GLORIA M. JIMENEZ,**  
*Federal Insurance Administrator.*

[FR Doc. 78-16635 Filed 6-16-78; 8:45 am]

**[4210-01]**

[Docket No. FI-3881]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for Fairview Township, Erie County, Pa.**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in Fairview Township, Erie County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for Fairview Township, Erie County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Fairview Township, Erie County, Pa., are available for review at the Fairview Township Municipal Building, 7471 McCray Road, Fairview Pa.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Fairview Township, Erie County, Pa.

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
Walnut Creek .....	Confluence with Lake Erie	577
	Dutch Rd .....	585
Trout Run .....	Confluence with Lake Erie	577
	Private drive 300 ft above mouth	584
	Private drive 270 ft below Wilson Dr.	595
	Wilson Dr .....	598
	Hathaway Dr .....	647
	State Route 5 .....	652
	Lohrer Rd .....	665
Bear Run .....	Kell Rd .....	811
	Platz Rd .....	819
	Concrete nursery access bridge	819
Lake Erie .....	Private drive 1,350 ft downstream from Uhlman Rd.	824
	Uhlman Rd .....	828
	Entire reach bordering Fairview	577

(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, 43 FR 7719.)

Issued: May 17, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16636 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-40811]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the Borough of Gordon, Schuylkill County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Borough of Gordon, Schuylkill County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adapt 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 Borough of Gordon, Schuylkill County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Gordon, Schuylkill County, Pa., are available for review at the Gordon Municipal Building, Plane and Otto Streets, Gordon, Pa.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Gordon, Schuylkill County, Pa.

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 Insur-

ance 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
Mahanoy Creek .....	ConRail Bridge .....	793
	Confluence of Little Mahanoy Creek	799
	Upstream corporate limit	814
Little Mahanoy Creek .....	Legislative Route 53086	811
	Footbridge .....	817
Rattling Run .....	Confluence with Little Mahanoy Creek	817
	Beginning of culvert under Biddle St.	851
	Charles St .....	868
	Footbridge .....	872

(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, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16637 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3883]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the Borough of Johnsonburg, Elk County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Borough of Johnsonburg, Elk County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evi-

dence 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 Borough of Johnsonburg, Elk County, Pa.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Johnsonburg, Elk County, Pa., are available for review at the Community Center, 600 Market Street, Johnsonburg, Pa.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Johnsonburg, Elk County, Pa.

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
Clarion River .....	Confluence of Powers Run	1,431
	Grant St.....	1,434
	Confluence of Johnson Run	1,436
	ConRail .....	1,438
	Confluence of east and west branches Clarion River	1,438
East Branch Clarion River.	Dam (downstream).....	1,439
	Route 219.....	1,440
	Erie Lackawanna RR.....	1,441
	Clarion Ave.....	1,442
West Branch Clarion River.	Corporate limits .....	1,445
	B. & O. RR.....	1,439

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Silver Creek .....	Route 219 (downstream crossing)	1,440
	Route 219 (upstream crossing)	1,443
	Confluence of Silver Creek	1,445
	Main St.....	1,448
	ConRail .....	1,445
Powers Run.....	Center St.....	1,445
	Abandoned railroad bridge	1,448
	Main St.....	1,458
	ConRail .....	1,428
	U.S. Route 219 .....	1,436
	Corporate limits .....	1,488

(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, 43 FR 7719.)

Issued: May 17, 1978.

GLORIA M. JIMENEZ  
Federal Insurance Administrator.

[FR Doc. 78-16638 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3890]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the Borough of Sharpsburg, Allegheny County, Pa.**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the borough of Sharpsburg, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the borough of Sharpsburg, Allegheny County, Pa.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the borough of Sharpsburg, Allegheny County, Pa., are available for review at the Sharpsburg Borough Hall, 1021 North Canal Street, Sharpsburg, Pa.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the borough of Sharpsburg, Allegheny County, Pa.

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, above mean sea level
Allegheny River ....	Downstream corporate limits	736
	13th St. (extended) .....	737
	Upstream corporate limits	737

(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, 43 FR 7719.)

Issued: May 17, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16639 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3891]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the Township of Warrington, Bucks County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Warrington, Bucks County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Warrington, Bucks County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Warrington Bucks County, Pa., are available for review at the Township Building, Millcreek and Pickertown, Warrington, Pa.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the township of Warrington, Bucks County, Pa.

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
Little Neshaminy Creek.	Valley Rd.....	201
	Confluence tributary B., Street Rd. (Route 132)...	202
	Confluence tributary C., Route 611.....	211
	Confluence Park Creek..	218
	Kansas Rd.....	219
	Bradford Rd.....	230
	Pa. 611 dam (upstream elevation).	257
	Confluence tributary A., Bradley Rd. (extended)..	257
	County Line Rd.....	262
	Confluence with Little Neshaminy Creek.	218
Park Creek.....	Corporate limits.....	225
	Confluence with Little Neshaminy Creek.	257
	Street Rd. (upstream elevation).	290
	Wedge Way (downstream).	302
	Foot Bridge (upstream elevation).	303
	Niblick Place.....	308
	South Greensward Rd....	314
	Wedge Way (upstream)..	319
	Confluence with tributary A.	290
	Nancy Ave. (extended) ...	291
Rosemont Ave. (extended).	293	
Tributary 1 of tributary A.	South Greensward St.....	297

(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, 43 FR 7719.)

Issued: May 17, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16640 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3893]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the Borough of West Elizabeth, Allegheny County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of West Elizabeth, Allegheny County, Pa. These base (100-year) flood elevations

are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of West Elizabeth, Allegheny County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of West Elizabeth, Allegheny County, Pa., are available for review at the West Elizabeth Borough Building, 815 4th Street, West Elizabeth, Pa.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of West Elizabeth, Allegheny County, Pa.

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
Monongahela River.	Upstream corporate limits.	749
	State Route 51.....	749
	Downstream corporate limits.	749

(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, 43 FR 7719.)

Issued: May 17, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 78-16641 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-2662]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for Bandera County, Tex.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Bandera 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).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for Bandera County, Tex.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Bandera County, Tex., are available for review at the Courthouse, Main Street, Bandera, Tex.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Bandera County, Tex.

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
Medina Lake .....	Entire shoreline.....	1,080
Medina River .....	State Route 173 .....	1,221
	First St.....	1,228
	Mayan Ranch Rd. (upstream side),	1,240
	Western corporate limits of the city of Bandera.	1,244

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: May 17, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 78-16642 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-4042]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the Town of Youngtown, Maricopa County, Ariz.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Youngtown, Maricopa County, Ariz. 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 town of Youngtown, Maricopa County, Ariz.

ADDRESSES: Maps and other information showing the detailed outlines

of the flood-prone areas and the final elevations for the town of Youngtown, Maricopa County, Ariz., are available for review at the Town Clerk's Office, 12030 Clubhouse Square, Youngtown, Ariz.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Youngtown, Maricopa County, Ariz.

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
Agua Fria River ....	Peoria Ave. (extended)...	1,095
	Cactus Rd. (extended)....	1,112
	North corporate limits ...	1,126

(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, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 78-16643 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-39811]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW**

**Final Flood Elevation Determinations for the City of Idaho Springs, Clear Creek County, Colo.**

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 Idaho Springs, Clear Creek County, Colo. 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 Idaho Springs, Colo.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Idaho Springs, are available for review at City Hall, Idaho Springs, Colo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Idaho Springs, Colo.

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
Clear Creek .....	Gilson Ave .....	7,465
	23rd Ave .....	7,500
	I-70 .....	7,524
	Highway 103 .....	7,541
Chicago Creek .....	Confluence with Clear Creek .....	7,539
	Soda Creek .....	7,510
Soda Creek .....	Colorado Blvd.* .....	7,514
	Colorado Blvd.** .....	7,523
	Miner St.* .....	7,525
	I-70* .....	7,533
	I-70** .....	7,544
	Virginia Canyon .....	Riverside Dr.* .....
Virginia Canyon .....	Riverside Dr.** .....	7,518
	Virginia St.* .....	7,535
	Virginia St.** .....	7,539

\*Downstream side.

\*\*Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16644 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-40651]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the Village of Hanover Park, Du Page and Cook Counties, Ill.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the village of Hanover Park, Du Page and Cook Counties, Ill. 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 village of Hanover Park, Du Page and Cook Counties, Ill.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of Hanover Park, Du Page and Cook Counties, Ill., are available for review at the office of the village clerk, 2121 West Lake Street, Hanover Park, Ill.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Hanover Park, Du Page and Cook Counties, Ill.

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
West Branch Du Page River.	Corporate limits downstream of Jefferson St.	763
	Corporate limit at Jefferson St.	768
	Corporate limit 0.35 mi downstream of Arlington Dr.	769
	Arlington Dr. ....	1
	Corporate limit at 0.1 mi downstream of Route 20.	774
	Corporate limit downstream of Longmeadow Lane.	787
	Foot bridge downstream of Longmeadow Lane.	789
	Longmeadow Lane .....	790
	Irving Park Rd. ....	792
	White Bridge Ave. ....	794
	School Loft Bridge .....	794
	Corporate limits upstream of Northway Lane.	795

(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, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16645 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3281]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the Village of La Grange Park, Cook County, Ill.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the village of La Grange Park, Cook County, Ill. 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 village of La Grange Park, Cook County, Ill.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of La Grange Park, Cook County, Ill., are available for review at the office of the village manager of La Grange Park, 447 North Catherine Avenue, La Grange Park, Ill. 60525.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the village La Grange Park, Cook County, Ill.

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 Insur-

ance 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
Salt Creek .....	Wolf Rd.....	635
	Corporate limits upstream from Wolf Rd.....	634
	31st St.....	631
	Indiana Harbor Belt RR.....	620
	25th (Kemman) Ave .....	620
	17th (Maple) Ave.....	618

(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, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16646 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3185]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the City of Olathe, Johnson County, Kans.**

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 Olathe, Johnson 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).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Olathe, Johnson County, Kans.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Olathe, Johnson County, Kans., are available for review at the lobby in City Hall, Olathe, Kans.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Olathe, Johnson County, Kans.

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, and the Administrator has resolved the appeals presented by 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, above mean sea level
Cedar Creek .....	Prairie Center Rd.....	880
	Olathe Lake Dam .....	940
	Denis St.....	947
Indian Creek.....	Pflumm Rd.....	946
	Black Bob Rd.....	977
	Mur-Len Rd.....	999
Little Cedar Creek	Sheridan Bridge Lane.....	1,014
	Corporate limits .....	912
Mill Creek .....	Prairie Center Rd.....	989
	Corporate limits .....	958
	Woodland St.....	963
	Harold St .....	973

(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, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 78-16647 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3955]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the City of Laurel, Prince George's County, Md.**

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 Laurel, Prince George's County, Md. 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 Laurel, Prince George's County, Md.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Laurel, Prince George's County, Md., are available for review at the Laurel City Hall, 350 Municipal Square, Laurel, Md.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the city of Laurel, Prince George's County, Md.

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 determina-

tion 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
Crows Branch.....	Route 197.....	139
	Marshall Ave.....	145
	U.S. Route 1 (south bound).	154
Patuxent River.....	5th St.....	158
	8th St.....	171
	B. & O. RR.....	143
	U.S. Route 1 (south bound).	148
	Route 216.....	151
	Upstream corporate limits.	160

(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, 43 FR 7719.)

Issued: May 17, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 78-16648 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-4068]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the Town of Hampden, Hampden County, Mass.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevation are listed below for selected locations in the town of Hampden, Hampden County, Mass. 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 town of Hampden, Hampden County, Mass.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Hampden, Hampden County, Mass., are available for review at the planning board, town of Hampden, 625 Main Street, Hampden, Mass.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Hampden, Hampden County, Mass.

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
Scantic River.....	Massachusetts-Connecticut State boundary.	212
	Just downstream of Mill Rd.	222
	Approximately 120 ft upstream of Somers Rd.	246
	Just upstream of Chapin Rd.	310
Tributary A.....	Approximately 150 ft upstream of the confluence with Scantic River.	216
Watchaug Brook...	Just upstream of East Longmeadow Rd.	228
	Approximately 120 ft downstream of Allen St.	236
South Branch Mill River.	Northern corporate limits.	228
Tributary E.....	Just downstream of Sessions Dr.	234

(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, 43 FR 7719.)

Issued: May 17, 1978.

GLORIA M. JIMENEZ,

Federal Insurance Administrator.

[FR Doc. 78-16649 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3837]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW**

**Final Flood Elevation Determinations for the City of Holland, Ottawa County, Mich.**

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 Holland, Ottawa 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).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Holland, Mich.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Holland, are available for review at city hall, Holland, Mich.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Holland, Mich.

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
Macatawa River ....	River Ave./Butternut Dr.	584
	U.S. Highway 31 .....	587
	120th Ave .....	588
	Paw Paw Dr. ....	592
	American Legion Golf Course foot bridge.	593
Lake Macatawa ....	Pine Ave .....	584
	East end .....	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, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,

Federal Insurance Administrator.

[FR Doc. 78-16650 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3845]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW**

**Final Flood Elevation Determinations for Yellow Medicine County, Minn.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Yellow Medicine County, Minn. 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 Yellow Medicine County, Minn.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Yellow Medicine County, are available for review at Yellow Medicine County Courthouse, Granite Falls, Minn.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Yellow Medicine County, Minn.

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
Minnesota River....	County and State aid Highway 21.	878
	County and State aid Highway 7.	925
	U.S. Highway 212 .....	927
	U.S. Highways 212 and 59.	930
Minnesota River overflows through Granite Falls.	County and State aid Highway 67.	895
	U.S. Highway 212 .....	912
	11th Ave. ....	914
	Township Rd. 101 (downstream side).	919
Canby Creek .....	Township Rd. 1 .....	1,136
	County and State aid Highway 4.	1,142
	Township Rd. 6 .....	1,146
	County and State aid Highway 33.	1,151
	Township Rd. 11 .....	1,160
	U.S. Highway 75 .....	1,170
	County and State aid Highway 3.	1,188
Township Rd. 56 .....	1,201	

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lazarus Creek.....	County and State aid Highway 33.	1,154
	Township Rd. 11.....	1,168
	County and State aid Highway 13.	1,184
	Township Rd. 154.....	1,208
	County Rd. E2.....	1,235
	Chicago, Northwestern RR. (downstream side).	1,257

(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, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16651 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3653]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW**

**Final Flood Elevation Determinations for Grenada County, Miss.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in Grenada County, Miss. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for Grenada County, Miss.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Grenada County, are available for review at Grenada County Courthouse, Grenada, Miss.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Grenada County, Miss.

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
Yalobusha River ...	State Highway 8* .....	158
	I-55 southbound.....	177
	I-55 northbound.....	178
	State Highway 51 .....	180
	Main St.....	181
	Illinois Central Gulf RR.....	182
Batupan Bogue.....	State Highway 8 .....	186
	Tie Plant Rd.....	198
	County rd. (approximately 2 mi downstream from county line).....	218
Perry Creek.....	Vance Rd.* .....	193
	U.S. Highway 51*.....	210
	I-55*.....	222
Perry Creek tributary.	I-55 northbound lane .....	232
	I-55 southbound lane .....	239
	Carrollton Rd.....	239
	Shelby Chapel Rd.....	250

\* 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, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16652 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3849]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW**

**Final Flood Elevation Determinations for the Village of Prathersville, Clay County, Mo.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the village of Prathersville, 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).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the village of Prathersville, Mo.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of Prathersville are available for review at Prathersville Volunteer Fire Department, Prathersville, Mo.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the village of Prathersville, Mo.

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
Fishing River.....	State Highway 10.....	755
Williams Creek.....	County road (downstream side).	756
	County road (upstream side).	757
	Rock Island RR.....	757

(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, 43 FR 7719.)

Issued: May 17, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16653 Filed 6-16-78; 8:45 am]

#### [4210-01]

[Docket No. FI-2749]

### PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

#### Final Flood Elevation Determinations for Saunders County, Nebr.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Saunders County, Nebr. 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 Saunders County, Nebr.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Saunders County, are available for review at Saunders County Courthouse, Wahoo, Nebr.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-

755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Saunders County, Nebr.

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, and the Administrator has resolved the appeals presented by 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
Platte River .....	West bank of river, 100 ft downstream of Dodge County line.	1,190
	West bank of river, east of the intersection of Shady Lane and North Platte Shore Dr.	1,185
	West bank of river, 100 ft downstream of State Highway 63 and U.S. Highway 6.	1,068
	West bank of river, at Cass County line.	1,064
Salt Creek .....	Gaging station downstream of State Highway 63 and U.S. Highway 6.	1069
	At Cass County line .....	1,064

(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, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16654 Filed 6-16-78; 8:45 am]

#### [4210-01]

[Docket No. FI-3851]

### PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

#### Final Flood Elevation Determination for City of Wood River, Hall County, Nebr.

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 Wood River, Hall County, Nebr. 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 city of Wood River, Hall County, Nebr.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for city of Wood River are available for review at City Clerk's Office, 906 Main Street, Wood River, Nebr.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581, or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for city of Wood River, Hall County, Nebr.

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
Wood River .....	Just upstream of the Town Road 36 Bridge.	1,959
	Just downstream of the State Highway 11 Bridge.	1,967
	Just upstream of the District 83 Road Bridge.	1,969
	1.5 mi upstream from the district 83 Road Bridge.	1,972

(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, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16655 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-2697]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determinations for the Borough of Carteret, Middlesex County, N.J.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the borough of Carteret, Middlesex County, 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).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Carteret, N.J.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the borough of Carteret, are available for review at Borough Hall, Cooke Avenue, Carteret, N.J.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the borough of Carteret, N.J.

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, and the Administrator has resolved the appeals presented by 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
Arthur Kill.....	600 ft south, 350 ft north along Pershing Ave. from the intersection of Pershing and Noe.	12
	1,320 ft south, 1,500 ft north along Herman Ave. from the intersection of Herman and Washington.	12
	520 ft south, 350 ft north along Carteret Ave. from the intersection of Carteret and Pine St.	12
	550 ft south, 350 ft north along Coolidge Ave. from the intersection of Coolidge and Pine Sts.	12
Rahway River.....	Roosevelt Ave.....	12
	Central RR. of New Jersey.	12
	New Jersey Turnpike.....	12
	Post Blvd.....	12
	Bernard St.....	12

(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, 43 FR 7719.)

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 78-16656 Filed 6-16-78; 8:45]

[4210-01]

[Docket No. FI-2741]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the Town of Irondequoit, Monroe County, N.Y.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Irondequoit, Monroe County, N.Y. 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 town of Irondequoit, Monroe County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Irondequoit, Monroe County, N.Y., are available for review at the Town Clerk's Office on the bulletin board, 1280 Titus Avenue, Rochester, N.Y.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Irondequoit, Monroe County, N.Y.

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

tion to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

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 above mean sea level
Genesee River .....	Pattonwood Dr .....	249
	New York Central RR....	249
Lake Ontario .....	4th St. extended .....	251
	Mallard Dr extended .....	252
Irondequoit Bay ...	Durand Blvd extended ...	252
	Point Pleasant Rd extended.	252
Irondequoit Creek	Seneca Rd.....	252
	Bay View Rd extended...	252
	Empire Blvd .....	253
	Brett Rd extended .....	256

(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, 43 FR 7719).

Issued: May 22, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 78-16657 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3919]

#### PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

##### Final Flood Elevation Determination for the Town of Poughkeepsie, Dutchess County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Poughkeepsie, Dutchess County, N.Y. 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 town of Poughkeepsie, Dutchess County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Poughkeepsie, Dutchess County, N.Y., are available for review at the Poughkeepsie Town Hall, Dutchess Turnpike, Poughkeepsie, N.Y.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Poughkeepsie, Dutchess County, N.Y.

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	
Hudson River.....	Corporate limits (downstream).	8	
	Confluence of Casper Kill Creek.	8	
	Rudco Rd. (Route 117)—extended.	9	
	Corporate limits (city of Poughkeepsie—downstream).	9	
	Corporate limits (city of Poughkeepsie—upstream).	9	
	Corporate limits (upstream).	9	
	Wappinger Creek..	ConRail Bridge .....	9
		New Hamburg Rd.....	10
		Corporate limits (village of Wappingers Falls—downstream).	12
		Route 9.....	97
		Little Falls Dam .....	107
		Jackson Rd .....	115
Casper Kill Creek.	Confluence of branch 3 Wappinger Creek.	121	
	Route 376 .....	140	
	Red Oaks Mill Dam .....	145	
	Branch 3 Wappinger Creek.	Corporate limits (upstream).	196
		Confluence with Wappinger Creek.	121
		Vassar Rd.....	141
		Footbridge (1,000 ft upstream from Vassar Rd).	158
		Hill Terrace .....	160
Hampton Rd. (extended).		167	
Branch 5 Wappinger Creek.		Confluence with Wappinger Creek.	167
		Footbridge (975 ft upstream from mouth).	167
		Footbridge (1,520 ft upstream from mouth).	167
Branch 6 Wappinger Creek.		Brett Place (extended)...	168
		Confluence with Wappinger Creek.	177
Casper Kill Creek.		East Bank Rd.....	190
	Footbridge (500 ft upstream from East Bank Rd).	192	
	Route 44.....	195	
	Tamarack Hill Rd .....	197	
Casper Kill Creek.	ConRail Bridge .....	8	
	Footbridge (1,470 ft above mouth).	22	
	Private Rd. (downstream end of Cobalt Lake).	37	
	Bridge (upstream end of Cobalt Lake) Camelot Rd.	37	
	U.S. Route 9 .....	742	
	Dam (120 ft upstream from U.S. Route 9).	72	
	Private Rd. (1,250 ft upstream from U.S. Route 9).	87	
	Private Rd. (4,000 ft upstream from U.S. Route 9).	90	
	Footbridge (5,000 ft upstream from U.S. Route 9).	90	
	Footbridge (6,050 ft upstream from U.S. Route 9).	91	
	Private Rd. (6,500 ft upstream from U.S. Route 9).	93	
	Abandoned bridge .....	99	
	Slate Hill Dr.....	104	
	Footbridge (1,300 ft upstream from Slate Hill Dr).	107	
	Footbridge (1,700 ft upstream from Slate Hill Dr).	107	
	Spackenkill Rd.....	112	
	IBM Rd .....	121	
	Route 376.....	127	
Footbridge (downstream end of Sunset Lake).	130		
Private Rd. (upstream end of Sunset Lake).	133		
Footbridge (3,000 ft downstream from Manchester Rd).	136		
Footbridge (2,500 ft downstream from Manchester Rd).	136		
Private Rd. (1,500 ft downstream from Manchester Rd).	136		
Manchester Rd. (downstream).	138		

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Manchester Rd. (upstream)	154
	Route 44.....	154
Fall Kill Creek .....	Extension of Howard St.	182
	Salt Point Turnpike.....	183
	Railroad crossing.....	186

(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, 43 FR 7719).

Issued: May 17, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.  
[FR Doc. 78-16658 Filed 6-16-78; 8:45 am]

[4210-01]

[Docket No. FI-3300]

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**

**Final Flood Elevation Determination for the Town of Williamson, Wayne County, N.Y.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Williamson, Wayne County, N.Y. 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 town of Williamson, Wayne County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Williamson, Wayne County, N.Y., are available for review at the Town Hall, 7 East Main Street, Williamson, N.Y.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-

755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Williamson, Wayne County, N.Y.

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, and the Administrator has resolved the appeals presented by 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, above mean sea level
Salmon Creek .....	Mill St.....	252
	Hamilton Rd.....	274
	Tuckahoe Rd.....	303
	Eaton Rd.....	336
	Salmon Creek Rd.— 2,500 ft upstream of Eaton Rd.	346
	Salmon Creek Rd.— 8,350 ft upstream of Eaton Rd.	390
	Salmon Creek Rd.— 2,600 ft downstream of ConRail.	401
	Salmon Creek Rd.—150 ft downstream of ConRail.	414
	ConRail.....	415
	Route 104.....	416
	Chapel Rd.....	441
Unnamed tributary to Salmon Creek.	Eddy Ridge Rd.....	440
	Upstream Limit of study	440

(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, 43 FR 7719.)

Issued: May 17, 1978.

GLORIA M. JIMENEZ,  
Federal Insurance Administrator.

[FR Doc. 78-16659 Filed 6-16-78; 8:45 am]

[4810-40]

**Title 31—Money and Finance:  
Treasury**

**CHAPTER II—FISCAL SERVICE,  
DEPARTMENT OF TREASURY**

**PART 203—TREASURY TAX AND  
LOAN DEPOSITARIES**

**PART 214—DEPOSITARIES FOR  
FEDERAL TAXES**

**PART 226—RECOGNITION OF INSURANCE COVERING TREASURY TAX AND LOAN DEPOSITARIES**

**PART 317—REGULATIONS GOVERNING AGENCIES FOR ISSUE OF U.S. SAVINGS BONDS OF SERIES E AND U.S. SAVINGS NOTES**

**PART 321—PAYMENTS BY BANKS AND OTHER FINANCIAL INSTITUTIONS OF UNITED STATES SAVINGS BONDS AND UNITED STATES SAVINGS NOTES (FREEDOM SHARES)**

**Treasury Tax and Loan Accounts;  
Postponement of Effective Date**

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Postponement of Effective Date.

SUMMARY: In the FEDERAL REGISTER of May 2, 1978 (43 FR 18960) the Treasury Department issued final and interim regulations to implement the investment provisions of Pub. L. 95-147 of October 28, 1977. The intent of that law is to permit the Treasury to earn interest by the investment of its operating cash balances and, at the same time, pay fees for certain services which have not heretofore been compensable. The "Effective Dates" section of the final and interim rules issued on May 2, 1978 stated "The provisions of both the final and interim rules are effective July 6, 1978, provided the Congress has appropriated funds to cover the payment of fees for services rendered as provided in these regulations. If the Congress does not appropriate funds for fee payments by June 16, 1978, a notice will be published in the FEDERAL REGISTER postponing the effective date." The Congress has not appropriated the necessary funds for fee payments. Accordingly, the effective date of the final and interim regulations published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18960) is hereby postponed. After the Congress does appropriate the necessary funds for fee payments, another notice will be published in the

FEDERAL REGISTER establishing a new effective date. Such notice will be published at least two weeks in advance of that date.

**FOR FURTHER INFORMATION CONTACT:**

John Kilcoyne, Assistant Fiscal Assistant Secretary (Banking), Office of the Fiscal Assistant Secretary, Department of the Treasury, Washington, D.C. 20220, 202-566-2849. Additionally, financial institutions having questions as to operating procedures may direct such questions to the Federal Reserve Bank or Branch serving the geographical area in which the institution is located.

PAUL H. TAYLOR,  
*Deputy Fiscal Assistant Secretary.*

[FR Doc. 78-16854 Filed 6-16-78; 8:45 am]

[3810-70]

**Title 32—National Defense**

**CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE**

[AR 360-60]

**PART 271—CORRESPONDENTS ACCOMPANYING THE ARMED FORCES**

**Deletion of Regulations**

AGENCY: Office of the Secretary of Defense.

ACTION: Final Rule.

SUMMARY: The Office of the Secretary of Defense is deleting regulations concerning correspondents accompanying the Armed Forces which have become obsolete, having been previously rescinded by internal documents. These regulations were based on Army Regulation 360-60 which has been rescinded by Department of Army Circular 310-36, July 21, 1972.

EFFECTIVE DATE: July 21, 1972.

FOR FURTHER INFORMATION CONTACT:

Ms. M. S. Healy, Office of the Secretary of Defense, Federal Register Liaison Officer, Pentagon, Washington, D.C. 20301, telephone 202-697-4111.

Accordingly, Part 271 is hereby deleted.

MAURICE W. ROCHE,  
*Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.*

JUNE 13, 1978.

[FR Doc. 78-16872 Filed 6-16-78; 8:45 am]

[6560-01]

**Title 40—Protection of Environment**

**CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY**

**SUBCHAPTER E—PESTICIDE PROGRAMS**

[FRL 912-5; PP 6E1815/R145]

**PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES**

**O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate**

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate. The request was submitted by the Interregional Research Project No. 4. This amendment to the regulations establishes a maximum permissible level for residues of the insecticide on kiwi fruit.

EFFECTIVE DATE: June 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C., 202-755-2515.

SUPPLEMENTARY INFORMATION: On January 3, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 15) in response to a pesticide petition (PP 6E1815) submitted to the Agency by Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 technical Committee and the Agricultural Experiment Station of California. This petition proposed that 40 CFR 180.153 be amended by the establishment of a tolerance for residues of the insecticide O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in or on the raw agricultural commodity kiwi fruit at 0.75 part per million (ppm). No requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

Two comments were received in response to the notice, both in favor of the proposed tolerance. However, one

of these comments (from the National Canners Association) objected to the deletion of the negligible residue designation from the regulation (40 CFR 180.153) on the grounds that: (1) If a residue is negligible, i.e. toxicologically insignificant, it should be so designated and (2) in principle, deletion of negligible residue designations could result in higher fees to a petitioner. The Agency has considered the comments and concluded that the negligible residue designation in the regulation should be deleted for the following reasons: (1) Removal of the negligible residue designation does not indicate increased risk but rather that long-term feeding studies are available. (2) Deletion of a negligible residue designation cannot increase a petitioner's fee since fees are assessed beforehand when the petition first comes into the Agency. In addition, the negligible residue concept as it applies to fee determinations will still be retained.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.153 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before July 19, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective June 19, 1978, part 180, subpart C, § 180.153 is revised by editorially reformatting the section into an alphabetized columnar listing and alphabetically inserting the tolerance of 0.75 ppm on kiwi fruit as set forth below.

Statutory Authority: Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)].

Dated: June 12, 1978.

EDWIN L. JOHNSON,  
*Deputy Assistant Administrator  
for Pesticide Programs.*

Part 180, Subpart C, section 180.153 is revised in its entirety by editorially reformatting the section into an alphabetized columnar listing and alphabetically inserting the tolerance of 0.75 ppm on kiwi fruit, as follows:

§ 180.153 O, O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate; tolerances for residues.

Tolerances are established for residues of the insecticide O,O-diethyl O-(2-isopropyl - 6 - methyl - 4 - pyrimi-

dinyl) phosphorothioate in or on the following raw agricultural commodities:

Commodity:	Parts per million
Alfalfa, fresh	40
Alfalfa, hay	10
Almonds	0.5
Almonds, hulls	3
Apples	0.75
Apricots	0.75
Bananas (NMT 0.1 ppm shall be present in the pulp after peel is removed)	0.2
Bean forage	25
Bean hay	10
Beans, guar	0.1
Beans, guar, forage	0.1
Beans, lima	0.75
Beans, snap	0.75
Beets, roots	0.75
Beets, sugar, roots	0.75
Beets, sugar, tops	10
Beets, tops	0.75
Blackberries	0.75
Blueberries	0.75
Boysenberries	0.75
Broccoli	0.75
Brussels sprouts	0.75
Cabbage	0.75
Carrots	0.75
Cattle, fat (pre-s appl)	0.75
Cattle, mbyp (pre-s appl)	0.75
Cattle, meat (pre-s appl)	0.75
Cauliflower	0.75
Celery	0.75
Cherries	0.75
Citrus	0.75
Clover (fresh)	40
Clover, hay	10
Collards	0.75
Corn, forage	40
Corn (inc sweet k + CWHR)	0.75
Cottonseed	0.2
Cowpeas	0.1
Cowpeas, forage	0.1
Cranberries	0.75
Cucumbers	0.75
Dandelions	0.75
Dewberries	0.75
Endive (escarole)	0.75
Figs	0.75
Filberts	0.5
Grapes	0.75
Grass (NMT 40 ppm shall remain 24 hours after appl)	60
Grass, hay	10
Hops	0.75
Kale	0.75
Kiwi fruit	0.75
Lespedeza	1
Lettuce	0.75
Loganberries	0.75
Melons	0.75
Mustard greens	0.75
Nectarines	0.75
Olives	1
Onions	0.75
Parsley	0.75
Parsnips	0.75
Peaches	0.75
Peanuts	0.75
Peanuts, forage	40
Peanuts, hay	10
Peanuts, hulls	10
Pears	0.75
Peavine hay	10
Peavines	25
Peas with pods (determined on peas after removing any shell present when marketed)	0.75
Pecans	0.5
Peppers	0.75
Pineapples	0.75
Pineapples, forage	40
Plums (fresh prunes)	0.75
Potatoes	0.1
Potatoes, sweet	0.1
Radishes	0.75
Raspberries	0.75
Sheep, fat (pre-s appl)	0.75
Sheep, mbyp (pre-s appl)	0.75

Sheep, meat (pre-s appl)	0.75
Sorghum, forage	10
Sorghum, grain	0.75
Soybeans	0.1
Soybeans, forage	0.1
Spinach	0.75
Squash, summer	0.75
Squash, winter	0.75
Strawberries	0.75
Sugarcane	0.75
Swiss chard	0.75
Tomatoes	0.75
Turnips, roots	0.75
Turnips, tops	0.75
Walnuts	0.5
Watercress	0.75

[FR Doc. 78-16853 Filed 6-16-78; 8:45 am]

[1505-01]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

PART 99—EMPLOYEE RESPONSIBILITIES AND CONDUCT

CFR Correction

In the volume for 49 CFR Parts 1-99 revised as of October 1, 1977, the following corrections should be made:

1. In § 99.735-13(a) appearing on page 168, in the first sentence, the word "substantially" should be deleted in both places where it appears.

2. In § 99.735-35(a) appearing on page 171, after the second sentence, the following sentence should be added:

"In addition all supplementary statements filed under this section shall contain a record of any changes which occurred at any time during the year for which the report is filed."

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amtd. No. 4 to Corrected Service Order No. 1249]

PART 1033—CAR SERVICE

Octoraro Railway, Inc., Authorized To Operate Over Portion of USRA Line No. 142, Former Octoraro Branch of Penn Central Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 4 to Corrected Service Order No.

SUMMARY: The Octoraro Railway, Inc., is authorized by Service Order No. 1249 to operate USRA Line No.

142, between Wawa, Pa., and the Maryland-Pennsylvania. This line was abandoned by the former Penn Central Transportation Co. on April 1, 1976. An application seeking permanent authority for operation of this line by the Octoraro Railway is presently being considered by the Commission. Amendment No. 4 to Service Order No. 1249 extends until December 15, 1978, the Octoraro Railway's authority to operate this line.

DATES: Effective 11:59 p.m., June 15, 1978. Expires 11:59 p.m., December 15, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The amendment is printed in full below.

Decided June 13, 1978

Upon further consideration of Corrected Service Order No. 1249 (41 FR 34607, 50448; 42 FR 25325 and 59386), and good cause appearing therefor: *It is ordered:*

§ 1033.1249 Octoraro Railway, Inc., authorized to operate over portion of USRA Line No. 142, former Octoraro Branch of Penn Central Transportation Co.

Corrected Service Order No. 1249 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date. The provisions of this order shall expire at 11:59 p.m., December 15, 1978, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 15, 1978.

(49 U.S.C. 1(10-17).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns,

Robert S. Turkington and John R. Michael.

H. G. HOMME, JR.,  
Acting Secretary.

[FR Doc. 78-16898 Filed 6-16-78; 8:45 am]

[7035-01]

[Corrected Second Revised Service Order  
No. 1309]

### PART 1033—CAR SERVICE

#### Railroad Operating Regulations for Freight Car Movement

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Corrected Second Revised Service Order No. 1309).

SUMMARY: Second Revised Service Order No. 1309 requires railroads to place, remove, forward, clean, weigh and give light repairs to certain cars within 24 hours. The order has been amended to apply to empty system cars except as to forwarding. Empty system cars for which there is no immediate need may be stored after any needed weighing, cleaning or light repairs have been completed. This order corrects paragraph 5(i).

DATES: Effective 12:01 a.m., June 1, 1978. Expires 11:59 p.m., July 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

There are acute shortages of freight cars throughout the country resulting in failures of carriers to furnish an adequate supply of freight cars to shippers located on their lines. These shortages of freight cars are impeding both the domestic and export movements of agricultural, mineral, forest, and manufactured products, and other commodities. The existing car service rules, regulations, and practices of the railroads are ineffective with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of freight cars to meet the requirements of shippers. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered,

§ 1033.1309 Railroad operating regulations for freight car movement.

(a) Each common carrier by railroad subject to the interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Application:* (i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all freight cars which are listed in the Official Railway Equipment Register, ICC-R.E.R. No. 407, issued by W. J. Trezise, or successive issues thereof, as having one of the mechanical designations shown on pages 1167-1169 under the headings: "Class 'X'—Box Car Type," "Class 'G'—Gondola Car Type," "Class 'H'—Hopper Car Type," "Class 'F'—Flat Car Type," and those special type cars described under the heading "Class 'L'—Special Car Type" which bear mechanical designations "LC"—Boxcar with roof hatches, "LO"—Covered Hopper Car, and "LU"—Boxcar with doors running substantially the length of the car, including cars bearing mechanical designations modified in the manner described in the various notes thereto.

(iii) *Exception:* Empty cars owned by The Alaska Railroad, while held in the State of Washington, pursuant to instructions of the car owner, are exempt from the provisions of this order.

(iv) *Exception:* Empty cars of private ownership reported and awaiting instructions from the car owner, are exempt from the provisions of this order.

(v) *Exception:* *QT1* To alleviate hardships or inequities, including, but not limited to those caused by extreme weather disruptions, exceptions to this order may be authorized to the carrier by the Railroad Service Board, Interstate Commerce Commission, Washington, D.C. Requests for such exceptions may be made only by carriers and shall be sent to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for recording and submission to the Railroad Service Board, Interstate Commerce Commission, for consideration.

(vi) Actual placement means placing a car in an accessible position for loading or unloading, or placing on an industrial interchange track serving the consignor or consignee. If such placing is prevented by any cause attributable to consignor or consignee and car is placed on the private or other-than-public-delivery tracks serving the consignor or consignee, it shall be consid-

\*Revision. Order now applies to empty system cars.

ered constructively placed without notice.

(vii) Holiday shall be those listed in Item 525 of Agent D. M. Rogers' Tariff 4-K, ICC H-74, General Car Demurrage Rules and Charges, supplements, thereto, or successive issues thereof.

(viii) *Definitions:* System cars are cars bearing the registered reporting marks of the railroad holding the cars. Foreign cars are cars bearing the registered reporting marks of a railroad other than the one holding the car. Private cars are cars bearing the registered reporting marks of a company or person other than a railroad.

(2) *Placing of cars:* (i) Loaded cars shall be actually or constructively placed within 24 hours, exclusive of Saturdays, Sundays, and holidays, following arrival at destination, or after arrival at the yard from which cars are dispatched for actual placement.

(ii) Empty foreign and private cars which after placement will be subject to demurrage, storage or detention rules applicable to cars for loading, or which are subject to storage rules and charges applicable to assigned cars held empty awaiting placement for loading by the assignee, shall be actually placed or appropriate notice as required by applicable tariffs issued within 48 hours, exclusive of Saturdays, Sundays, and holidays, after arrival at the point where held.

(iii) When delivery of a car, either empty or loaded, consigned or ordered to an industrial interchange track or to an other-than-public-delivery track, cannot be made because of any condition attributable to consignor or consignee, such car shall be held at destination or, if it cannot reasonably be accommodated there, at an available hold point; and constructive placement notice shall be sent or given the consignor or consignee within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or hold point.

(iv) Proper notice for cars placed on public delivery tracks shall be sent or given within 24 hours after placement, exclusive of Saturdays, Sundays, and holidays.

(v) Cars held at destination for accessorial terminal services described in the applicable tariffs, such as holding for orders or inspection, shall be placed on unloading, hold, or inspection tracks; and proper notice shall be given within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or at hold point. Time and charges shall be computed following such notice and demurrage or detention charges assessed in accordance with provisions of governing tariffs.

(3) *Removal of cars:* (i) Empty cars must be removed from point of unloading or interchange tracks of industrial plants within 24 hours, exclusive

of Sundays and holidays, following unloading or release by consignee or shipper, unless such empty cars are ordered or appropriated by the shipper for reloading within such 24-hour period. Empty foreign or private cars not ordered for loading at point where made empty must be forwarded or set aside to be cleaned, repaired, or weighed, if to be weighed at that point, within 24 hours following removal of empty cars. Empty system cars not required for loading may be held on carrier tracks at any point on the lines of the car owner, after completion of any light repairs, cleaning or weighing that may be required. (See Part (5) of this Section.)

(ii) Outbound loaded freight cars must be removed from point of loading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays and holidays, following acceptance by carrier of the shipper instructions covering the cars. Such cars must be forwarded, weighed, if to be weighed at that point, or set aside for repairs within 24 hours following release and removal.

(iii) Cars subject to parts (i) and (ii) of this section, not made accessible to the carrier, shall be subject to demurrage until such time as they become, and remain, accessible to the carrier.

(iv) Cars shall not be removed from point of unloading or from industrial interchange tracks, nor released from demurrage or detention status, until all bracing, blocking, dunnage, paper, residue of lading, debris, and other foreign matter directly related to the inbound load have been removed from the car in accordance with the requirements of Rules 14 and 27 of the Uniform Freight Classification, ICC 8, issued by J. D. Sherson, supplements thereto, or reissues thereof.

*Exception:* Dunnage being returned to shipper under provisions of the applicable tariffs may be left in cars released as empty, provided that proper shipper instructions are received by the carrier prior to 5 p.m., of the first day, which is not a Saturday, Sunday, or holiday, immediately following release of the car.

**(4) Forwarding of cars:** (i) Loaded cars and empty foreign or private cars shall be forwarded within 24 hours, except cars described in parts (ii), (iii), or (iv) of this section, or cars described in part (ii) of Section (2).

(ii) *Exception:* Loaded cars held subject to instructions of consignee, consignor, or other qualified owner of the freight contained therein, while subject to applicable tariffs.

(iii) *Exception:* Cars held for repairs, weighing, or cleaning. (See Section (5).)

(iv) *Exception:* Cars held because no train or switch engine service is available between hold point and destination.

**\*\* (5) Cars held for repairs, weighing, or cleaning:** (i) Cars of system, foreign, or private ownership which are held for light repairs or cleaning shall be placed on repair or cleaning tracks not later than the first 7 a.m., exclusive of Sundays and holidays, after time carded for repairs or cleaning. Light repairs or cleaning shall be accomplished within 24 hours, exclusive of Sundays and holidays, after placement on repair or cleaning tracks; except that when necessary to order material from car owner to make the repairs to foreign or private cars held awaiting such material, repairs shall be completed within 24 hours, exclusive of Sundays and holidays, after receipt of such material at the station at which the repair point is located.

(ii) Light repairs are defined as repairs requiring less than 20 man-hours by repair track forces to complete.

(iii) Cars which must be weighed shall be weighed and restencilled, if required, within 24 hours, exclusive of Sundays and holidays, after arrival at the point at which weighing is to be accomplished, or after request for weight is received, if weights are requested by shipper or by car owner.

(iv) Cars which have been repaired, cleaned or weighed shall become subject to Sections 2, 3, or 4, as applicable, from the date such repairs, cleaning or weighing have been accomplished.

**(6) Movement of freight cars:** (i) No common carrier by railroad subject to the Interstate Commerce Act shall delay the movement of cars by holding such cars in yards, terminals, or sidings for the purpose of increasing the time in transit of such cars.

(ii) Cars shall not be set out between terminals except in cases of emergency.

(iii) Back-hauling cars for the purpose of increasing the time in transit is prohibited.

(iv) Through cars shall not be handled on local or way freight trains for the purpose of increasing the time in transit of such cars.

(v) The use by any common carrier by railroad, or the acceptance of instructions from the shipper, for the movement of cars over its line via any route other than its shortest available route or its usual and customary fast freight route from point of receipt of the car from consignor, or connecting line, to point of delivery to consignee, or to next connecting line, except for the purpose of according a lawfully established transit privilege (not including a diversion or reassignment privilege) is hereby prohibited.

**(7) Force majeure defence protected.** Nothing in this order shall deny any carrier its defence of force majeure as construed by the courts.

**(b) Rules and regulations suspended.** The operation of all rules and regulations

insofar as they conflict with the provisions of this order, is hereby suspended.

**(c) Effective date.** This order shall become effective at 12:01 a.m., June 1, 1978.

**(d) Expiration date.** This order shall expire at 11:59 p.m., July 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Decided May 30, 1978.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

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

[FR Doc. 78-16903 Filed 6-16-78; 8:45 am]

[7035-01]

**SUBCHAPTER C—ACCOUNTS, RECORDS, AND REPORTS**

[Docket No. 36483]

**PART 1200—GENERAL ACCOUNTING REGULATIONS UNDER THE INTERSTATE COMMERCE ACT**

**Maintaining the Commission's Accounting Regulations in Conformance With Generally Accepted Accounting Principles (GAAP) by Procedures To Expedite the Adoption of Newly Issued Accounting Pronouncements**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Decision.

**SUMMARY:** The Interstate Commerce Commission adopted a condensed rulemaking policy for expeditiously adopting certain new accounting standards issued by the Financial Accounting Standards Board (FASB).<sup>1</sup>

<sup>1</sup>The Financial Accounting Standards Board was designated by the American Institute of Certified Public Accountants. Footnotes continued on next page

\*\*Correction.

These procedures are intended to enable carriers to use the latest accounting and reporting standards in reports to the Commission, almost immediately after they are issued.

**EFFECTIVE DATE:** Immediately.

**FOR FURTHER INFORMATION CONTACT:**

Mr. James B. Thomas, Jr., phone: 202-275-7565.

**SUPPLEMENTARY INFORMATION:** By notice of Proposed Rulemaking dated December 30, 1977 (43 FR 1370), the Commission announced that it had under consideration the adoption of a new accounting policy that would serve to expeditiously adopt appropriate new accounting and reporting standards issued by the FASB.

The objectives of the new regulations are to reduce regulatory lag and allow carriers to use the latest accounting and reporting standards in their financial reports filed with the Commission. The Commission's accounting systems are now aligned with GAAP and the adopted policy will serve to maintain this relationship and keep it current.

Under previous rulemaking procedures, there was a sizable time lag between the issuance of new FASB standards and their adoption by the Commission. This meant that in some instances regulated carriers were reporting on a dual basis: to stockholders utilizing the latest accounting standards, and to the Commission reflecting standards not yet updated. Such unwarranted situations should be greatly reduced with the adoption of the proposed policy.

The new regulation will require the Commission to issue an Accounting Series Circular following the release of each FASB accounting standard. The circular will either explain the new standard and outline the accounting procedures that carriers must follow, or explain the Commission's position if the new standard is found inappropriate. Following a 45-day response period, the Commission will amend its accounting systems, if necessary, to reflect the provisions of the new accounting procedures.

Nine respondents submitted comments on the Notice. Generally, all respondents fully endorsed the proposed rule, and therefore, no revision to the text of the regulation was necessary.

It is intended that the provisions of this rule become effective immediately.

Decided June 5, 1978.

Footnotes continued from last page  
stitute of Certified Public Accountants as the authoritative body to establish accounting principles. The FASB assumes the responsibilities of its predecessor, the Accounting Principles Board.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Murphy, Brown, Stafford, Gresham, and Clapp.

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

After § 1200.1, "Financial statements released by carriers," add the following new section number, title and text.

§ 1200.2 Adoption of generally accepted accounting principles issued by the Financial Accounting Standards Board (FASB).

(a) *Accounting Series Circulars.* Following the release of a Statement of Financial Accounting Standards by the FASB, and provided that the Bureau of Accounts of the Commission considers such standards appropriate for the Commission's accounting regulations, the Bureau of Accounts shall issue an Accounting Series Circular (ASC) requiring carriers under the Commission's jurisdiction to follow the new standards in their accounts and reports filed with the Commission. The Bureau shall also specify in the ASC the proper accounting procedures that the carriers shall follow.

(b) *Carriers' and Interested Parties' Comments on the ASC.* The ASC issued by the Bureau of Accounts will remain effective until revoked by the Bureau of Accounts. After an ASC is issued, the Bureau of Accounts shall allow carriers and interested parties 45 days following the service date of the ASC during which the respondents may submit to the Bureau their comments and reasons either supporting or opposing the ASC.

(c) *Formal Adoption of the New Accounting Standards.* After considering the comments submitted in response to the ASC, and based on the proposal of the Bureau of Accounts, the Commission will decide whether or not to adopt the new accounting standards specified in the ASC by revising the Uniform Systems of Accounts, (49 CFR 1201-1210).

(d) *Accounting Standards Not Appropriate for Commission's Use.* The Bureau of Accounts may determine that a new FASB Statement of Financial Accounting Standards is not appropriate for use by carriers under the Commission's jurisdiction. In such instances, the Bureau shall issue an ASC to advise the carriers that the new standards shall not be used in their reports filed with the Commission. The carriers and interested parties shall be allowed 45 days following the ASC's service date to submit comments to the Commission. The Commission will then determine whether or not to revise the Uniform Systems of Accounts to conform to the new accounting standards.

[FR Doc. 78-16899 Filed 6-16-78; 8:45 am]

[4310-55]

**Title 50—Wildlife and Fisheries**

**CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR**

**PART 26—PUBLIC ENTRY AND USE**

**Back Bay National Wildlife Refuge, Virginia**

**AGENCY:** United States Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes special regulations concerning public access, use and recreation on the Back Bay National Wildlife Refuge. Prior regulations were published in the FEDERAL REGISTER at 42 FR 23151-23155, May 6, 1977. These regulations provide for limitations on vehicular access to the Back Bay National Wildlife Refuge. This action is necessary to protect the ecosystem along the refuge beach.

**EFFECTIVE DATE:** Comments must be received July 19, 1978 through December 31, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Howard N. Larson, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, Mass. 02158, 617-965-5100, extension 200.

**SUPPLEMENTARY INFORMATION:** On March 14, 1978, there was published in the FEDERAL REGISTER (43 FR 10590-2) a notice of proposed rulemaking for Special Regulations on Public Entry and Use on the Back Bay National Wildlife Refuge. Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed rulemaking. After consideration of the one letter received, which concurred with all aspects of the proposed rulemaking, this final rule was prepared. There are no changes or differences between the final rule and the proposed rule.

**BACKGROUND**

For many years the Back Bay Refuge was open to the public for a number of purposes, and free access to the beach by vehicles was permitted.

In 1961, persons using the refuge for various purposes numbered less than 10,000. During the late 1960's the development of lands south of the refuge for recreational/residential purposes, and the increase in the availability and popularity of off-road recreational vehicles resulted in a sharply accelerated rate of public activities.

By 1970 the number of persons using the refuge had increased to 235,000,

and in 1971, to 348,000. All but a small fraction of this increase involved off-road vehicular use over the ocean beach portion of the refuge.

By 1969 it became evident that total public use had resulted in environmental degradation to the extent that a serious conflict existed with respect to the administration of the entire refuge for its intended purposes.

Following careful analysis it was determined that certain controls of vehicular uses of the beach were required to reverse the trend of refuge habitat destruction.

On January 12, 1972, the Fish and Wildlife Service provided notice in the FEDERAL REGISTER that the Back Bay National Wildlife Refuge would be closed to use by unauthorized vehicles. This action was necessary to protect the ecosystem along the refuge beach. Environmental Impact Statement 72-33 was finalized on December 29, 1972. This document fully assessed the impacts of this restriction. Final regulations were published in March 1973 that required authorized users to obtain permits for access. Recreational vehicle traffic was prohibited. Permits were issued to property owners in the proposed False Cape State Park area, permanent full-time residents of the Outer Banks in North Carolina and their visitors, commercial fishermen, emergency, service and utility vehicles and school buses. Implementation of the access regulations was followed by legal action in a suit against the Service in the District Court for the Eastern District of Virginia. A final decision was handed down by Judge John MacKenzie on February 26, 1975, fully upholding the authority of the Secretary of the Interior to control vehicular access across the Back Bay Refuge. In his opinion and order, Judge MacKenzie states that "... continued and rapidly escalating use of the refuge beach as a traffic corridor ... is inimicable to the use of the property as a wildlife refuge and is a degradation of the purpose of the property as a wildlife refuge." This order was ultimately upheld by the 4th Circuit Court of Appeals in a decision issued July 7, 1975.

The matter of regulating beach use at Back Bay National Wildlife Refuge continued to be the subject of considerable discussion and consternation by the many persons denied vehicular access to recreational properties in North Carolina. On July 29, 1976, liberalized regulations were published which provided limited access eligibility to all persons who as of October 6, 1975, owned improved property on the Outer Banks of Currituck County, N.C., to and including the village of Corolla, N.C., and not just permanent residents of the area as the previous regulations had provided.

In order to mitigate the increased adverse impact of travel on the beach

by these additional permittees, it was necessary to place more restrictions, reduced travel periods and number of round trips per day on the permanent full-time residents living between the south boundary of the refuge and the village of Corolla, N.C. Based on the hardships imposed on the permanent full-time residents by the 1976 regulations and permit program management experience gained during 1976 and 1977, 1978 regulations were proposed which continued to provide access only to these permanent full-time residents. A proposed rulemaking to this effect was published in the FEDERAL REGISTER on March 14, 1978. In keeping with Departmental policy to afford the public an opportunity to participate in the rulemaking process, written comments on the proposed rulemaking were received until April 13, 1978.

§ 26.34 Special regulations concerning public access, use and recreation for individual wildlife refuge areas.

VIRGINIA

BACK BAY NATIONAL WILDLIFE REFUGE

(a) *General use.* (1) Entry on foot or by motor vehicle on designated routes in public use areas is permitted for the purpose of nature study, sightseeing, wildlife observation, photography, hiking, surf fishing, surfing, swimming, and bicycling during daylight hours.

(2) Swimming and surfing are permitted only on that portion of the beach lying between the north boundary of the refuge and the dune crossing at field headquarters. No life-guards are provided. Swimming and surfing will be at the visitor's own risk.

(3) The parking lot at the field headquarters is available on a first come first served basis for persons engaged in surf fishing and nature study. Surf fishing is permitted in accordance with applicable State regulations.

(4) Open fires are not permitted. Portable grills with a contained fuel supply are permitted on the beach north of the field headquarters.

(5) Pets on a leash not exceeding 10 feet in length are permitted on refuge public use areas.

(6) Bicycles and registered motor vehicles are permitted on the paved refuge access road and on the parking area at field headquarters. All other types of motorized vehicles are prohibited except as specifically authorized pursuant to these regulations.

(b) *Access permits.* (1) Access to and travel along the refuge beach by motorized vehicles may be allowed between the dune crossing entrance at the field headquarters and the south boundary of the refuge only after a permit has been issued by the Refuge Manager or his designated representative. No permit will remain in effect

beyond December 31 of the year in which it is issued. Permits may be renewed upon the submittal of a signed, notarized statement that conditions of previous permit have not changed. Vehicular access through the refuge will be permitted only until alternative access is developed or December 31, 1979 whichever occurs first.

(2) Permits must be permanently displayed at all times while on refuge property in such a manner as to be readily visible on any motor vehicle. Permits shall be non-transferable. No more than two vehicles owned by the permit holder shall be registered with the Refuge Manager for use in accordance with these regulations. Those vehicles shall be operated on the refuge beach only by the permittee or immediate family members residing with the permittee. No more than two permits may be issued for an improved property meeting the specified qualifications having more than one owner of record as of October 6, 1975, provided that such owners are not in the same immediate family, i.e., spouse or minor children.

(3) Permits may be issued as follows:

(i) *Residential.* (A) To persons holding written permission from the State of Virginia to use land with permanent habitable dwelling, south of the refuge in the False Cape State Park acquisition area, Virginia.

(B) To owners as of October 6, 1975, of improved property on the Outer Banks of Currituck County, N.C., from the North Carolina line south to and including the village of Corolla, N.C., which improved property meets the following criteria:

(1) *Mobile Home:* A mobile home with minimum dimensions of 8' x 32' located on a lot prior to March 2, 1972, and for which ad valorem property taxes for 1975 had been paid as of December 31, 1975.

(2) *Dwellings:* A habitable abode that was properly listed on the tax rolls of Currituck County, N.C., by January 31, 1976, for payment of taxes in excess of those paid on unimproved land. Such property improved prior to 1975 shall have been listed on the tax rolls in 1975, and have had taxes paid by December 31, 1975, in accordance with state law, in order for the owner to qualify for a permit.

(C) To permanent, full-time residents who can furnish proof of residency prior to December 31, 1976 on the Outer Banks from the refuge boundary south to and including the village of Corolla, N.C., as long as they remain permanent full-time residents. Residence is defined as the dwelling in which the permit applicant lives year round on a full time basis.

The burden of proof of showing that the prospective permittee meets these criteria shall be on the prospective permittee by presentation of appropriate documentation.

Such permitted vehicles shall be restricted to two round trips per day except that no more than sixty one-way trips per year will be permitted for those persons qualifying under (b)(3)(i)(B) above. Travel is restricted to the designated route of travel between the hours of 5 a.m. to 11 p.m. The Refuge Manager may make exceptions to access restrictions for qualified permittees who have demonstrated to the satisfaction of the Refuge Manager, a need for access relating to health or livelihood.

(ii) *Non-residential:* (A) To full time commercial fishermen who have verified their dependence for a livelihood since on or before 1972 upon ingress, egress or crossing refuge land. Not more than three (3) special use permits for commercial fishing on the refuge will be in force at one time. Selection of refuge fishing permits will be determined by a lottery when the number of qualified applicants, as described above, exceeds the number of permits available.

A commercial fisherman is described as one who harvests finfish by gill net or haul seine in the Atlantic Ocean, and who has owned and operated a commercial fishing business since 1972.

(B) For a school bus transporting students residing in the False Cape State Park acquisition area to and from the False Cape area during the school term.

(C) For service vehicles on business calls during the hours of 8 a.m. to 5 p.m. Monday through Friday, upon written verification of a request from a resident as described in (b)(3)(i) above.

Service vehicles: Any vehicle owned or operated by or on behalf of an individual, partnership, or corporation engaged entirely in the business of furnishing construction, maintenance, or repair services, including but not limited

to building, plumbing, septic tanks, installation or repair of household appliances, carpentry, painting, landscaping, garbage collection, and delivery services.

(4) Excluded from the restrictions of these regulations are any military, fire, emergency, or law enforcement vehicle when used for emergency purposes; vehicles used by an employee, agent, or designated representative of the Federal, State or local government in the course of his official duties, and public utility vehicles on official business. A public utility vehicle is described as any vehicle owned or operated by a public utility company enfranchised to supply Outer Banks residents with electricity or telephone service.

(5) In an emergency, the Refuge Manager may suspend for such period or periods as he shall deem advisable, any or all of the foregoing restrictions on vehicular travel and he may announce such suspension by whatever means are available. In the event of high winds and waves, storms, adverse weather conditions or high tides, the Refuge Manager may close all or any portion of the refuge to vehicular travel for such period as he shall deem advisable in the interest of public safety, or may adjust the periods of access otherwise prescribed pursuant to (b)(3)(i) above.

(6) (i) The Refuge Manager may prescribe restrictions as to the types of vehicles to be permitted to ensure public safety and adherence to all applicable rules and regulations.

(ii) All vehicles registered with the Refuge Manager must be equipped with four-wheel drive or oversand tires and carry at all times on the refuge beach a shovel, jack, tow rope or chain, board or similar support for the jack, low-pressure tire gauge and spare tire.

(7) Violators of these special regulations or any regulations pertaining to Back Bay National Wildlife Refuge will be subject to legal action as prescribed by 50 CFR 28.31, including mandatory revocation by the Refuge Manager of such permits for the duration of the permit period. Individuals whose vehicle access privileges have been suspended may within 30 days file a written appeal of the suspension to the Regional Director. An appeal may be taken from any final disposition of the Regional Director to the Secretary in accordance with 43 CFR 4 G.

(8) All permits issued under (b)(3)(i) will be terminated in the event that alternate access is provided during the permit period.

(9) The provisions of this special regulation are effective through December 31, 1979. They supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50.

The refuge, comprising approximately 4,600 acres, is delineated on a map available from the Refuge Manager, Back Bay National Wildlife Refuge, Pembroke Office Park, Pembroke No. 2 Building, Suite 218, Virginia Beach, Va. 23462 and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 26, 1978.

HOWARD N. LARSEN,  
Regional Director,  
U.S. Fish and Wildlife Service.

[FR Doc. 78-16946 Filed 6-16-78; 8:45 am]

# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[7535-01]

## NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

### ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

#### Fixed Assets

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

**SUMMARY:** This document proposes a regulation pertaining to Federal Credit Union ownership of fixed assets. The amendment sets forth the powers of Federal Credit Unions to purchase, and hold and dispose of property necessary or incidental to their operation. The purpose of this rule is to clarify the permissible involvement of Federal Credit Unions in ownership of fixed assets and to establish a reporting and approval process for permissible investments in fixed assets above a certain level. This regulation is intended to ensure that the officials of Federal Credit Unions consider all relevant factors before committing large sums of member's funds to the acquisition of fixed assets.

**DATE:** Comments must be received on or before July 17, 1978.

**ADDRESS:** Send comments to the Assistant Administrator, Office of Examination and Insurance, National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456.

#### FOR FURTHER INFORMATION CONTACT:

Joseph Bellenghi, Assistant Administrator, Office of Examinations and Insurance, National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456, telephone 202-254-8760.

**SUPPLEMENTARY INFORMATION:** Section 107(4) of the Federal Credit Union Act states in part that a Federal credit union has the power to purchase, hold and dispose of property necessary or incidental to its operations. A general discussion of considerations in deciding whether to rent or purchase office space is contained in the NCUA publication entitled "Board of Directors Manual for Federal Credit Unions."

A discussion of considerations in deciding whether to purchase an accounting service or to rent or purchase

data processing equipment is contained in the NCUA publication entitled "Data Processing Guidelines for Federal Credit Unions." The purchase and sale of accounting services are controlled by §§ 701.26, 701.27-1, 701.27-2 and 701.28 of the National Credit Union Administration Rules and Regulations.

As credit unions have grown, more and more boards of directors have faced the rent, lease, or buy decision to accommodate the credit union's need for more space. Similarly, as the volume of business activity has increased, credit union officials have turned to electronic data processing as a means of reducing the recordkeeping burden.

Although in many cases these decisions have been made only after careful and deliberate study, there is an increasing incidence of cases where the acquisition of fixed assets has caused severe financial problems for Federal credit unions.

This regulation is intended to ensure that the officials of FCU's have considered all relevant factors prior to committing large sums of members' funds to the acquisition of fixed assets. This is accomplished by requiring FCU's to seek written approval of the Administration for investment in fixed assets in excess of 5 percent of members' shares. The form and content of such requests will contain sufficient information to establish the need for and the feasibility of the proposal and to determine the impact of the proposal on the credit union's operations.

The problem of conflict of interest and the appearance of conflict of interest is addressed in the prohibited transactions section. This section prohibits FCU's from acquiring real property for use as premises from directors, members of the supervisory and credit committee, officials and employees, their spouses or members of their immediate families unless authorized in writing by the Administration.

**AUTHORITY:** Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789.)

LAWRENCE CONNELL,  
Administrator.

JUNE 12, 1978.

It is proposed to amend part 701 by adding a new § 701.36 as follows:

#### § 701.36 FCU Ownership of Fixed Assets.

(a) Under section 107(4) of the Federal Credit Union Act a Federal credit

union has the power to purchase, hold and dispose of property necessary or incidental to its operations. A Federal credit union's ownership of fixed assets shall be limited as described in this chapter.

(b) *Definitions—As used in this section.*—(1) Premises means any office, branch office, sub-office, service center, parking lot or other facility where the credit union transacts business.

(2) Furniture, Fixtures, and Equipment means all office furnishings (i.e., tables, chairs, desks, file cabinets, curtains, drapes, rugs, etc.), office machines, computer hardware and software, automated terminals, heating and cooling equipment, etc.

(3) Fixed Assets means premises and furniture, fixtures and equipment as these terms are defined above.

(4) Investment in fixed assets means: (i) Any investment in real property (improved or unimproved) which is being used or is intended to be used as premises;

(ii) Any leasehold improvement on premises;

(iii) The aggregate of the lease payments pursuant to a lease agreement on fixed assets;

(iv) Any investment in the stock, bonds, debentures, or other obligations of a partnership or corporation holding any fixed assets used by the Federal credit union and any loans to such partnership or corporation;

(v) Any investment in furniture, fixtures and equipment.

(5) Abandoned premises means former FCU premises from the date of relocation to new quarters, and property originally acquired for future expansion for which such use is no longer contemplated.

(c) *Investment in Fixed Assets.*—(1) No Federal credit union, without the prior approval of the Administration, shall invest in fixed assets if the aggregate of all such investments exceeds 5 percent of members' shareholdings. Certain investments in fixed assets such as those in 701.36(b)(4)(iv) above are further limited as to approval and amount by sections 701.26, 701.27-1, 701.27-2 and 701.28 of this chapter and sections 107(5)(D) and 107(7)(I) of the Federal Credit Union Act.

(2) A Federal credit union shall submit such statements and reports as the Administration may require in support of any investment in fixed assets in excess of the limit specified above. Such reports and statements shall include but not be limited to:

(i) A narrative, describing the proposal in terms of costs, usage, location, and method of financing;

(ii) Current financial data;

(iii) Projected balance sheet and statements of income and expenses for each of the ensuing 5 years based upon the assumption that the proposal will be approved;

(iv) Projected balance sheet and statements of income and expense for each of the ensuing 5 years based upon the assumption that the proposal is not approved;

(v) A statement showing projected net income available for dividends in each of the ensuing 5 years for each of the two assumptions, and the maximum dividend rates which could be paid on the various types of share accounts and share certificate accounts from this net income plus any available retained earnings.

(3) If the Administration determines that the proposal will not adversely affect the credit union, an aggregate dollar amount or percentage of members' shareholdings will be approved for investment in fixed assets. Once such a limit has been approved, a Federal credit union may make future acquisitions of fixed assets, provided, the aggregate of all investments in fixed assets (including the desired acquisition) does not exceed the previously approved dollar amount or percentage of members' shareholdings, whichever is less.

(d) *Premises.*—(1) When real property is acquired for future expansion, at least partial utilization should be accomplished within a reasonable period, which shall not exceed 3 years unless otherwise approved in writing by the Administration. After real property acquired for future expansion has been held for 1 year, a board resolution with definitive plans for utilization must be available for inspection by the examiner.

(2) Investments in premises will be recorded on the credit union's books at the lower of cost or fair market value. The cost of land shall be carried on the books of the credit union in an account separate from the cost of improvements thereon. Unless otherwise approved in writing by the Administration, the cost of improvements shall be amortized over the estimated useful life or period of lease, whichever is less, through periodic charges to depreciation expenses using any one of the generally accepted methods of depreciation, such as straight line or declining balance methods. The reverse sum-of-the-years digits method is not acceptable.

(3) The estimated useful life shall conform to guidelines prescribed by the Administrator.

(4) For purposes of determining the periodic depreciation charge, the salvage value of improved real property

shall be limited to 10 percent of the cost of the depreciable property (excluding the cost of land) unless a higher salvage value is determined by an independent qualified appraiser at the time of acquisition.

(5) An FCU shall endeavor to dispose of "abandoned premises" at a price sufficient to reimburse the FCU for its investment and costs of acquisition. Current documents must be maintained reflecting the FCU's continuing and diligent efforts to dispose of "abandoned premises." After "abandoned premises" have been on the FCU's books for 4 years, the property must be publicly advertised for sale. Disposition must occur through public or private sale within 5 years of abandonment, unless otherwise approved in writing by the Administration.

(e) *Furniture, Fixtures & Equipment.*—(1) Investments in furniture, fixtures, and equipment will be recorded on the credit union's books at the lower of cost or fair market value. The cost of computer hardware and software shall be carried on the books of the credit union in an account separate from other items of furniture, fixtures and equipment.

(2) The cost of furniture, fixtures, and equipment shall be amortized over the estimated useful life through periodic charges to depreciation expense using any of the generally accepted methods of depreciation. The reverse sum-of-the-years digits method is not acceptable.

(f) *Prohibited Transactions.*—(1) Except with the prior written approval of the Administration, no Federal credit union may acquire real property by investment in premises from any of the following:

(i) A director, member of the credit committee or supervisory committee, official or employee of the Federal credit union, or the spouse of such director, member of the credit committee or supervisory committee, official or employee;

(ii) A corporation in which any director, member of the credit committee or supervisory committee, official or employee, or the spouse of such director, member of the credit committee or supervisory committee, official or employee is an officer or director, or has a stock interest of 10 percent or more;

(iii) A partnership in which any director, member of the credit committee or supervisory committee, official or employee, or the spouse of such director, member of the credit committee or supervisory committee, official or employee is a general partner, or a limited partner with an interest of 10 percent or more;

(iv) A member of the immediate family of a director, member of the credit committee or supervisory committee, official, or employee of the

Federal credit union, living in the same household.

[FR Doc. 78-16832 Filed 6-16-78; 8:45 am]

[4910-13]

## DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 17969]

### AIRWORTHINESS DIRECTIVES

Societe Nationale Industrielle Aerospatiale  
Model SA 316C and 319 Alouette III Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to add an airworthiness directive (AD) that would require repetitive inspections of the flight control bellcrank support upper attachment fittings for cracks on Societe Nationale Industrielle Aerospatiale (SNIAS) Model SA 316C and 319 Alouette III helicopters and their replacement if necessary. The proposed AD is prompted by reports of the affected fittings cracking in service. This could result in the loss of control of the helicopter.

**DATE:** Comments must be received on or before August 21, 1978.

**ADDRESSES:** Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 17969, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletin may be obtained from:

Societe Nationale Industrielle Aerospatiale, Marignane, France.

The service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

**FOR FURTHER INFORMATION CONTACT:**

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513-38-30.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified

above, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of cracks being found in the flight control bellcrank support attachment fittings, P/Ns 319A.84.10.118 and 319A.84.10.119, on SNIAS Model SA 316C and 319 Alouette III helicopters. Such cracking could result in loss of control of the helicopter. Since this condition is likely to exist or develop on other helicopters of the same type design, the proposed AD would require repetitive inspections of the affected fittings and, if necessary, their replacement on SNIAS Model SA 316C and 319 helicopters.

**DRAFTING INFORMATION**

The principal authors of this document are M. E. Gaydos, Europe, Africa, and Middle East Region, and S. Podberesky, Office of the Chief Counsel.

**PROPOSED AMENDMENT**

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

**SOCIETE NATIONALE INDUSTRIELLE AEROSPATIALE (SNIAS).** Applies to Model SA 316C and 319 Alouette III helicopters, certificated in all categories, that do not incorporate SNIAS Modification AMS 07.2109 (covered in Service Bulletin No. 65.108).

Compliance is required as indicated, unless already accomplished.

To prevent a possible loss of helicopter control, accomplish the following:

(a) Within the next 50 hours time in service after the effective date of this AD and, thereafter, at intervals not to exceed 50 hours time in service since the previous inspection, inspect the left-hand and right-hand upper flight control bellcrank support attachment fittings, P/Ns 319A.84.10.118 and 319A.84.10.119, in accordance with Alouette SA 316C and 319 Service Bulletin No. 05.57, dated September 29, 1975, or an FAA-approved equivalent (hereinafter referred to as Service Bulletin).

(b) If a crack is found during an inspection required by paragraph (a) of this AD, replace the affected part with a new fitting, P/N 319A.84.10.120 or 319A.84.121, as appropriate, in accordance with the Service Bulletin before further flight, except that the helicopter may be flown in accordance with FAR 21.197 and 21.199 to a base where the work can be performed.

(c) The inspections required by paragraph (a) of this AD may be discontinued upon

the installation of new fittings, P/Ns 319A.84.10.120 and 319A.84.10.121, in accordance with the service bulletin.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

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

Issued in Washington, D.C., on June 8, 1978.

J. A. FERRARESE,  
*Acting Director,*  
*Flight Standards Service.*

[FR Doc. 78-16837 Filed 6-16-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 77-WE-27]

**TRANSITION AREA: OXNARD, CALIF.**

**Proposed Alteration**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposed to alter the Oxnard, Calif., 1200-foot transition area to include the airspace extending southwest from Oxnard to the boundaries of the Pacific Coastal Air Defense Identification Zones. This action will permit the control of air traffic to and from San Nichols Island.

**DATES:** Comments must be received on or before July 19, 1978.

**ADDRESSES:** Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 77-WE-27, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

**SUPPLEMENTARY INFORMATION:**

**COMMENTS INVITED**

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before July 19, 1978 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

**AVAILABILITY OF NPRM**

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8085. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

**THE PROPOSAL**

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would extend the Oxnard, Calif., offshore 1200-foot transition area southwestward to the boundary of the Pacific Coastal Air Defense Identification Zone (ADIZ). This action will provide controlled airspace for vector routes to and from San Nichols Island. The increase in air traffic in this area appears to justify its designation as controlled airspace.

**ICAO CONSIDERATIONS**

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which

pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to Civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

#### DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

#### THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) as follows:

In § 71.181 (43 FR 440) Oxnard, Calif., all after "Point Mugu RBN to point of beginning;" is deleted and "that airspace extending upward from 1200 feet above the surface bounded by a line beginning at Lat. 34°30'00" N., Long. 118°50'00" W. to Lat. 34°00'00" N., Long. 118°50'00" W. to Lat. 34°00'00" N., Long. 119°05'00" W. to Lat. 33°52'30" N., Long. 119°05'59" W. to Lat. 33°28'30" N., Long. 119°07'00" W. to Lat. 32°56'31" N., Long. 119°07'00" W. to Lat. 32°54'10" N., Long. 119°10'01" W. to Lat. 33°35'36" N., Long. 120°00'00" W. to Lat. 34°20'00" N., Long. 120°00'00" W. to Lat. 34°20'00" N., Long. 119°30'00" W. to Lat. 34°30'00" N., Long. 119°30'00" W. thence to point of beginning; and that airspace extending upward from 5,000 feet MSL bound-

ed by a line beginning at Lat. 34°08'00" N., Long. 120°00'00" W. to Lat. 34°00'00" N., Long. 120°00'00" W. to Lat. 34°00'00" N., Long. 120°30'00" W. to Lat. 34°06'15" N., Long. 120°30'00" W. to Lat. 34°08'00" N., Long. 120°26'00" W. to point of beginning;" is substituted therefore.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

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

Issued in Washington, D.C., on June 12, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and  
Air Traffic Rules Division.

[FR Doc. 78-16833 Filed 6-16-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 77-NE-19]

BOSTON, MASS.

Proposed Alteration of Control Area and  
Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the additional control area (Control 1141), northeast of Boston, Mass. Also it would alter the Boston and Gloucester, Mass., transition areas. In addition to minor boundary changes, the proposed action would lower the floor of existing areas to permit the control of vector routes and military flights beneath the presently designated limits of these areas.

DATES: Comments must be received on or before July 19, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA New England Region, Attention: Chief, Air Traffic Division, Docket No. 77-NE-19, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Air-

space and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION:

#### COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803. All communications received on or before July 19, 1978 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons.

#### AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

#### THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would:

1. Alter the description of Control 1141 by lowering its floor to 2,000 feet MSL and elimination the small area that would be within the Gloucester Transition Area.

2. Alter the Gloucester, Mass., Transition Area by lowering its floor to 2,000 feet MSL and elimination its time restriction.

3. Alter the Boston, Mass., Transition Area by changing its horizontal and vertical limits.

4. Add the Massachusetts Transition Area to consolidate several pieces of airspace that is presently designated at 1,200 feet and above with offshore areas.

5. Add the Rhode Island Transition Area to consolidate airspace that is presently designated at 1,200 feet and above.

These changes will provide controlled airspace for vector routes and military operations at lower altitudes than are presently permitted in the Boston and offshore areas. The addition of the Massachusetts and Rhode Island transition areas will help to consolidate several areas that are presently designated as 1,200 feet and above. The overlapped areas will be eliminated from presently designated transition areas at a later date.

ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air

Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.163 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 348 and 440) as follows:

a. In § 71.163 (43 FR 348) Control 1141 is amended to read as follows:

C1141—That airspace extending upward from 2,000 feet MSL within tangent lines from the circumference of a 5-mile radius circle centered at Lat. 42°23'23" N., Long. 70°59'10" W., to a 15-mile radius circle centered on the midway point of a direct line between Lat. 42°23'23" N., Long. 70°59'10" W., and the Yarmouth, Nova Scotia, Canada, NDB (Lat. 43°54'40" N., Long. 66°06'12" W.), to a 5-mile radius circle centered on the Yarmouth NDB, excluding the portion under the jurisdiction of Canada.

b. In § 71.181 (43 FR 440) the following action is taken:

1. The Boston Transition Area is amended to delete all after "to 10.5 miles southeast of the NDB."

2. The Massachusetts Transition Area is added as follows:

Massachusetts—That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Massachusetts including the offshore airspace within 3 nautical miles of and parallel to the shoreline of Massachusetts and that airspace bound by a line beginning at Lat. 42°41'20" N., Long. 70°30'00" W.; to Lat. 42°15'20" N., Long. 70°30'00" W.; to Lat. 42°10'50" N., Long. 70°03'00" W.; to Lat. 41°38'00" N., Long. 69°45'10" W.; to Lat. 41°20'00" N., Long. 69°45'10" W.; to Lat. 41°09'00" N., Long. 70°00'00" W.; to Lat. 41°10'25" N., Long. 70°12'50" W.; to Lat. 41°04'00" N., Long. 70°42'30" W.; to Lat. 41°12'45" N., Long. 70°42'30" W.; to Lat. 41°08'30" N., Long. 71°04'45" W.; to Lat. 41°25'15" N., Long. 71°04'45" W.; thence along a line 3 nautical miles from and parallel to the shoreline to the point of beginning.

3. The Rhode Island Transition Area is added as follows:

Rhode Island—That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Rhode Island including the offshore airspace within 3 nautical miles of and parallel to the shoreline of Rhode Island and that airspace bounded by a line beginning at Lat. 41°25'15" N., Long. 71°04'45" W.; to Lat. 41°08'30" N., Long. 71°04'45" W.; thence along the northern boundary of Control 1169 to Lat. 41°01'50" N., Long. 71°47'00" W.; to Lat. 41°11'15" N., Long. 71°47'00" W.; thence along a line 3 nautical miles from and parallel to the shoreline to the point of beginning.

4. The Gloucester, Mass., Transition Area is amended to read as follows:

That airspace east of Gloucester extending upward from 2,000 feet above the surface bounded on the northwest by Control

1141, on the southeast by Control 1143 and on the south by Control 1142.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

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

Issued in Washington, D.C., on June 7, 1978.

LOWELL L. LUNN,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[FR Doc. 78-16842 Filed 6-16-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-NW-5]

NEAH BAY, WASH.

Proposed Revocation of Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke control area 1445, which extends from Neah Bay, Wash., RBN, to lat. 48°40'00" N., long. 125°17'30" W. This control area is rarely used and its retention is not warranted.

DATE: Comments must be received on or before July 19, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 78-NW-5, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8525.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submit-

ting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before July 19, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

#### AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

#### THE PROPOSAL

The FAA is considering an amendment to subpart E of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke control area 1445 which extends from Neah Bay, Wash., RBN to lat. 48°40'00" N., long. 125°17'30" W. The total distance of this control area is 33.5 nautical miles. The most recent survey of aircraft activity within this control area reveals that there is insufficient traffic to justify its retention. This action would return the airspace to the public for unrestricted use. Subpart E of part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 347).

#### ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly,

and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

#### DRAFTING INFORMATION

The principal authors of this document are Mr. Lewis W. Still, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

#### THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 348) as follows:

"Control 1445" would be deleted.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

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

Issued in Washington, D.C., on June 7, 1978.

LOWELL L. LUNN,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[FR Doc. 78-16838 Filed 6-16-78; 8:45 am]

[4910-13]

[14 CFR Part 77]

[Docket No. 16920; Notice No. 78-9]

#### OBJECTS AFFECTING NAVIGABLE AIRSPACE

##### Regulatory Review Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Initiation of Regulatory Review: Invitation to Submit Proposals.

SUMMARY: The FAA announces a Regulatory Review Program regarding part 77 of the Federal Aviation Regulations (hereinafter called "review program"). This review program is intended to provide full public participation in matters concerning FAA evaluation of ground objects which extend into navigable airspace. The review program, is patterned on the FAA's earlier airworthiness and operations review programs. This review program is necessary because a recent advance notice of proposed rulemaking (Notice No. 77-7: 42 FR 30643; June 16, 1977) revealed public concern regarding the scope and application of Part 77.

DATE: Proposals must be received on or before August 7, 1978.

ADDRESS: Send proposals to the part 77 Regulatory Review Program, Federal Aviation Administration, Air Traffic Service, Airspace and Air Traffic Rules Division, AAT-200, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Oreste E. Falsetti, Airspace Obstruction and Airports Branch (AAT-240), Airspace and Air Traffic Rules Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8777.

SUPPLEMENTARY INFORMATION:

#### SCOPE

The regulatory review program announced by this notice involves Part 77 of the Federal Aviation Regulations (14 CFR Part 77) entitled "Objects Affecting Navigable Airspace." The scope of Part 77 includes the following:

1. Requirements for notice to the FAA of certain proposed construction or alternation of objects;
2. Standards for determining those objects which are or would be obstructions in the navigable airspace;
3. Procedures and criteria for studies of obstructions to evaluate and determine their potential (or actual) effect on the safe and efficient use of the navigable airspace;

4. The issuance, review, and revision of determinations regarding FAA's findings and conclusions regarding the hazardous effect of obstructions; and
5. Establishment of antenna farm areas.

**PENDING NOTICES**

On June 16, 1977, the FAA published Notice No. 77-7 in the *FEDERAL REGISTER* (42 FR 30643). That notice announced that the FAA was considering the issuance of a notice of proposed rulemaking leading to amendments to Part 77. The FAA stated in that notice that it believed its experience under the current rules indicates that they do not fully and clearly describe the process or standards necessary to provide adequate evaluation of objects intruding into the navigable airspace. The comment period for that notice closed on September 14, 1977. No other rulemaking action regarding Part 77 is currently in process.

**PROPOSALS INVITED**

This regulatory review program is pursuant to FAA's policy for the institution of public proceedings in actions related to rulemaking. Interested persons are invited to participate by submitting any proposals for amendments to Part 77 that they believe are needed. The FAA will also consider as proposals all comments received in response to Notice No. 77-7.

**REQUIRED FORMAT AND INFORMATION**

Based on experience gained in previous review programs, the FAA has determined that use of a standard format and inclusion of certain specific information greatly facilitates processing, compilation, and evaluation of proposals received. Appendix B contains a sample format that should be used. Each proposal should include at least the following information:

1. The full name or title of the proponent or an acceptable acronym.
2. The FAR 77 section affected.
3. A short title identifying the subject of the proposal (10 words or less).
4. The specific regulatory language being proposed, if at all possible. If not, provide a precise description of the objectives of the proposal.
5. The language of the existing rule the proposal would change.
6. An explanation and justification of the proposal including:
  - a. Background pertinent to change.
  - b. Why is the change necessary.
  - c. How the needs of aviation are served (along with reasonable consideration provided to nonaviation).
  - d. What are the environmental, economic (including inflationary) and cost/benefit consequences, if any, of the proposal, if adopted.
  - e. What other rules are affected (such as rules in other FAR parts).

f. What other proposals, if any, are directly related.

7. Additional data, or references to publications.

Where a proposal covers several sections of Part 77, the information required in Item 6 above may be stated only once and a cross reference used if similar reason and logic apply. Those persons who have previously submitted comments in response to Notice No. 77-7 need not resubmit in the above format. However, if those persons desire, they may submit revisions, of previous comments.

**COMPILATION OF PROPOSALS**

Each proposal received by the date indicated above will be evaluated. The FAA will prepare a compilation of proposals for consideration during the Part 77 Regulatory Review Program. In addition to proposals received from outside the agency, internal FAA proposals will be considered. The full text of Notice No. 77-7 will be republished in the same document.

**AGENDA AND CONFERENCE**

All proposals received prior to cutoff date will be considered in preparing the agenda for the Part 77 Regulatory Review Conference. The agenda, including the compilation of proposals will be distributed by November 7, 1978. At that time, a Notice of Availability of the Agenda will be published in the *FEDERAL REGISTER*. The conference will be held during the period December 4-8, 1978, in the Washington, D.C., area at a place to be announced. There will be no admission fee or other charge to attend or participate in the conference. All conference sessions will be open on a space available basis to all interested persons who register to attend. All meetings will be recorded. Copies of the record may be purchased from the Rules Docket (AGC-24), Office of the chief counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Fees for copies of the record will be determined in accordance with 49 CFR Part 7.

**PROPOSED AND FINAL RULEMAKING**

The conference record and related regulatory review documents will be used in developing notices of proposed rule making, when appropriate.

**DRAFTING INFORMATION**

The principal authors of this document are Oreste E. Falsetti, Air Traffic Service, and Ronn E. Harding, Office of the Chief Counsel.

(Secs. 104, 307, 313(a), and 1101, Federal Aviation Act of 1958, (49 U.S.C. §§1304, 1348, 1354(a), and 1501); Sec. 6(c), Department of Transportation Act (49 U.S.C. §1655(c); and 14 CFR 11.45).)

Issued in Washington, D.C., on June 13, 1978.

RAYMOND G. BELANGER,  
*Director, Air Traffic Service.*

**APPENDIX A—SCHEDULE FOR PART 77 REGULATORY REVIEW PROGRAM**

- June 8, 1978—Notice initiating Part 77 Regulatory Review Program and inviting proposals to amend the Federal Aviation Regulation.
- August 7, 1978—Final date for delivering proposals to FAA.
- November 6, 1978—Distribute agenda (including compilation of proposals and related working documents for Part 77 Regulatory Review Program) and publish a Notice of Availability of the agenda in the *FEDERAL REGISTER*.
- December 8, 1978—Part 77 Regulatory Review Conference.

**APPENDIX B—FORMAT FOR PART 77 REVIEW**

The following format and guidelines should be followed in preparing proposals for consideration during the review.

Guidelines: Each proposal should be submitted on a separate page. The text should be within margins not more than 6½" wide and 9" long so that it can be printed on 8" by 10½".

**SAMPLE FORMAT**

Proposal: (Leave Blank for FAA Use).  
From: Mr. John Doe, XYZ Inc.  
Index: (Leave Blank for FAA Use).  
Far: 77.1.  
Subject: General Scope.

*Proposal*

Amend 77.1 to read as follows: 77.1(a)

\* \* \* \* \*

*Current Rule*

77.1(a) Establishes standards for determining obstructions in navigable airspace.

*Explanation and Justification*

\* \* \* \* \*

[FR Doc. 78-16893 Filed 6-16-78; 8:45 am]

[1505-01]

[14 CFR Part 73]

[Airspace Docket No. 78-WE-7]

**OCEANSIDE, CALIF.**

**Proposed Alteration of Restricted Area**

*Correction*

In FR Doc. 78-15560 appearing on page 24854 in the issue of Thursday, June 8, 1978, on page 24855 in the middle column, the 3rd line of the

paragraph in small print should read as follows:

"\* \* \* Long. 117°21'48" W.; to Lat. 33°17'30" N., \* \* \*"

[6750-01]

### FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 752 3129]

**BEDE AIRCRAFT, INC., ET AL.**

#### Provisional Consent Agreement With Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.  
**ACTION:** Provisional consent agreement.

**SUMMARY:** In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Washington, D.C. manufacturer and marketer of aircraft and related products, and its subsidiaries, to provide and administer as prescribed a redress fund of approximately \$9,000,000 for consumers who purchased or made deposits on its products. The firm would be required to cease misrepresenting the availability, performance, reliability, and safety of its aircraft; or using any other unfair or deceptive act or practice in the advertising and sale of its products. Additionally, until such time that existing obligations are satisfied, the order would require that all of the firm's stock be placed in the hands of an approved trustee who would oversee its operations and invoke the provisions of the Federal Bankruptcy Act, should it prove necessary.

**EFFECTIVE DATE:** Comments must be received on or before August 17, 1978.

**ADDRESS:** Comments should be directed to: Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

#### FOR FURTHER INFORMATION CONTACT:

Paul C. Daw, Director, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis Street, Denver, Colo. 80202, 303-837-2271.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been

filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 752-3129]

**BEDE AIRCRAFT, INC., ET AL.**

#### AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Bede Aircraft, Inc., a corporation; Bede General Corp., a corporation; Bede Wing, Inc., a corporation; James R. Bede, individually and as an officer, director, and stockholder of said corporations.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Bede Aircraft, Inc., a corporation; Bede General Corp., a corporation; Bede Wing, Inc., a corporation; James R. Bede, individually and as an officer, director, and stockholder of said corporations; and it now appearing that said corporations and individual, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Bede Aircraft, Inc., Bede General Corp., and Bede Wing, Inc., by their duly authorized officers, and James R. Bede, individually and as an officer, director, and stockholder of said corporations, corporation, and their attorneys, and counsel for the Federal Trade Commission that:

(1) Proposed respondent Bede Aircraft, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Kansas, with a principal office located at 1128 16th Street NW., Washington, D.C. 20036.

Proposed respondent Bede General Corp. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with a principal office located at 1128 16th Street NW., Washington, D.C. 20036.

Proposed respondent Bede Wing, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with a principal office located at 1128 16th Street NW., Washington, D.C. 20036.

Proposed respondent James R. Bede is sole stockholder and an officer and director of respondents Bede Aircraft,

Inc., and Bede General Corp. He is also a stockholder, officer, and director of respondent Bede Wing, Inc.

Proposed respondent James R. Bede formulates, directs, and controls the acts and practices of respondents Bede Aircraft, Inc., Bede General Inc., and Bede Wing, Inc.

(2) Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

(3) This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated thereby and related materials pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

(4) This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision, containing the agreed-to order, to the addresses of proposed respondents as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

(5) Proposed respondents have read the complaint and order contemplated hereby, and understand that once the

order has been issued they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

(6) The signing of this agreement is for settlement purposes only and does not constitute an admission by any party that the law has been violated as alleged in the proposed complaint.

#### ORDER

For purposes of this order, the following definitions apply:

The phrase "advance payment or deposit" means a payment or deposit tendered to respondents in connection with the order or sale of any product, under circumstances in which shipment to the buyer will not take place on the same day on which such payment or deposit is tendered;

"Authorized official" includes the person appointed as "authorized official" and, consistent with the duties as defined in section XVII of this order, the person appointed as "substitute authorized official;"

"BD-5 homebuilt aircraft" means any aircraft materially within the design parameters of the single-seat, single-engine aircraft commonly referred to by respondents as the "BD-5", which is advertised for sale or sold for full or partial assembly from a kit or from parts, materials or plans supplied wholly or partially by respondents;

"BD-5D aircraft" means any aircraft materially within the design parameters of the single-seat, single-engine aircraft commonly referred to by respondents as the "BD-5", which is advertised for sale or sold as a production aircraft (as the word "production" is defined herein);

"BD-7 aircraft" means any aircraft materially within the design parameters of the two to four place, low-wing aircraft commonly referred to by respondents as the "BD-7";

"The company," when appearing in parentheses in the text of any notice or disclosure contained in this Order, means that when such notice or disclosure is actually implemented as required by this order, the name of the company giving the notice or disclosure shall be inserted in lieu thereof;

"Drop ship order" means an order placed by respondents with some entity other than respondents or respondents' agents, dealers, licensees, or franchisees, for the shipment of merchandise directly to respondents' customer;

"FAA" means the Federal Aviation Administration, an agency of the U.S. Government;

"FmHA loan" means the guaranteed or insured loan applied for by respon-

dents through the Business and Industrial Loan Division of the Farmers Home Administration, U.S. Department of Agriculture, to be used for funding respondents' production facility in Petersburg, Va.

"Production" means, in describing any product, that such product is commercially manufactured or fabricated in significant numbers for ultimate distribution or sale in the usual course of business, as opposed to being manufactured or fabricated in small numbers as a model or prototype, or for limited distribution or use not in the usual course of trade;

"Propose refund request" means a written notification reasonably calculated to put the refundor on notice that the refundee wishes to exercise a present or future right to a refund. In the latter instance, the refund request becomes "proper" when the right to refund actually vests;

"Ship, shipping, or shipment" refer to the act by which merchandise is physically placed in possession of the carrier, or if there is no carrier, in possession of the buyer or his agent; or in the case of aircraft, transfer of the FAA title certificate;

"Specialized tools, machines, or processes" means tools or machines which a homebuilder of average ability and resources would not reasonably be expected to own, or in the case of processes, those which such homebuilder would not be reasonably expected to be capable of personally performing.

"The trustee" means the trustee of the stock of Bede Aircraft, Inc., appointed pursuant to the provisions of this Order;

"Xenoah engine" means a 726 cubic centimeter displacement aircraft engine manufactured by Xenoah Co. of Japan, and certified by the FAA for aircraft use.

#### I

*It is ordered.* That respondents Bede Aircraft, Inc., a corporation, Bede General Corp., a corporation, Bede Wing, Inc., a corporation, their successors and assigns, and officers and directors; James R. Bede, individually and as an officer and stockholder of said corporations (hereinafter sometimes referred to collectively as "respondents"); and respondents' officers, directors, agents, representatives, salesmen and employees, directly or through any corporation, subsidiary, division or other device, or through any dealer, licensee or franchisee, in connection with the advertising, offering for sale, sale, or distribution of homebuilt aircraft kits, production aircraft, aircraft parts and accessories, or any other product or merchandise in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Misrepresenting the accuracy, truthfulness or completeness of any financial statement;

(2) Disseminating for any purpose inaccurate, untrue, or deceptively incomplete financial statements;

(3) Disseminating for any purpose financial statements not prepared in accordance with generally accepted accounting standards, unless such statements clearly and conspicuously indicate the particular manner in which they are at variance with generally accepted accounting standards;

(4) Disseminating financial statements for any purpose, until a full and complete independent audit of the books of Bede Aircraft, Inc., is accomplished, and complete financial statements are procured by respondents as a result thereof: *Provided, however,* That unaudited financial statements may be used to provide a sophisticated lender or investor such as a bank or governmental agency with interim or in-house financial statements, for the purpose of providing such lender the most current information available;

(5) Disseminating financial statements, for any reason, which are not consistent with the results of the independent audit described in paragraph 4, above;

(6) Misrepresenting the existence, business purpose, financial condition, or probability of successful operation of any business enterprise with which any of respondents is associated;

(7) Representing that a corporation in any way associated with respondents exists, or representing that any such corporation is engaged in business in any way, unless concurrent with such representations there is compliance with all applicable Federal, State, and local laws and rules, sufficient to establish the legal existence of such corporation as well as its right and ability to lawfully engage in business;

(8) Failing at any time to provide any business entity with which any of respondents may be associated in an ownership, partnership, joint venture, or other managerial or directorial capacity, with the financial as well as other attributes implied by respondents' representations, as well as with the attributes and requirements imposed by law.

#### II

*It is further ordered.* That respondents and respondents' officers, directors, agents, representatives, salesmen, and employees, directly or through any corporation, subsidiary, division, or other device, or through any dealer, licensee or franchisee, in connection with the advertising, offering for sale, sale, or distribution of homebuilt aircraft kits, production aircraft, aircraft parts and accessories, or any other product or merchandise in or affecting

commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from:

(1) Representing that any product is available for immediate shipment unless such product exists within respondents' possession or control in quantity sufficient to meet reasonably anticipated demand, ready for immediate shipment consistent with the representation made;

(2) Failing to disclose, when such is in fact the case, that any product is not available for immediate delivery, is not being manufactured as a production product, or is subject to further research and development, or failing to disclose any other facts bearing materially upon respondents' current or prospective ability to deliver such product;

(3) Making any representations regarding the shipping dates or shipping schedules with respect to any product unless prior to making such representations respondents have a reasonable basis therefor: *Provided further*, That the data constituting such reasonable basis must be documented and retained by respondents for inspection by the staff of the Commission for a period of three years after such representation is made;

(4) Misrepresenting performance criteria or characteristics of any product or making any representations with respect to the performance criteria or characteristics of any product without a documented reasonable basis therefor: *Provided further*, That the data constituting such reasonable basis must be documented and retained by respondents for inspection by the staff of the Commission for a period of three years after such representation is made;

(5) Making any representations, orally or in writing, regarding performance criteria or characteristics with respect to any product that is not a "production" product as defined herein, unless concurrently with such representations the following notice is disclosed in a clear and conspicuous manner:

The (name of product) is subject to further testing and development; design and performance may change as further development takes place.

(6) Representing that any aircraft or component thereof has been certified or otherwise approved by the FAA, unless such certification or approval has in fact been granted, and unless such representations are consistent with the certification or approval granted;

(7) Failing to honor the purchase price set forth in any contract for the purchase of respondents' products except under circumstances where such failure is necessitated by factors outside respondents' control and where the purchase contract provides ade-

quate notice of such circumstances and their possible effects.

(8) Making any representations with respect to the requisite pilot experience and skill necessary to fly any production aircraft manufactured, advertised for sale, or sold by respondents, unless respondents' representations are consistent with the Type Certificate issued by the FAA (as "Type Certificate" is defined by FAA regulations), as well as any limitations imposed by the FAA upon the operation of such aircraft;

(9) Making any representations with respect to the requisite pilot experience and skill necessary to fly any aircraft intended to be assembled from a kit, or any aircraft intended to be a production aircraft but not certified for production by the FAA, unless there exists a reasonable basis for such representations: *Provided further*, That the data establishing such reasonable basis must be documented and retained by respondents for inspection by the staff of the Commission, for a period of three years after any such representation is made;

(10) Misrepresenting the pilot skill necessary to fly any aircraft.

(11) Misrepresenting the number of work hours necessary for the assembly of any kit;

(12) Representing that any device is capable of assembly from a kit, within any range or specific amount of time, unless prior to such representation respondents possess a reasonable basis therefor: (a) Consisting of representative data obtained from the actual experience of builders of the kit who could be considered average in terms of their experience and accessibility to tools and technical assistance; or (b) if such data is unavailable due to the insufficiency of builders or builder experience, consisting of other data: *Provided further*, That the data establishing such reasonable basis must be documented and retained by respondents for inspection by the staff of the Commission, for a period of three years after any such representation is made;

(13) Misrepresenting the number or description of any tools necessary for the assembly of any kit;

(14) Making any representations with respect to the tools or processes necessary for the assembly of any kit, without disclosure of all specialized tools, machines or processes which must be employed to assemble the kit in accordance with respondents' representations and specifications;

### III

*It is further ordered*, That respondents and respondents' officers, directors, agents, representatives, salesmen, and employees, directly or through any corporation, subsidiary, division, or other device, or through any dealer, licensee or franchisee, in connection

with the advertising, offering for sale, sale, or distribution of homebuilt aircraft kits, production aircraft, aircraft parts and accessories, or any other product or merchandise in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from soliciting or accepting advance payments or deposits in excess of \$100:

(1) Unless a purchase contract relating to such an advance payment or deposit:

(a) Contains the following notice displayed clearly and conspicuously on the front of the contract document:

Notice to Buyer: The Federal Trade Commission's rule regarding mail order merchandise may create certain rights for you, as well as duties on the part of the seller. Read this entire contract.

(b) Recites verbatim in a clear and conspicuous manner, the provisions attached to this order as Appendix I; and

(2) Unless respondents comply with the contractual provisions required by subparagraph 1(b), above, in all material respects.

### IV

*It is further ordered*, That respondents do forthwith cease and desist from soliciting or accepting advance payments or deposits on products valued in excess of \$100 and not within respondents' immediate possession or control, and on products valued in excess of \$1,000:

(1) Unless such advance payments or deposits are held in escrow by a bank or other duly chartered institution capable of acting in a fiduciary capacity as an escrow agent, and

(2) Unless such escrow arrangement is conducted pursuant to an escrow agreement between respondents and the escrow agent, meeting the specifications set forth in Section VI, herein.

### V

*It is further ordered*, That respondents and respondents' officers, directors, agents, representatives, salesmen, and employees, directly or through any corporation, subsidiary, division, or other device, or through any dealer, licensee or franchisee, in connection with the advertising, offering for sale, sale, or distribution of homebuilt aircraft kits, production aircraft, aircraft parts and accessories, or any other product of merchandise in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from advertising for sale, selling, or otherwise soliciting the purchase of plans or drawings for the assembly or construction of any aircraft or other device:

(1) Unless a written contract for the sale of such plans or drawings exists, and contains, in a clear and conspicu-

ous manner on the first page thereof, the following disclosure:

(the company) makes no claims or promises except those contractually specified, as to the future availability of any parts or materials necessary to assemble this (product). Therefore, the buyer should be aware that the future ability to purchase such parts or materials from (the company) may not be guaranteed.

(2) Unless all information kits and other packages of promotional materials relating to such plans or drawings contain, in a clear and conspicuous manner, the disclosure specified in subparagraph (1), above; and,

(3) Unless such plans or drawings contain the following disclosure made clearly and conspicuously on the first page thereof:

(the company) makes no claims or promises except those contractually specified, as to the future availability of any parts or materials necessary to assemble this (product).

VI

*It is further ordered,* That respondents, within 60 days after this order become final, enter into an escrow agreement with a bank or other duly chartered financial institution capable of acting in a fiduciary capacity as an escrow agent: *Provided further,* That:

(1) Respondents may, with the approval of the trustee, enter into multiple escrow arrangements one each for separate business sites, under circumstances judged by the trustee to be in the best interests of respondents' timely compliance with this order.

(2) Such escrow agreement(s) shall be consistent with the provisions and spirit of this order as well as the specifications set forth below:

(a) Where the provisions of this order require, advance payments or deposits received by respondents shall be immediately transferred to an escrow agent for deposit in an escrow account; such payments or deposits shall be accompanied by a copy of the applicable sales contract;

(b) The escrow agent shall hold funds so deposited, in an escrow account dedicated solely to the escrow agreement; the escrow agent shall disburse funds from the escrow account only under the following circumstances:

(i) If an authorized official provided for in section XVII of this order, certifies that respondents are rightfully entitled to payment, the escrow agent will be bound to remit to the respondent the proper amount representing merchandise shipped; *Provided, however,* Such certification shall consist of (1) a statement of the facts entitling respondents to receipt of escrowed amounts, (2) copies of shipping documents or other documents evidencing shipment as defined in this order, or copies of documents evidencing the placement of a drop ship order requir-

ing payment to be made concurrently with the order, and (3) a statement that to the authorized official's best personal knowledge respondents are rightfully entitled to receipt of escrowed funds and respondents' receipt of such funds will be consistent with this order;

(ii) If the buyer identified in a contract accompanying the advance payment or deposit makes written demand on the escrow agent for refund of payments or deposits held in the escrow account, the escrow agent shall be obligated to immediately notify respondent of such demand; at the end of 14 days such notice to respondent, if respondent has not certified, through an authorized official, that the buyer making the demand is not entitled to a refund, the escrow agent shall be obligated to remit the amount of the refund demanded, up to the face value of the contract relating to such advance payment or deposit;

(c) The escrow account shall not be liable in any way for the expenses and fees of the escrow agent;

(d) The escrow agent shall maintain for the inspection of the Commission and the trustee, appropriate books, accounts and files documenting all transactions occurring under the escrow agreement, including but not limited to the original copy of each certification by respondents that funds should or should not be released from the escrow account: *Provided further,* That such books, accounts and files for each calendar year, shall be retained by the escrow agent for inspection by the trustee or the Commission, for a period of two additional calendar years;

(e) Where the provisions of this order require certification or action by an authorized official or his substitute, the escrow agent shall accept the certificate of no other person in lieu thereof, except that of the trustee that the escrow agent shall accept only the statement of the trustee of Bede Aircraft, Inc., as to the identity of such authorized officials.

VII

*It is further ordered,* That to the extent respondents are obligated to provide refunds for any reason, respondents cause such refunds to be issued within fifteen working days after the right to a refund vests, except as otherwise provided herein.

VIII

*It is further ordered,* That respondents, to the extent that refunds are not issued within fifteen days after the right to a refund vests, add interest to the refund at an annualized rate of two points over the highest of the prime interest rates offered by large New York banks as posted in the Wall Street Journal at the beginning of

each calendar quarter during which such refund is overdue.

IX

*It is further ordered,* That respondents discharge the customer obligations of Bede Aircraft, Inc., and its subsidiaries in the following manner:

(1) With respect to all persons who have made advance payments or deposits of any amount on the BD-5D aircraft, respondents shall offer the following options:

(a) Such persons may elect to receive subject to the provisions of sections XIII and XIV of this order, a refund of the advance payment or deposit, plus interest from August 1, 1975 or the contract date, whichever is later, until such refunds plus accumulated interest is paid in cash or used as credit for the purchase of merchandise; *Provided further,* That such interest shall be calculated at an annualized rate of two points over the highest of the prime interest rates offered by large New York banks as posted in the Wall Street Journal at the beginning of each calendar quarter for which interest is paid; or

(b) Such persons may elect to reaffirm the order and purchase the aircraft at the wholesale price, which shall be the lowest price at which any of respondents' dealers could or did purchase from respondents such an aircraft in the regular course of business during the 90 days prior to the time full payment is made for purchase of the aircraft.

(c) Such election shall be made at the time respondents require execution of the final purchase contract committing the buyer to purchase and respondents to deliver the aircraft, but in no event shall respondents require such election more than six months prior to the production date for the first production BD-5D aircraft scheduled by Creative Industries of Detroit or a substitute subcontractor;

(d) *Provided further,* That such persons entitled to make an election under subparagraph (1), above, shall be deemed to have elected option (a) thereof unless option (b) is affirmatively elected in writing.

(2) With respect to all persons who have made advance payments or deposits toward the purchase of, or purchased BD-5 homebuilt aircraft kits as of the date this order becomes final, respondents shall offer the following options:

(a) Such persons may elect to reaffirm their orders and receive interest, paid subject to the provisions of sections XIII and XIV of this order: *Provided further,* That such interest shall be calculated in accord with the provisions of subparagraphs (c) through (g), below, and that such interest shall be paid only to those persons who have paid at least the basic purchase

price of the complete kit as set forth in the original purchase contract or to their successor(s) in interest; or

(b) Such persons may elect to rescind the purchase contract or contracts applicable to the purchase of BD-5 parts, materials, plan or accessories, and receive a full refund for all parts, materials, plans and accessories returned to respondents in an undamaged and unmodified condition: *Provided however*, That persons who have, as of the date this order becomes final, been shipped all parts, materials and plans specified in the purchase contract, shall not be eligible for rescission under this subparagraph: *Provided further*, That credit for items returned shall be administered in accord with the provisions of subparagraphs (h) through (m), below;

(c) Interest provided for in subparagraph (2)(a), above, shall be calculated at a rate of 5 percent per annum of the amount paid or deposited: *Provided further*, That such interest shall be calculated from the date on which the owner of the kit took title, until the date on which all parts, plans and materials have been shipped in fulfillment of the contract;

(d) The interest provided for in subparagraph (2)(a), above, shall not exceed \$250 with respect to any contract with an original BD-5 aircraft priority number lower than priority number 2501: *Provided further*, That interest with respect to all other contracts shall not exceed \$150 per contract;

(e) In complying with the provisions of subparagraphs (2)(a) and (2)(d), above, with respect to contracts with a BD-5 aircraft priority number 2501, respondents may require waiver of any rights the recipient of interest may have under the previously stated commitment of Bede Aircraft, Inc., to provide interest as referred to in the "Confidential BD-5 Customer Newsletter" dated March 6, 1972;

(f) The interest provided for in subparagraph (2)(a), above, shall be paid in cash or credit, at the recipient's option;

(g) The interest provided for in subparagraph (2)(a), above, shall inure only to the benefit of the owner of the aircraft or aircraft kit as of the date this order becomes final.

(h) Rescission pursuant to subparagraph (2)(b), above, shall be administered as follows: parts, materials, plans or accessories returned pursuant to such subparagraph shall be judged unacceptable for refund only upon the written finding of an authorized official that the items sought to be returned for refund have been modified or damaged to such an extent as to be unusable for the purpose for which they were intended: *Provided further*, That in the event of a dispute involving in excess of \$100, the matter shall

be submitted to the trustee, who shall in his discretion make a final decision; if the subject of the dispute is \$100 or less, the decision of the authorized official shall be final: *Provided however*, That the decision of the authorized official as well as the trustee shall be subject to the ongoing compliance review of the Commission;

(i) Items returned pursuant to subparagraph (2)(b), above, shall be shipped to respondents, freight paid, with responsibility for packaging and insurance, and risk of loss resting with the sender until the shipment comes within respondents' possession or control: *Provided further*, That respondents shall credit the person rescinding, with an amount of additional refund equal to the amount which would be paid by a shipper under the appropriate Interstate Commerce Commission tariffs for shipment of the parts, materials, plans and accessories judged acceptable for refund from the point from which rescinding person did ship such parts, materials, plans and accessories: *Provided further*, Such shipping credit shall be given regardless of the manner in which the rescinding party actually effected shipment;

(j) Respondents shall credit the person rescinding, with a refund representing the pro rata contract value of the parts, plans, materials and accessories judged acceptable for return pursuant to subparagraph (2)(h), above;

(k) Respondents shall credit the account of the person rescinding, with interest from 60 days after this order becomes final until the rescission refund and accumulated interest is paid in its entirety: *Provided further*, That such interest shall be calculated at an annual rate of 6 percent per annum of the total rescission refund, including the allowance for shipping;

(l) Respondents shall, at least six times over a period of 18 months after the last election of rescission becomes irrevocable, provide free of charge in a mail circulation to all then-current BD-5 homebuilders, as well as in an insert in any BD-5 information kit or package of promotional materials, a reasonable opportunity for all persons electing rescission to advertise or provide notice of their desire to sell or trade any item of value connected with the assembly of the BD-5 aircraft; respondents shall provide to persons electing rescission, at the time such rescission is elected, instructions explaining how such persons may avail themselves of this advertising service;

(m) No sooner than 60 days, and no later than 6 months after this order becomes final, respondents shall, by certified mail, notify all persons electing rescission under subparagraph (2)(b), above, of a return date within 30 days of such notice, after which respondents will process return of parts,

materials plans and accessories which are the subject of the rescission: *Provided further*, That if a person electing rescission has not shipped such parts, plans, materials or accessories to respondents within 60 days of the return date specified in respondents' notice, such person may be deemed by respondents to have waived the right of rescission under this order and elected interest under subparagraph (2)(a), above;

(n) Such persons as are entitled to make an election under subparagraph (2) of this section will be deemed to have elected option (a) unless and until option (b) is elected in writing;

(o) The election of option (b) must take place, if at all, within 60 days after this order becomes final; however, respondents may demand an earlier election in cases where respondents are ready and willing to make shipment of further kit packages, or back-ordered items, the contract value of which shipment is in excess of \$100;

(p) The election of option (a) may not be revoked at any time beyond 60 days after this order becomes final, or after respondents have shipped parts, materials or plans pursuant to an election demanded under (o), above;

(q) The election of option (b) may be revoked at any time prior to the return of parts, materials or plans to respondents for refund: *Provided further*, That where option (b) is so revoked, the resulting election of option (a) shall be treated as if made ab initio.

(3) With respect to all persons who have made advance payments or deposits toward the purchase of, or have purchased BD-7 homebuilt aircraft kits as of date this order becomes final, respondents shall offer the following options:

(a) Such persons may elect to reaffirm their orders and receive interest, paid in the form of cash or credit at the recipient's option subject to the provisions of section XIII and XIV of this order: *Provided further*, That such interest shall be calculated in accord with the provisions of subparagraph (c), below; or

(b) Such persons may elect to rescind the purchase contract(s) applicable to the purchase of BD-7 parts, materials, plans, or accessories, and receive a full refund for all parts, materials, plans, or accessories returned to respondents in an undamaged and unmodified condition: *Provided however*, That credit for items so returned shall be administered in accord with the provisions of subparagraphs (d) through (i), below;

(c) The interest provided for in subparagraph (3)(a), above, shall be calculated at a rate of 5 percent per annum of the purchase contract price of each of kit packages 1A, 2, 3, 4, and 5, or the purchase contract price of each of

such kit package as was actually purchased, whichever is less; *Provided further*, That such interest shall be calculated with respect to each kit package individually, from the date upon which the owner as of the date this order becomes final took title or paid for purchase of such kit package, whichever was later, until the date on which shipment of all elements of each such package is complete in all material respects; *Provided further*, That prior to the date this order becomes final, absence of wing spars from package 1A shall not render that package incomplete for the purpose of determining such package's eligibility for calculation of interest;

(d) Rescission pursuant to subparagraph (2)(b), above, shall be administered as follows: parts, materials, plans, or accessories returned pursuant to such subparagraph shall be judged unacceptable for refund only upon the written finding of an authorized official that the items sought to be returned for refund have been modified or damaged to such an extent as to be unusable for the purpose for which they were intended; *Provided further*, That in the event of a dispute involving in excess of \$100, the matter shall be submitted to the trustee, who shall in his discretion make a final decision; if the subject of the dispute is \$100 or less, the decision of the authorized official shall be final; *Provided, however*, That the decision of the authorized official as well as the trustee shall be subject to the ongoing compliance review of the Commission;

(e) Items returned pursuant to subparagraph (2)(b), above, shall be shipped to respondents, freight paid, with responsibility for packaging and insurance, and risk of loss resting with the sender until the shipment comes within respondents' possession or control; *Provided further*, That respondents shall credit the person rescinding, with an amount of additional refund equal to the amount which would be paid by a shipper under the appropriate Interstate Commerce Commission tariffs for shipment of the parts, materials, plans, and accessories judged acceptable for refund from the point from which rescinding person did ship such parts, materials, plans and accessories; *Provided further*, Such shipping credit shall be given regardless of the manner in which the rescinding party actually effected shipment;

(f) Respondents shall credit the person rescinding, with a refund representing the pro rata contract value of the parts, plans, materials, and accessories judged acceptable for return pursuant to subparagraph (2)(h), above;

(g) Respondents shall credit the account of the person rescinding, with

interest from 60 days after this order becomes final until the rescission refund and accumulated interest is paid in its entirety; *Provided further*, That such interest shall be calculated at an annual rate of 6 percent per annum of the total rescission refund, including the allowance for shipping;

(h) Respondents shall, at least six times over a period of 18 months after the last election of rescission becomes irrevocable, provide free of charge in a mail circulation to all then-current BD-7 homebuilders, as well as in an insert in any BD-7 information kit or package of promotion materials, a reasonable opportunity for all persons electing rescission to advertise or provide notice of their desire to sell or trade any item of value connected with the assembly of the BD-7 aircraft; respondents shall provide to persons electing rescission, at the time such rescission is elected, instructions explaining how such persons may avail themselves of this advertising service;

(i) No sooner than 60 days, and no later than 6 months after this order becomes final, respondents shall, by certified mail, notify all persons electing rescission under subparagraph (2)(b), above, of a return date within 30 days of such notice, after which respondents will process return of parts, materials plans, and accessories which are the subject of the rescission; *Provided further*, That if a person electing rescission has not shipped such parts, plans, materials, or accessories to respondents within 60 days of the return date specified in respondents' notice, such person may be deemed by respondents to have waived the right of rescission under this order and elected interest under subparagraph (2)(a), above;

(j) Such persons as are entitled to make an election under subparagraph (3) of this section will be deemed to have elected option (a) unless and until option (b) is elected in writing;

(k) The election of option (b) must take place, if at all, within 60 days after this order becomes final; however, respondents may demand an earlier election in cases where respondents are ready and willing to make shipment of further kit packages, or back-ordered items, the contract value of which shipment is in excess of \$100;

(l) The election of option (a) may not be revoked at any time beyond 60 days after this order becomes final, or after respondents have shipped parts, materials, or plans pursuant to an election demanded under (k), above;

(m) The election of option (b) may be revoked at any time prior to the return of parts, materials or plans to respondents for refund.

#### X

*It is further ordered*, That respondents ship or make a bona fide offer to

ship all parts, materials, plans, and other products, excluding products covered by section IX, subparagraph (1), of this order, which have been contracted for shipment but not shipped as of the date this order becomes final, within 12 months after this order becomes final or 12 months after the proposed FmHA loan to respondents is funded, whichever is later, but in any event within 24 months after this order becomes final.

#### XI

*It is further ordered*, That respondents adopt the following procedures with respect to the shipment of engines to the owners of BD-5 homebuilt aircraft or aircraft kits as of the date this order become final:

(1) Such owners of BD-5 homebuilt aircraft or aircraft kits as have contracted with respondents and paid for purchase of an engine described in such contract as 726 cubic centimeters displacement or larger, shall be given a bona fide offer to purchase the Xenoah engine, one per aircraft, at one of the following prices, whichever is less:

(a) The price contracted for as of the date this order becomes final, if such contract was for a Xenoah engine described as 726 cubic centimeters displacement or larger; or

(b) The sum of the actual cost of the engine FOB the U.S. port of entry, plus 30 percent, or respondents' wholesale price for such engine, whichever is less;

(2) Such owners of BD-5 aircraft or aircraft kits as are not included within the provisions of subparagraph (1), above, shall be given a bona fide offer to purchase the Xenoah engine, one per aircraft, at the following price:

Respondents' wholesale price for such engine, but not more than the sum of the actual cost of the engine FOB the U.S. port of entry, plus 35 percent;

(3) Except as required for shipment of BD-5D aircraft to persons who have, as of the date this order becomes final, paid, or deposited money against the purchase of such aircraft, respondents shall not ship Xenoah engines, or cause such engines to be shipped, to any persons other than owners of BD-5 homebuilt aircraft or aircraft kits as of the date this order becomes final, until each of such owners has purchased or been given a bona fide offer to purchase such engine.

*It is further ordered*, That respondents ship or make a bona fide offer to ship to all owners of BD-5 homebuilt aircraft or aircraft kits as of the date this order becomes final, parts, plans, and materials for fabrication of the BD-5 drive assembly described in respondents' letter to "BD-5 Homebuilders" dated March 31, 1975, subject to the following provisions:

(1) Such parts, plans, and materials shall include fully fabricated and formed "shivs" and "overriding clutch": *Provided further*, That such shivs and overriding clutch shall be equivalent in all technical and mechanical respects to those used in the FAA certified drive assembly for the BD-5D aircraft;

(2) Such parts, plans, and materials shall be offered at no extra charge to all such owners of BD-5 homebuilt aircraft or aircraft kits who have not ordered and received, as of the date this order becomes final, all parts, plans, and materials necessary for complete assembly and installation of the drive assembly referred to by respondents as the "variable speed drive";

(3) To the extent that any person eligible to receive such offer has previously paid to or deposited with respondents any amount against the purchase of any drive system or assembly, respondents shall allow full credit for such amount previously paid or deposited, which shall be redeemable in credit or cash at the recipient's option, subject to the provisions of Section XIV of this order.

### XIII

*It is further ordered*, That subject to loan repayment requirements imposed upon respondents by bona fide lenders recognized as such by the trustee, respondents assign the highest possible business priority allowed by sound business prudence to the shipment of BD-5D aircraft as provided for in section IX, subparagraph (1)(b), of this order, and to the shipment of parts, plans, and materials as provided for in sections X, XI, and XII of this order: *Provided further*, That respondents shall assign business priority subordinate only to that stated above, to the payment of interest and refunds provided for in this order; in any event, respondents shall neither cause nor allow business profits of any corporate respondent to be reinvested beyond those amounts reasonably necessary to ensure the survival of such corporate respondent and promote the timely fulfillment of respondents' obligations under this order; further, respondents shall neither cause nor allow, dividends to be paid, except from subsidiary to parent, on behalf of the stock of Bede Aircraft, Inc., or its subsidiaries, until such time as the trustee shall certify that all of respondents' obligations under sections IX, X, XI, and XII of this order have been discharged.

### XIV

*It is further ordered*, That respondents administer the payment of interest, refunds, and credits, as well as rescission, provided for in sections IX and XII of this order according to the following provisions:

(1) As funds become available as provided for in section XIII of this order, an authorized official shall distribute such funds, or inventory purchased with such funds, to the claimants thereof in the most equitable manner possible;

(2) Respondents shall, within 90 days after this Order becomes final, but before any distribution of such funds, file with the Commission a plan for distribution: *Provided further*, That such plan shall not be implemented until the Commission has notified respondents of its approval thereof.

(3) Such distribution plan shall include, inter alia, provision for notification of eligible consumers of their rights under this order, and provision for the equitable distribution of funds through shipment of parts, plans and materials, payment of interest and refunds, and allowance of consumers' use of preexisting credits for the purchase of merchandise.

(4) Such distribution plan shall also include respondents' plan or formula for determining the exact refund value of all parts, materials, plans and accessories returned pursuant to rescission under section IX of this order.

### XV

*It is further ordered*, That respondents not ship BD-5D aircraft to any person not having paid or deposited money against the purchase thereof as of the date this order becomes final, until respondents have shipped or made a bona fide offer to ship such aircraft to all persons who have, as of the date this order becomes final, paid or deposited money against the purchase of such aircraft: *Provided further*, That respondents shall ship or make a bona fide offer to ship BD-5D aircraft strictly on a FIFO schedule, based upon the date on which the contract accompanying the initial payment or deposit against the purchase of the aircraft was executed: *Provided further*, That "persons" who have paid or deposited money as required above, shall include the successor(s) in interest to such persons.

### XVI

*It is further ordered*, That respondents undertake the appointment of a trustee who shall hold in trust all outstanding stock of respondent Bede Aircraft, Inc.: *Provided further*, That such trust arrangement shall be managed as follows:

(1) The instrument creating such trust and providing its terms shall be the document entitled "Security Trust" (hereinafter "the trust agreement"), attached to this order as appendix II, and made a part hereof;

(2) The grantors of such trust shall be all persons owning or holding stock of any nature in respondent Bede Air-

craft, Inc.; such grantors shall upon execution of the trust agreement transfer all right, title, and interest in such stock to the trustee, to be held according to the terms and conditions of the trust agreement.

(3) The trust shall be irrevocable, and shall terminate only upon the occurrence of the termination date as defined by the trust agreement.

(4) The trustee shall be qualified and appointed as follows:

(a) The trustee shall be a natural person, experienced as a fiduciary, with substantial business experience and background, possessing a reputation in his community for high ethical character; in the alternative, the trustee may be a corporate entity, duly chartered by a public authority and capable of acting as a trustee consistent with the terms of this order;

(b) The first qualified trustee, as well as successor trustees, shall be appointed by a delegate of the grantors, which delegate shall not be a respondent named in this order, and a delegate of the Commission: *Provided further*, That if such delegates cannot agree, they shall together appoint a third; a majority of the three shall then select a trustee who shall serve until the termination date of the trust or such time as he shall die, resign, become incapacitated, insolvent, or bankrupt, or be removed as provided in the trust agreement;

(5) Respondents shall provide all reasonable cooperation and assistance to the trustee in his exercise of the duties specified in this order;

(6) Breach of the trust agreement may be deemed by the Commission a violation of the order by respondent Bede Aircraft, Inc.

### XVII

*It is further ordered*, That respondents provide for the appointment by the trustee of one "authorized official" and one "substitute authorized official" for each of Bede Aircraft, Inc., and its subsidiaries: *Provided further*, That:

(1) The trustee may, at his discretion, appoint authorized officials and substitutes for separate business sites used by the parent or its subsidiaries, under circumstances judged by the trustee to be in the best interests of respondents' timely compliance with this order;

(2) Respondents shall defer entirely to the trustee's choices for the appointed authorized officials and substitutes;

(3) Respondents shall provide all reasonable authority, as well as cooperation and assistance, to each authorized official as he exercises the duties specified in this order;

(4) Wherever this order specifies duties to be discharged by an authorized official, the substitute authorized

official shall act in, and only in, the absence or incapacity of the authorized official;

(5) In the absence or incapacity of the authorized official, for a period exceeding 14 consecutive calendar days, excluding vacation time or annual leave, respondents shall notify the trustee of such circumstance and assist the trustee in taking whatever steps he deems necessary under the circumstances;

**XVIII**

*It is further ordered.* That respondents make available through written notice, financial statements based upon the independent audit described in section I, paragraph 4 hereof, to all persons who have extended credit or who are considering extension of credit to respondents, and to Federal, State and local government agencies, to whom any financial information purporting to express the financial status or condition of Bede Aircraft, Inc., has been given during calendar years 1976, 1977, and 1978: *Provided*, That such persons or agencies agree to maintain the confidentiality of such information in a manner consistent with confidentiality attached to the information previously given such person or agency;

**XIX**

*It is further ordered.* That respondents mail to each person to whom the provisions of section IX hereof apply, the Commission's synopsis of this order in addition to instructions for obtaining a copy of this order from the Commission: *Provided further*, That the Commission shall supply copies of such synopsis, and that such synopsis and instructions shall be mailed within 15 days after this order becomes final or within 15 days after respondents receive copies of the synopsis, whichever is later.

**XX**

*It is further ordered.* That respondents incorporate verbatim the following provision in all dealership contracts between respondents and respondents' dealers, whether such contracts are in effect as of the date this order becomes final or are executed thereafter:

Dealer agrees to be bound by and observe all applicable provisions of the order of the Federal Trade Commission issued \_\_\_\_\_ (date), applicable to the company. Dealer further agrees that the company shall have the right to terminate this agreement upon written notice that the company has determined that the dealer has engaged in an act or practice prohibited by such order;

**XXI**

*It is further ordered.* That respondents send a copy of this decision and

order, to each of their present or future employees, salesmen, dealers, franchisees, licensees, and others who sell or promote the sale of respondents' products, and, as to each such person:

(1) Provide them with a form returnable to the respondents and the Commission, upon which they may clearly state their intention to be bound by and conform to the requirements of this order;

(2) Inform them that respondents will not employ any person, or use the services of any person, to sell or promote the sale of any product unless such person agrees to and does file notice with the respondents and the Commission that he or she will be bound by the provisions of this order;

(3) Inform them that respondents are obligated by this order to discontinue dealing with those persons who continue the unfair or deceptive acts or practices prohibited by this order, or who fail to adhere to the affirmative requirements of this order;

(4) Institute a program of continuing surveillance adequate to reveal whether their business operations conform to the requirements of this order;

(5) Promptly discontinue dealing with dealers, or using the services of such persons, including dealers, who:

(a) Do not file notice with the respondents and Commission of their intent to comply with, and be bound by, this order;

(b) Are revealed by the aforesaid program of surveillance or by any other means to have engaged in an unfair or deceptive act or practice prohibited by this order, or to have failed to adhere to the affirmative requirements of this order.

**XXII**

*It is further ordered.* That respondents notify the Commission at least thirty days prior to any change in the corporate respondents, such as dissolution, assignment, or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change which may affect compliance with obligations arising out of this order.

**XXIII**

*It is further ordered.* That each individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, such respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the respondent's business address and a statement of the nature of the business or employment in which the re-

spondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

**XXIV**

*It is further ordered.* That the provisions of this order shall not operate to abridge or modify any of respondents' obligations arising under the Commission's trade regulation rule with respect to mail order merchandise, 16 CFR 435.

**XXV**

*It is further ordered.* That respondents may require as a condition precedent to the receipt of interest or rescission refund under section IX of this order, that a person receiving same shall agree that such interest has actually been paid by respondents in the form of cash or through the person's use of credit, be considered partial or complete satisfaction, on a dollar for dollar basis, of any judgment obtained by such person against respondents for breach of the underlying purchase contract if the court awarding the judgment so approves.

**XXVI**

*It is further ordered.* That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

**APPENDIX I**

(The company), hereinafter "the seller", agrees that this transaction shall conform to the provisions of the Federal Trade Commission's Trade Regulation Rule Concerning Mail Order Merchandise, 16 CFR Part 435, hereinafter "the Rule", regardless of the manner in which the merchandise involved was ordered from seller, whether through the mails or otherwise. Seller agrees that the buyer(s) identified in this contract shall have the right under this contract to enforce the provisions of the Rule as if such provisions were incorporated verbatim in the contract. Seller further agrees that any act or practice on the part of seller in connection with this transaction, which would be a violation of the Rule, shall be a breach of this contract.

The following summary of the Rule is included as a guide to the buyer:

**SUMMARY**

You have the right to know when you can expect your merchandise to be shipped. If no specific shipping date is stated by the seller in the contract or somewhere else, you have the right to have your merchandise shipped to you within 30 days. If the seller does not ship your merchandise within the stated time or within 30 days, you have the right to cancel your order.

If the seller can't ship the merchandise to you in the stated time or within 30 days, he

must give you the chance to cancel your order and get all of your money back. The seller must notify you of a delay and give you a free means to reply (for example, a postage-paid postcard).

If the shipping delay is 30 days or less, you have the right to cancel the order and get your money back, the right to agree to a new shipping date, or the right not to answer. But if you don't answer, the seller can assume you agree to the shipping delay. If the shipping delay is more than 30 days, you must give your express consent to the delay, otherwise, the seller must return your money at the end of the first 30 days of delay.

If you cancel, you have the right to get all of your money back. The seller must mail your refund to you within seven business days after you cancel your purchase. Where there is a credit sale, the seller has one billing cycle to "adjust" your account.

This summary is an outline of your rights as the buyer. If you need to know more details, a copy of the Federal Trade Commission's Rule Concerning Mail Order Merchandise may be obtained from: Federal Trade Commission, Office of the Secretary, Rules and Publications Branch, Washington, D.C. 20580.

#### APPENDIX II

##### SECURITY TRUST

This Indenture of Trust made as of the day of —, 19—, by and between the shareholders of Bede Aircraft, Inc. listed in the attached Schedule A, hereinafter referred to as "the grantors", and — hereinafter referred to as "the trustee".

Whereas, it has been suggested by the Federal Trade Commission, hereinafter referred to as "the Commission," that Bede Aircraft, Inc., hereinafter referred to as "the company", may have utilized certain undesirable trade practices;

Whereas, the grantors, the company, and the Commission have discussed these allegations and determined that the company should adopt certain procedures, hereinafter referred to as "the new procedures and policies";

Whereas, the representatives of the scheduled shareholders, the company, and the Commission have reduced the new procedures and policies to a writing which takes the form of a consent order, hereinafter referred to as "the order"; and

Whereas, the order contemplates that it will be policed to the extent provided for herein by the independent trustee provided for herein;

Now therefore, it is agreed that the trustee shall hold the shares of the company scheduled in the attached Schedule B, hereinafter referred to as "the scheduled property," in trust according to the terms and conditions hereinafter set forth, for the benefit of the company and the grantors.

First: In this Indenture the following terms shall have the following meanings where the context so permits:

(1) The term "company" shall mean the aforesaid Bede Aircraft, Inc., its subsidiaries, Bede General Corporation, Bede Wing, Inc., and all corporations or other business enterprises owned or controlled by the aforesaid Corporation and/or James R. Bede;

(2) The term "scheduled property" shall mean the original property listed in Schedule B, all additions to it, and any and all property received by the trustee as a result of his serving as trustee of the trust;

Second: The term of this trust shall commence with the date first written above and it shall continue until the occurrence of the first of the following events:

(1) Satisfaction of all of respondent's obligations arising under Sections IX, X, XI and XII of the Order: *Provided further*, That this trust shall not terminate under the provisions of this subparagraph until delivery to the Commission of the joint certification of the trustee and the company that:

(a) All the company's customers existent as of the date first written above have received from the company all products which the company is obligated to deliver to them as of the date first written above and/or all monies which the company is obligated to pay them as of the date first written above;

(b) All orders placed with the company after the day before the date first written above have been substantially filled or dealt with as prescribed by the order; and

(c) The order and this trust have succeeded in bringing the company to a position where it is able to meet its commitments to its customers without necessitating the continuance of this trust;

(2) The arrival of the last day of existence permitted by the applicable Rule Against Perpetuities: *Provided further*, That the measuring lives governing such rule shall be that of James R. Bede, William R. Bernard, and Kenneth R. Bennington.

The date on which shall occur the first of the above described events shall be known as "the termination date."

Third: Upon the occurrence of the termination date, this trust shall terminate and the trustee shall have no further responsibilities other than the delivery of the scheduled property to the grantors or their successors or personal representatives, and the delivery to the Commission of the following:

(1) All outstanding reports due the Commission under the terms of this trust;

(2) A statement setting forth:

(a) The reasons for the trustee's belief that the termination date has occurred, and

(b) His opinion as to whether the company, its subsidiaries, and/or affiliates have substantially complied with the order, and if not, why not.

Fourth: During the continuance of this trust, the trustee shall have the following responsibilities with respect to the scheduled property:

(1) He shall hold the scheduled property in a safe deposit box rented in his name as trustee, or if this is not practicable, in some other place suitable for the safekeeping of the scheduled property;

(2) He shall deliver the scheduled property to anyone who is approved by the company, the grantors, and the trustee for any purpose approved by all, including but not limited to mergers, consolidations, or other business reorganization deemed by all to be beneficial or not detrimental to the interests of the grantors and the company's customers;

(3) He shall deliver the scheduled property as directed by a court of competent jurisdiction under the Federal Bankruptcy Act.

Fifth: During the continuance of this trust, the trustee shall have the obligation to exercise the voting rights associated with and belonging to the scheduled property; however, his discretion with respect to the exercise of such rights shall be limited as follows:

(1) With respect to the election of directors, he shall exercise such voting rights as instructed by the grantors except that:

(a) No more than a majority of directors shall be subject to the prior approval of grantors: *Provided further*, That in the event that the trustee causes the removal and replacement of a director pursuant to subparagraphs (b) through (d), below, the replacement director shall not be subject to the prior approval of the grantors unless the director so removed was subject to such prior approval.

(b) In the event that he believes that the company is not complying with the spirit as well as the letter of this order, he will cause the immediate removal of all directors who are consciously or negligently allowing such non-compliance, and replace them with directors of his choice;

(c) In the event he believes that the company is not providing him with the information and cooperation he requires to meet his responsibilities under this Indenture of Trust, he will cause the immediate removal of all directors who are consciously or negligently allowing such circumstances to exist, and replace them with directors of his choice;

(d) In the event he believes that officers and directors of the company receive compensation for their services not reasonably reflecting their duties and value to the company, as well as the realities of the company's financial condition and obligations, he will cause the removal of directors who are consciously or negligently allowing such circumstance to exist, and replace them with directors of his choice.

(2) With respect to all other matters requiring shareholders' action, and in particular major corporate actions and reorganizations requiring shareholders' approval, except those arising under the Federal Bankruptcy Act, the trustee shall vote against all changes in the status quo unless he has the approval of the grantors;

(3) With respect to matters arising under the Federal Bankruptcy Act and requiring shareholders' action, the trustee shall independently exercise such voting rights consistent with his duties under the provisions of subparagraph (4) below;

(4) With respect to all matters requiring or allowing the trustee to exercise rights associated with and belonging to the scheduled property, the trustee shall exercise such rights consistent with his general duties as a fiduciary, given the following limitations and instructions:

(a) He must always exercise such rights in a manner calculated to bring about and preserve the company's compliance with the order;

(b) He must always exercise such rights in pursuit of the early termination of this trust as provided for in subparagraph (1) of paragraph Second of this Indenture of Trust;

(c) He must always exercise such rights so that if, within his discretion as fiduciary, no other reasonable alternative exists for the successful operation of the company consistent with the spirit of these limitations and instructions, he will cause the company to voluntarily avail itself of any and all appropriate provisions of the Federal Bankruptcy Act.

Sixth: During the continuance of the trust, the trustee shall have the following responsibilities with respect to the business and the operation of the company:

(1) The trustee shall require quarterly financial reports from the company; such reports shall be rendered by an independent certified public accountant, and shall include:

(a) A profit and loss statement for the preceding quarter and for the year to date;

(b) A balance sheet as of the date of the profit and loss statement;

(c) A sources and applications of funds statement for the year as of the date of the profit and loss statement;

(2) The trustee shall demand yearly audited financial reports from the company, consisting of the same components as he must require of the company quarterly;

(3) Quarterly during the first year of the life of this trust, and twice each year thereafter, the trustee shall have the company's compliance with the escrow provisions of the order audited by an independent certified public accountant of his choice. Based upon such audit as well as such other examination as the trustee may deem necessary, the trustee shall compile a written report setting forth his findings with respect to the company's compliance with the escrow provisions of the order;

(4) The trustee shall file with the Commission, immediately upon his receipt thereof, copies of all reports specified in subparagraphs (1) and (2), above;

(5) The trustee shall file with the Commission copies of the audit report and trustee's report resulting from the provisions of subparagraph (3), above, within 60 days after the close of the period which is the subject of the audit;

(6) Upon receipt of the reports specified in subparagraphs (1), (2) and (3), above, the trustee shall review them. If he finds any indications that the company is not complying with the order, he shall forthwith make such inquiries as he shall deem necessary to determine whether compliance exists. The trustee shall notify the Commission of his findings in writing and take such steps as are within his powers to assure compliance with the order.

(7) The trustee shall appoint one "authorized official" and one "substitute authorized official" for each of Bede Aircraft, Inc., and its subsidiaries: *Provided however*, That such authorized official or substitute shall not be an individual respondent named in this order: *Provided further*, That the trustee may, at his discretion, appoint authorized officials and substitutes for separate business sites used by the parent or its subsidiaries, under circumstances judged by the trustee to be in the best interest of respondents' timely compliance with this order;

(8) In the event of absence or incapacity of an authorized official and his substitute, the trustee shall act in lieu thereof, until such time as the authorized official or his substitute can resume duties, or another is appointed;

(9) Should the trustee learn of the absence or incapacity of an authorized official for a period in excess of 14 calendar days, excluding vacation time, the trustee shall examine such circumstances and determine whether as a matter of his discretion a new authorized official should be appointed; in any event should such absence or incapacity extend to 30 calendar days, the trustee shall appoint a new authorized official, and if necessary a new substitute;

(10) The trustee shall maintain close communication with the authorized officials appointed by him, ascertaining the satisfactory discharge of the authorized officials' duties under the order, as well as respondents' compliance with this order. The trustee shall also, from time to time, demand such reports from the authorized officials as the trustee deems necessary.

(11) The trustee shall take all steps as are within his powers to ensure the company's compliance with the spirit as well as the letter of section XIII of the order.

Seventh: During the continuance of this trust, the trustee shall have the authority to remove the company's directors and replace such directors with directors of his choice who will cause the company to pay the trustee such reasonable fees from the company's funds as the trustee, the grantors, and the company shall agree. Such remuneration shall be the amount specified in the attached Schedule C, hereinafter referred to as "the consulting agreement". In no event shall the trustee's compensation be determined by profits or any other measure of the company's business success. The grantors hereby agree to forfeit any right to object to the use of the company's funds for purposes of the trustee's remuneration.

Eighth: The trustee shall not be liable for breach of trust in connection with the good faith exercise of any discretionary power granted herein. He shall be so liable only for those actions taken by him which are deliberate or negligent breaches of his fiduciary duties and for breaches which occur because the trustee intended to profit improperly from the action or inaction giving rise to the breach. Breach of this trust by the trustee may be deemed by the Commission a violation of the order by the company.

Ninth: The company shall indemnify the trustee for any liabilities which he might incur as a result of serving as trustee under this Indenture, unless such liability arises as a result of a breach of fiduciary duty on the part of the trustee which occurs because the trustee intended to profit improperly from the action or inaction giving rise to the breach.

Tenth: The trustee shall serve until the termination date or until such time as he shall die, resign, become incapacitated, insolvent, or bankrupt, or be removed as hereinafter provided:

(1) If a trustee fails to qualify, or ceases to qualify or act, or is removed, a successor trustee shall be appointed as provided for in section XVI of the order;

(2) A majority of the grantors may remove a trustee for cause if they notify the Commission at least 21 days in advance of the proposed effective date of such removal, and if they also:

(a) Notify the Trustee at least 21 days in advance of the proposed effective date of such removal;

(b) Describe with particularity in such notice to the trustee and to the Commission, the circumstances giving rise to cause for the trustee's removal;

Once such notice is given by the grantors, the trustee shall continue to serve until such time as removal becomes effective or a successor is qualified and elected, whichever is later. Upon the last day of the trustee's service, the grantors shall tender to the trustee a certified check for an amount equal to all compensation due him.

Eleventh: The trustee may resign by delivering in writing to the grantors and to the Commission a notice which states:

(1) The desired effective date of his resignation;

(2) The reasons for his resignation;

(3) A statement of his opinion as to whether or not the company is complying with the order; and

(4) A final bill for his services.

In any event, such resignation shall not be effective until his successor is qualified and elected.

Twelfth: The terms of this trust shall be governed by and constructed under the laws of the State in which respondent Bede Aircraft, Inc., maintains its principal place of business.

Thirteenth: During the continuance of this trust the trustee shall make available, or cause to be made available for copying and inspection by the Commission and its staff, all books and records of the company, as well as all books and records of the trustee arising from this trust.

#### ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Bede Aircraft, Inc., Bede General Corp., Bede Wing, Inc., and James R. Bede.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw the agreement or make final the agreement's proposed order.

The complaint which will be issued by the Commission should it make final the agreement's proposed order alleges that respondents:

Misrepresented the solvency and financial condition of the respondent corporations;

Unfairly prejudiced the rights of existing and prospective customers by failing to invoke the remedial provisions of the Federal Bankruptcy Act;

Misrepresented the existence and legal status of a corporate entity;

Misrepresented that complete homebuilt aircraft kits were available for sale and ready to ship;

Misrepresented that complete delivery of kits could or would be accomplished by respondents in a logical sequence and at reasonable intervals;

Misrepresented the work hours and tools necessary to assemble homebuilt aircraft kits;

Misrepresented that engines and drive systems capable of meeting certain criteria regarding performance, reliability and safety existed for use in respondents' aircraft;

Lacked a reasonable basis for representations made regarding the date of availability of the BD-5D production aircraft;

Misrepresented that advance payments and deposits on certain products would be used for research and development of those products;

Engaged in unfair practices designed to resist and delay issuance of properly requested refunds, and unfairly failed to issue refunds when due;

Unfairly retained money received as a result of unfair acts and practices, and unfairly failed to pay interest upon money so retained;

The terms of the agreements's proposed order will prohibit the misrepresentations outlined above, and will require that respondents have a documented reasonable basis for certain types of representations. The order will further require that respondents:

Not represent that any product is available for immediate shipment unless respondents have within their possession or con-

trol sufficient quantities of the product to meet reasonably anticipated demand;

Disclose, when applicable, that a product is not available for immediate delivery or is subject to further research and development, and disclose any other facts bearing upon respondents' ability to deliver the product;

Disclose all necessary specialized tools, machines or processes, in connection with representations regarding the tools or processes necessary for the assembly of any kit.

Incorporate in all sales contracts the Commission's Trade Regulation Rule on Mail Order Merchandise, making violation of the rule a breach of the contract.

The agreement's proposed order further requires respondents to assign all stock of Bede Aircraft, Inc., to a trustee approved by the Commission. The trustee will oversee the operations of the corporate respondents until existing consumer obligations, in addition to those imposed by the consent agreement, are satisfied. The trustee will also have the obligation to verify that continued operation of the business will hold a reasonable chance of success. If the trustee determines that no reasonable alternative exists for successful operation of the corporations, he will have the duty to invoke the provisions of the Federal Bankruptcy Act.

Should the corporations be able to continue operations, the proposed order will require that advance payments or deposits made by future customers be held in an escrow account by a bank or other institution. The order provides in particular that the escrow agent will release funds from the escrow account only upon satisfactory showing that the merchandise has been shipped.

The following paragraphs outline the remainder of the major provisions contained in the agreement's proposed order:

The order requires respondents to offer two options to BD-5D production aircraft depositors. Under the first option, depositors may elect to receive a refund of the amount of the deposit plus interest. As a second option, depositors may elect to reaffirm their orders, and purchase the aircraft at the wholesale price prevailing at the time of the sale;

The order requires respondents to offer two options to purchasers of BD-5 homebuilt aircraft. The first option provides for payment of interest to the homebuilder, calculated on the basic price of the kit. The total interest payment per aircraft under this option will be limited to \$250 for contract priority numbers lower than 2501, and \$150 for all other contracts. The second option available to BD-5 homebuilders will be rescission of the purchase. A homebuilder may elect to rescind the contract and receive a refund plus interest for all returned parts, materials, plans, and accessories which have not been modified or damaged to such an extent as to be unusable for the purpose for which they were intended;

The order also requires respondents to offer the option of interest or rescission to owners of BD-7 homebuilt aircraft kits; the interest and rescission provisions applicable to the BD-7 homebuilt are similar to those provisions applicable to the BD-5 homebuilt;

The order requires respondents to fill all outstanding orders for parts, materials, plans, and other products, within twelve months after the order becomes final or twelve months after a proposed federally insured loan to respondents is funded, whichever is later, but in any event within twenty-

four months after the order becomes final (excluded from this provision is the BD-5D production aircraft);

The order requires that all homebuilders who have already paid for the Xenoah engine must be shipped the engine at no increase in price. All other homebuilders must be offered the engine at respondents' wholesale price, but not more than the sum of the actual cost of the engine f.o.b. the U.S. port of entry, plus 35 percent. The order prohibits respondents from shipping Xenoah engines (with the exception of engines in BD-5D aircraft) to any persons other than BD-5 homebuilders, until each such homebuilder has had the opportunity to purchase an engine;

The order requires respondents to make significant changes in their previously announced plans for providing a drive system for the BD-5 homebuilt. Respondents must, at no extra charge, offer to homebuilders materials for home fabrication of the BD-5 drive assembly, including fully fabricated and formed "shivs" and "overriding clutch". To the extent that any BD-5 homebuilder has previously paid for the fully machined drive system, and now wishes to receive the parts and materials as described above, that homebuilder will receive full credit for the amount previously paid;

The order prescribes general business priorities and limitations to which respondents must adhere in order to facilitate the ultimate objective of satisfying the company's consumer obligations. The respondent corporations will be prohibited from paying dividends until all consumer obligations are satisfied, and respondents (and the trustee) will be required to assign the highest possible priority to shipment of contracted products to existing Bede customers, followed by the priority of payment of interest and refunds as required by the order;

Finally, the order requires respondents to fill the orders of BD-5D customers existing as of the date the Commission's order becomes final, before shipping any BD-5D aircraft to new purchasers;

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 78-16843 Filed 6-16-78; 8:45 am]

[6750-01]

[16 CFR Part 423]

**CARE LABELING OF TEXTILE PRODUCTS AND LEATHER WEARING APPAREL**

**Release of Staff Report on Proposed Revised Trade Regulation Rule**

**AGENCY:** Federal Trade Commission.

**ACTION:** Release of staff report on proposed revised trade regulation rule; invitation for comment.

**SUMMARY:** The Federal Trade Commission's Bureau of Consumer Protection has released to the public its staff report which analyzes the record in its rulemaking proceeding on the Care Labeling of Textile Products and Leather Wearing Apparel and makes

recommendations as to the final action which the Commission should take. The release of this report commences the final 60-day comment period in this proceeding. The Bureau of Consumer Protection is also releasing to the public complete microfilmed copies of the evidentiary record and an index of the materials in the record.

**DATE:** Comments must be received on or before August 18, 1978.

**ADDRESS:** Address comments to Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

**FOR FURTHER INFORMATION CONTACT:**

John F. LeFevre, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, telephone, 202-724-1188.

Cynthia S. Lamb, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, telephone, 202-724-1566.

**SUPPLEMENTARY INFORMATION:** Pursuant to § 1.13(g) of the Commission's rules, the staff has made its report, containing its analysis of the record and its recommendations as to the form of the final rule, to the Commission. The report is now available for public comment under rule 1.13(h). Copies of the report may be obtained from the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Comment will be accepted on both the staff report and the presiding officer's report, which has previously been made public (see 42 FR 42875; August 25, 1977), for a period of 60 days ending on August 18, 1978. Comments should be identified as "Comment on Presiding Officer and Staff Reports—Care labeling TRR," and addressed to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, and submitted, when feasible and not burdensome, in five copies.

The Commission cautions all concerned that the staff report has not been reviewed or adopted by the Commission, and that its publication should not be interpreted as reflecting the present views of the Commission or of any individual member thereof.

In addition, the Commission has authorized the Bureau of Consumer Protection to make available to the public an index of the rulemaking record and microfilm copies of all documents in the record. Copies of the index and microfilm may be obtained from the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, upon payment of the appropriate fees.

Issued: June 19, 1978.

ALBERT H. KRAMER,  
Director,  
Bureau of Consumer Protection.

[FR Doc. 78-16845 Filed 6-16-78; 8:45 am]

[1505-01]

[16 CFR Part 13]

[Docket No. 9041]

**CAPITAL BUILDERS, INC., ET AL**

Consent Agreement With Analysis to Aid  
Public Comment

*Correction*

In FR Doc. 78-14861 appearing on page 22992 in the issue of Tuesday, May 30, 1978, in the paragraph entitled, "FOR FURTHER INFORMATION CONTACT:", the zip code for Ohio is "44114".

On page 22993, in the 3rd column, in paragraph No. 24, "give" should read "gave".

On page 22995 in the middle column, the numeral, "V", should precede the last paragraph.

[1505-01]

[16 CFR Part 13]

[Docket No. 9043]

**UNITED BUILDERS, INC., ET AL**

Consent Agreement With Analysis to Aid  
Public Comment

*Correction*

In FR Doc. 78-14860 appearing on page 22988 in the issue of Tuesday, May 30, 1978, on page 22989, in the middle column, paragraph No. 26, the 4th line should read, "[Notice to] the Customer", to the customer and obtained the customer's [signature on each document.]".

Also, on page 22989, the 3rd column, paragraph No. 46, the 7th line should read, "Notice to the Customer" as set forth in § 226.9(b) of Regulation Z \* \* \*.".

On page 22990, in the middle column, paragraph No. 2, the last line should read, "defined by § 226.2(p) of Regulation Z."

[3810-01]

**DEFENSE CIVIL PREPAREDNESS  
AGENCY**

[32 CFR Part 1804]

**CONSOLIDATED GRANTS TO INSULAR AREAS**

AGENCY: Defense Civil Preparedness Agency (DCPA).

ACTION: Proposed rule.

**SUMMARY:** This document proposes regulations governing grants to insular areas. The purpose of the regulations is to prescribe the basis upon which the Defense Civil Preparedness Agency will contribute funds to insular areas through a consolidated grant. These regulations implement provisions of Title V of Pub. L. 95-134. See Supplementary Information below.

**DATE:** All comments must be received in writing on or before July 14, 1978.

**ADDRESS:** Send comments to Defense Civil Preparedness Agency, Washington, D.C. 20301.

**FOR FURTHER INFORMATION CONTACT:**

John W. McConnell, Assistant Director for Plans and Operations, 202-697-8314.

**SUPPLEMENTARY INFORMATION:** DCPA proposes to issue a new Part (1804) to its regulations (Title 32, Chapter XVIII of the Code of Federal Regulations) to prescribe the basis upon which DCPA will contribute funds to insular areas through a consolidated grant. As an agency which administers an Act of Congress which specifically provides for grants to an insular area, under which payment received may be used by such insular area only for certain specified purposes, DCPA is authorized by Title V of Pub. L. 95-134 to consolidate any or all grants made such area in any fiscal year or years. Pub. L. 95-134 requires each department or agency making such grants to provide by regulation published in the FEDERAL REGISTER a method by which any such insular area may submit a single application for a consolidated grant for any fiscal year, and authorizes the administering authority of any department or agency in its discretion to waive any requirements for matching funds otherwise required by law and to waive the requirement that any insular area submit an application or report in writing with respect to any consolidated grant. The Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251-2297) provides specific authority for making grants to American Samoa, Guam, The Virgin Islands and the Government of Northern Mariana Islands. The proposed rule will provide basic regulations prescribing terms and conditions under which DCPA will provide for a consolidated grant to the participating insular areas.

A copy of the proposed regulation was mailed on May 4, 1978 to an appropriate official of each of the four insular areas which may qualify for grants under the Federal Civil Defense Act. Inasmuch as Pub. L. 95-134 directs that the action be taken, and in view of the administrative arrangements which must be worked out with each particular insular area in order

that its grants for the next Federal fiscal year (October 1, 1978) may be consolidated, the period for public comment must be limited. Therefore, all comments must be received in writing on or before July 14, 1978.

In consideration of the foregoing, it is proposed to issue the following regulations as Part 1804 of Title 32 of the code of Federal Regulations.

**PART 1804—CONSOLIDATED GRANTS TO  
INSULAR AREAS**

**Sec.**

- 1804.1 Purpose.
- 1804.2 Definitions.
- 1804.3 Conditions for a consolidated grant.
- 1804.4 Allocations.
- 1804.5 Audits and records.

**AUTHORITY:** Secs. 201(i), 205, and 401, Federal Civil Defense Act of 1950, 64 Stat. 1245-1257; E.O. 10952, 3 CFR 1959-1963 Comp. p. 479, 26 FR 6577; Order of the Secretary of Defense 37 FR 18636; Pub. L. 95-134, 91 Stat. 1159.

**§ 1804.1 Purpose.**

The purpose of the regulations in this part is to prescribe the basis under which the Defense Civil Preparedness Agency (DCPA) contributes Federal funds to an insular area through a consolidated grant.

**§ 1804.2 Definitions.**

Except as otherwise stated when used in the regulations of this part, the meaning of the listed terms are as follows:

(a) Insular areas. Virgin Islands, Guam, American Samoa, and the Government of the Northern Marianas Islands.

(b) Consolidated grant. A grant by DCPA to any insular area through an allocation which combines funds for the State and Local Management Program and the State and Local Maintenance and Services Program for a single Federal fiscal year.

(c) DCPA guidance material. DCPA regulations (32 CFR, Chapter XVIII), Civil Preparedness Guide (CPG) 1-3, and Civil Preparedness Circulars (CPC) as presently providing or hereafter amended or revised.

**§ 1804.3 Conditions for a consolidated grant.**

(a) In order to participate, the insular area must sign a (one-time) grant agreement with DCPA agreeing to comply with Federal requirements.

(b) Funds made available under a consolidated grant must be expended for State and Local Management Program expenses and/or State and Local Maintenance and Services Program expenses as defined and described in DCPA guidance material.

(c) Each participating insular area will determine the proportion in which funds granted to it will be allocated between the two programs.

(d) Participating insular areas need not submit an application for a consolidated grant.

(e) Participating insular areas need not provide matching funds for a consolidated grant.

(f) Each participating insular area must submit an annual program paper in accordance with DCPA guidance material.

#### § 1804.4 Allocations.

For each Federal fiscal year concerned, the Director, DCPA shall allocate to each participating insular area an amount not less than the sum of grants for the two programs which the Director, DCPA has determined such insular area would otherwise be entitled to receive for such fiscal year.

#### § 1804.5 Audits and records.

(a) Audits. DCPA will maintain adequate auditing, accounting and review procedures as outlined in DCPA guidance material and OMB Circulars No. A-73 and A-102.

(b) Records. Financial records, supporting documents, statistical records, and all other records pertinent to a consolidated grant shall be retained for a period of three years from submission of final billing and shall be available to the Director, DCPA and the Comptroller General of the United States, all as prescribed in DCPA guidance material and in accordance with OMB Circular A-102 (42 FR 45828-45-891).

BARDYL R. TIRANA,  
*Director, Defense  
Civil Preparedness Agency.*

Dated: June 8, 1978.

[FR Doc. 78-16895 Filed 6-16-78; 8:45 am]

[4910-14]

### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

[33 CFR Part 177]

[CGD 76-183]

#### VISUAL DISTRESS SIGNALS ON BOATS

##### Public Hearing

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice—public hearings.

SUMMARY: The Coast Guard intends to hold a series of public hearings concerning the proposed regulations for Visual Distress Signals on Boats (CGD 76-183). These proposed regulations would require certain boats operating on coastal waters to carry approved visual distress signals. The proposed regulations were published in the FEDERAL REGISTER on April 10, 1978 (43 FR 15118).

DATES: The Coast Guard will hold public hearings as follows:

1. July 12, 1978, at 7:30 p.m. at the Chicago Yacht Club, Monroe Street (at the lake), Chicago, Ill.

2. July 13, 1978, at 7:30 p.m. at the Del Rey Yacht Club, 13900 Palawan Way, Marina Del Rey, Calif.

3. July 18, 1978, at 7:30 p.m. at the Hale Boggs Federal Building, in Room No. 125, 500 Camp Street, New Orleans, La.

ADDRESSES: All comments that are received on the Visual Distress Signals Notice of Proposed Rulemaking (CGD 76-183) will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

#### FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council, (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to attend the public hearings and present oral or written statements on the proposed regulation. It is requested that anyone desiring to make comments notify Captain Greiner before the scheduled date of the public hearing and specify the approximate length of time needed for the presentation. It is urged that a written summary or copy of the oral presentation be included with the request.

#### DRAFTING INFORMATION

The principal persons involved in drafting this supplemental notice are: Lt. D. R. Gauthier, Project Manager, Office of Boating Safety, and Lt. G. S. Karavitis, Project Counsel, Office of the Chief Counsel.

(Authority: 5 U.S.C. 553.)

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

Dated: June 14, 1978.

J. B. HAYES,  
*Admiral, U.S. Coast Guard  
Commandant.*

[FR Doc. 78-16892 Filed 6-16-78; 8:45 am]

[6712-01]

### FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 67]

[Docket No. 21263]

#### JURISDICTIONAL SEPARATIONS

Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers Between the United States Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands; Order Extending Time for Filing Studies and Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time for filing studies and comments.

SUMMARY: On petition of Hawaiian Telephone Co. for an extension of time in which to file a study requested by the Federal-State Joint Board, the Chief, Common Carrier Bureau, acting on delegated authority, grants a two week extension for the filing of the study and for the filing of comments on studies submitted by all parties.

DATES: Study to be filed on June 16, 1978; and Comments to be filed on July 31, 1978.

ADDRESS: Federal Communications Commission, 1919 M Street NW., 20554.

#### FOR FURTHER INFORMATION CONTACT:

Francis L. Young, Common Carrier Bureau, Washington, D.C. 20554, Room 530, 632-7084.

In the matter of integration of rates and services for the provision of communications by authorized common carriers between the United States mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands, Docket No. 21263. [43 FR 13902.]

#### ORDER

Adopted: June 8, 1978.

Released: June 12, 1978.

1. By memorandum opinion and order, FCC78-233, released March 29, 1978, the Federal-State Joint Board established in this proceeding required the parties to submit the results of a separations study, based on the existing NARUC-FCC Separations Manual for the calendar year 1979, on or before June 1, 1978. Presently before the Joint Board is a request for extension of time to July 10, 1978, filed by the Hawaiian Telephone Co.

2. Hawaiian Telephone Co. asserts that it has only a few people with the knowledge and skills necessary to make separations studies. It further asserts that it had planned first to complete its study of calendar year 1977, in order that it might have a

firmer base from which to extrapolate to future years. A shift of emphasis to calendar year 1979, Hawaiian continues, raises substantial difficulties requiring greater care to assure accuracy. Hawaiian concludes that its 1979 study could be completed, reviewed and submitted no later than July 10, 1978, and requests an extension to that time.

3. Other parties to this proceeding have been able to meet the schedule set forth in the March 29, 1978 order. The Joint Board staff has scheduled its activities based on the current schedule. The extension of time requested would delay this proceeding, and such a delay would not appear to be in the public interest. Moreover, the study requested is part of the data collection phase of this proceeding and all parties will have an opportunity to supplement their submission to correct any inaccuracies during the notice and comment phase of this proceeding. Therefore, grant of the requested extension will be denied. A brief extension will be granted in order that Hawaiian may make a timely submission. In light of this extension, a corresponding extension will be made in the reply date set forth in the March 29, 1978 order.

4. Accordingly, *It is ordered*, pursuant to authority delegated to the Chief, Common Carrier Bureau, that the times for filing the study called for in memorandum opinion and order, FCC 78-233, released March 29, 1978, appendix B, and comments on such submissions are extended as follows:

Studies, June 16, 1978.  
Comments, July 31, 1978.

5. *It is further ordered*, That the petition for extension of time filed May 24, 1978 by Hawaiian Telephone Co., is granted to the extent indicated herein and is otherwise denied.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WALTER R. HINCHMAN,  
Chief, Common Carrier Bureau.

[FR Doc. 78-16823 Filed 6-16-78; 8:45 am]

[4910-06]

**DEPARTMENT OF TRANSPORTATION**

Federal Railroad Administration

[49 CFR Chapter II]

[Docket No. RSSI-78-5; Notice No. 2]

**GENERAL SAFETY INQUIRY**

Public Hearing

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice of public hearing.

SUMMARY: As part of the general railroad safety inquiry initiated in a

notice published in the May 8, 1978 issue of the FEDERAL REGISTER (43 FR 19696), the Federal Railroad Administration (FRA) will conduct the second of a series of five 2-day hearings to obtain information from the public to assist in evaluating and improving the effectiveness of its safety regulatory program. The second hearing will focus on freight cars and safety appliances on freight cars.

DATES: (1) The second 2-day public hearing will begin at 10 a.m. on July 12, 1978 (other hearings have been rescheduled for September 13 and 14, October 18 and 19, and November 15 and 16.

(2) Prepared statements should be submitted to the Principal Program Person by July 5, 1978.

(3) Persons desiring to participate in the hearing should notify the Principal Program Person by July 5, 1978.

ADDRESS: Hearing location—Trans Point Building, Room 3201, 2100 Second Street SW., Washington, D.C. 20590.

**FOR FURTHER INFORMATION CONTACT:**

Principal Program Person: Rolf Mowatt-Larssen, Office of Safety (RRS-20), FRA, Washington, D.C. 20590, phone 202-426-0924.

Principal Attorney: Edward F. Conway, Jr., Office of Chief Counsel (RCC-30), FRA, Washington, D.C. 20590, phone 202-426-8836.

SUPPLEMENTARY INFORMATION: Pursuant to §211.61 of its rules of practice (41 FR 54181; 49 CFR 211.61), the Federal Railroad Administration (FRA) is conducting a general safety inquiry to examine in depth selected topics covered by its safety regulations. FRA will use the information it receives in this inquiry in assessing the effectiveness of its safety regulatory program. On the basis of this and other information, existing regulations may be expanded in scope, revised or revoked to reflect changed conditions.

The scope of this inquiry encompasses three general areas: (1) Rolling equipment; (2) track and related structures, appliances and devices; and (3) signal and communication systems.

The first area of consideration—rolling equipment consists of these topics: Locomotives, freight cars and their safety appliances, and power brakes. Each topic will be considered in separate 2-day hearings. The first hearing was conducted on June 14 and 15, 1978. The subject of that hearing was locomotives. The second hearing will be held on July 12 and 13, 1978. The subject of this hearing will be freight cars and their safety appliances.

Additional hearings have been rescheduled to take place in Washington, D.C. on the following dates;

September 13 and 14—Power brakes.  
October 18 and 19—Track and related structures, appliances, and devices.  
November 15 and 16—Signal and Communication Systems Separate notices for each of these hearings will be published at a later date setting the time and place of the hearing.

The purpose of the second 2-day hearing scheduled for July 12 and 13, 1978, is to elicit information to assist FRA in critically reviewing its present safety regulatory program with respect to freight cars and their safety appliances. Existing safety regulations on these subjects are contained in 49 CFR Parts 215 and 231.

The Freight Car Safety Standards (Part 215) were initially issued in 1973 and have been amended several times. Representatives of the railroad industry frequently have alleged that many of the requirements prescribed in these standards are based on "maintenance standards" or "recommended practices" rather than safety considerations. On the other hand, some factors that play a vital safety role may not be covered by the present standards.

The Safety Appliance Standards (Part 231) were first issued in 1911. While some changes have been made in these standards, they are long overdue for a comprehensive review to assess their adequacy and relevancy in light of technological developments and changes in railroad operations.

FRA is considering a major restructuring of its Freight Car Safety and Safety Appliance Standards. The restructuring would not be limited to eliminating or updating existing requirements that are obsolete or no longer necessary; it would also include the development of new requirements to meet the needs of the present railroad operating environment. Among the items to be addressed in this hearing are the following:

1. What standards do the rail industry currently have for the design, construction, and testing of the various types of freight cars? What are the bases or criteria for these standards? How frequently and by whom are these standards reviewed in a comprehensive manner and updated? Are these standards based solely on safety considerations? If not, what other factors are considered? How are safety considerations reconciled with the other considerations? How is compliance with industry standards verified? How are cars dynamically tested to insure safe performance in transit?

2. Is there a need for Federal minimum safety standards for the design, construction, and testing of freight cars?

3. With respect to standards for the design, construction and testing of freight cars, should freight cars be divided into several classes and subject

to differing standards according to their type of service? How should freight cars be classified? What factors should be considered in doing this (i.e. capacity of car, type of lading to be carried, dynamic response characteristics of the car, speed, high mileage, use in long, heavy trains or unit trains)?

4. Should inspection and maintenance standards for the various classes of freight cars differ? How should these standards differ and why?

5. What do you recommend as a practical and enforceable approach to assure freight car safety? What, if any, requirements of the FRA Freight Car Safety Standards are "maintenance" or "good practice" in character and are not needed from the standpoint of safety? Should they be amended or revoked? Explain.

6. Since the Safety Appliance Standards do not prescribe specific inspection requirements that correspond to those contained in §215.23 of the Freight Car Safety Standards, should the FRA revoke §215.23 to allow railroads the same discretion in determining when, in what manner and by whom freight cars will be inspected for Freight Car Safety Standards defects? If §215.23 is revoked, should both types of defects also be treated in the same manner? (E.g. "Knowledge" of defective conditions would no longer be necessary for railroads to violate the Freight Car Safety Standards.) If §215.23 is not revoked, are the present procedures for type I and type II safety inspections for freight cars adequate? What, if any, changes should be made in these procedures? Should personnel making these safety inspections be required to meet certain minimum qualifications to assure the quality of these inspections? What should their qualifications be? Explain.

7. Are periodic inspections of freight cars necessary from the standpoint of safety? Are the present periodic FRA inspection requirements inadequate, sufficient, or unduly burdensome? How can they be improved? Explain. Should the frequency of periodic inspections be changed? What factors should be considered in determining how frequently periodic inspections should be performed to assure safety (i.e. time interval, mileage, type of service, etc.)? What should be the minimum qualifications of personnel making these inspections? Do railroad personnel or other personnel in facilities repairing cars and making periodic inspections have these qualifications? Are Federal regulations needed to assure that these personnel do in fact have these qualifications?

8. Should the FRA Freight Car Safety Standards be amended to allow private owners and companies that manufacture or repair freight cars to

assume responsibility for periodic inspecting and repairing freight cars?

9. In view of the fact that most of the cars in the active freight car fleet are now equipped with roller bearings, what measures are being taken by the railroad industry to assure that the diminishing number of cars equipped with plain bearings receive the inspections and lubrications necessary for safe operation?

10. In view of the increased use of new and remanufactured roller bearing assemblies commonly referred to as "NFL bearings" (no field lubrication) which are permanently sealed and cannot be examined internally during their service life, what are the railroad industry requirements for the design and construction of these bearings and for the facilities that manufacture and remanufacture these bearings? What procedures should be required to assure that roller bearings on cars that have derailed did not sustain internal damage and remain in safe and serviceable condition?

11. Should any additions, deletions, or other changes be made to the defective conditions for freight car components listed throughout the FRA Freight Car Safety Standards (i.e. wheels, axles, adapters, side frames, bolsters, centerplates, couplers, springs, draft systems etc.)? Explain.

12. What specific safety appliances should be identical in size and strength and uniformly located on all freight cars? How much discretion should be allowed with respect to other safety appliances? Should the "B" end of each car be equipped with a crossover platform to provide a means of access to the handbrake?

13. Should specific types or methods of fastening safety appliances to cars be prescribed in the Safety Appliance Standards? Should standards also be prescribed for mechanical fasteners and welds? When should welds be used to fasten safety appliances to cars?

14. Should all freight cars except flat cars and tank cars be equipped with a standard four-rung ladder on each side corner immediately above the sill step?

15. Should all freight cars except flat cars, tank cars and other cars that are not equipped with roof hatches be equipped with a standard four-rung ladder at both end corners of the "B" end when they are equipped with a low position hand brake? Should cars with roof hatches or with a high position hand brake be equipped with one full length ladder and one four-rung ladder on the "B" end?

16. Are the existing safety appliance standards for tank cars and flat cars adequate? What changes, if any, should be made?

17. Should walking and standing surfaces on safety appliances such as running boards, brake steps and crossover platforms be perforated and antiskid?

18. Are the hand brakes on some cars used only as "parking brakes"? Should the type and location of hand brakes on these cars differ from those of hand brakes that are also used to bring moving cars to a stop? Should hand brakes that are used only as "parking brakes" be located on the sides rather than on the ends of cars? Where on the sides of cars should they be located?

19. Should the maximum retarding force of hand brakes vary according to axle load? Should hand brakes act in harmony with the air brake system? Should there be more than one hand brake on heavy tonnage cars or cars consisting of multiple interconnected or articulated units? If a car has more than one hand brake, should they all be releaseable from one location?

20. To avoid the necessity of crossing over or between cars, should means be provided to set and release hand brakes from both sides of each car?

21. In what areas do you believe further research and development is necessary to improve the safety performance of freight cars? Explain.

FRA has requested that the Association of American Railroads, the American Short Line Railroad Association, individual railroads and private car owners, the National Transportation Safety Board, State regulatory agencies, freight car manufacturers, railroad employee organizations and other interested parties participate actively in this hearing by providing knowledgeable witnesses and pertinent technical, manufacturing, service and cost data. FRA has further requested that these witnesses be prepared to present detailed information to justify their positions.

Prepared statements should be submitted by July 5, 1978, in triplicate to the Docket Clerk, Office of Chief Counsel (RCC-1), Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590.

Persons desiring to participate in this hearing should notify the Principal Program Person by July 5, 1978, and indicate the amount of time they will need to present their views.

The second 2-day hearing will begin at 10 a.m. on Wednesday, July 12, 1978, in Room 3201, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

(Sec. 208, Federal Railroad Safety Act of 1970 (45 U.S.C. 437), § 1.49(a) of the Regulations of the Office of the Secretary, 49 CFR 1.49(n).)

Issued in Washington, D.C., on June 12, 1978.

JOHN M. SULLIVAN,  
Administrator.

[FR Doc. 78-16866 Filed 6-16-78; 8:45 am]

# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### ELKHORN WILDERNESS STUDY AREA REPORT

#### Public Hearing

Notice is hereby given that public hearings will be held from 1 p.m. to 4:30 p.m. and from 6 p.m. to 9 p.m. on Tuesday, July 18, 1978, at the Executive Room, Colonial Motor Hotel, Helena, Mont.; and from 1 p.m. to 4:30 p.m. and from 6 p.m. to 9 p.m. on Wednesday, July 19, 1978, at the Montana College of Mineral Science Technology, Student Union Building, Room 204, Butte, Mont., on a proposal for the future management of the Elkhorn Wilderness Study Area, comprised of approximately 85,760 acres within the Helena and Deerlodge National Forests in the counties of Jefferson and Broadwater in the State of Montana.

A report containing a map and information about the proposal may be obtained from the Forest Supervisor, Helena National Forest, 616 Helena Avenue, Helena, Mont. 59601; or the Forest Supervisor, Deerlodge National Forest, P.O. Box 400, Butte, Mont. 59701.

Individuals and organizations may express their views by appearing at these hearings or may submit written comments for inclusion in the official record to the Forest Supervisor, Helena National Forest, 616 Helena Avenue, Helena, Mont. 59601; or the Forest Supervisor, Deerlodge National Forest, P.O. Box 400, Butte, Mont. 59701. Comment must be received by August 19, 1978, in order to be considered in the preparation of the final proposal. Those persons wishing to present oral testimony at the hearings should notify the Regional Forester, Northern Region, Federal Building, Missoula, Mont. 59807 prior to July 3, 1978, stating at which hearing location they wish to testify.

Dated: June 15, 1978.

R. MAX PETERSON,  
Acting Chief, Forest Service.

[FR Doc. 78-16956 Filed 6-16-78; 8:45 am]

[3510-25]

## DEPARTMENT OF COMMERCE

### Industry and Trade Administration

#### COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE AND COMPUTER PERIPHERALS, COMPONENTS, AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

#### Change in Meeting Date

This notice is given to advise of a change in date of the joint meeting of the Computer Systems Technical Advisory Committee and the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee. The Committees will meet Thursday, July 20, 1978, at 9 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C., rather than Thursday, June 22, 1978, as previously announced. A notice of meeting was published in the issue of May 25, 1978 (43 FR 22430) and was amended on May 31, 1978 (43 FR 23627).

Dated: June 14, 1978.

RAUER H. MEYER,  
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-16860 Filed 6-16-78; 8:45 am]

[3510-25]

#### MATERIALS AND ACOUSTIC WAVE, MEMORY, AND PHOTO CONDUCTIVE DEVICE SUBCOMMITTEE OF THE SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

#### Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Materials and Acoustic Wave, Memory, and Photo Conductive Device Subcommittee of the Semiconductor Technical Advisory Committee will be held on Thursday, July 13, 1978, at 9:30 a.m. in Room 6802, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Semiconductor Technical Advisory committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration, approved the recharter and extension of the Committee, pursuant to

section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. 2404(c)(1) and the Federal Advisory Committee Act. The Materials and Acoustic Wave, Memory, and Photo Conductive Device Subcommittee was established on December 28, 1977, with the approval of the Assistant Secretary for Industry and Trade, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductor products, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Materials and Acoustic Wave, Memory, and Photo Conductive Device Subcommittee was formed to study materials, acoustic wave devices, memory devices and photo conductive devices with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409 that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to

be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on March 2, 1977 (42 FR 12078).

Dated: June 14, 1978.

RAUER H. MEYER,  
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-16863 Filed 6-16-78; 8:45 am]

#### [3510-25]

#### MICROCIRCUIT SUBCOMMITTEE OF THE SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

##### Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Microcircuit Subcommittee of the Semiconductor Technical Advisory Committee will be held on Wednesday, July 12, 1978, at 9:30 a.m. in Conference Room A, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. The meeting will continue July 13 in Room 6802, Main Commerce Building, to its conclusion.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. 2404(c)(1) and the Federal Advisory Committee Act. The Microcircuit Subcommittee was established on December 28, 1977, with the approval of the Assistant Secretary for Industry and Trade, pursuant to the charter of the committee.

The committee advises the Office of Export Administration with respect to questions involving (A) technical mat-

ters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductor products, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Microcircuit Subcommittee was formed to study microcircuit devices with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

The subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the executive session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the subcommittee during the meeting have been properly classified under Executive Order 11652. All subcommittee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete notice of determination to close meetings or portions thereof of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on March 2, 1977 (42 FR 12078).

Dated: June 14, 1978.

RAUER H. MEYER,  
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-16861 Filed 6-16-78 8:45 am]

#### [3510-25]

#### TRANSISTOR, DIODE AND THYRISTOR SUBCOMMITTEE OF THE SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

##### Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Transistor, Diode and Thyristor Subcommittee of the Semiconductor Technical Advisory Committee will be held on Thursday, July 13, 1978, at 9:30 a.m., in Room 6802, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration, approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. 2404(c)(1) and the Federal Advisory Committee Act. The Transistor, Diode and Thyristor Subcommittee was established on December 28, 1977, with the approval of the Assistant Secretary for Industry and Trade, pursuant to the charter of the committee.

The committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductor products, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Transistor, Diode and Thyristor Subcommittee was formed to study the transistor, diode and thyristor semiconductor devices with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

The subcommittee will meet only in executive session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409 that the matters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the executive session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the subcommittee during the meeting have been properly classified under Executive Order 11652. All subcommittee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Divisions, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on March 2, 1977 (42 FR 12078).

Dated: June 14, 1978.

RAUER H. MEYER,  
Director, Office of Export Administration,  
Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-16862 Filed 6-16-78; 8:45 am]

### [3510-13]

#### National Bureau of Standards

#### I/O CHANNEL LEVEL INTERFACE

#### Proposed Federal Information Processing Standards

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform automatic data processing (ADP) standards. Three I/O channel level interface standards are being recommended for Federal use. Because these three proposed standards are closely related, they are being proposed for consideration with a single announcement. Each of these standards will, however, be processed individually. The first proposed standard,

I/O Channel Interface, is a revision of that originally proposed in a notice published in the FEDERAL REGISTER on December 30, 1976 (41 FR 56877), and in a revised form in a notice published on August 22, 1977, (42 FR 42242). This later revision takes into account comments received based on those notices. Significant changes have been made to reflect better the Government's intent to promote the competitive acquisition by Federal agencies of I/O peripheral equipment. Relative to the standard proposed in the FEDERAL REGISTER on August 22, 1977, these changes are reflected in a substantial revision of the Applicability section, minor changes of the Implementation section, and a substantially different Waivers section.

The second standard being proposed, Channel Level Power Control Interface, is revision of a standard originally proposed in a notice published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12452) with subsequent correction on March 25, 1977 (42 FR 16169). Changes have been made taking into account comments received from this earlier notice. The Applicability section has been revised substantially, the Implementation section has had minor revisions, and the Waivers section has been substantially revised.

The third standard being proposed, Operational Specifications for Magnetic Tape Subsystems, is intended to accompany the other two standards so as to assure full compatibility at the channel interface level for the connection of magnetic tape equipment as a part of computer systems. It has not been previously proposed as a Federal standard.

It is the Government's intent to propose a standard for operational specifications for magnetic disk subsystems within the next 12 months. In addition, the Government intends to propose additional operational specifications standards for other classes of computer peripheral devices.

Prior to submission of these proposed standards to the Secretary of Commerce for approval as Federal Information Processing Standards, it is essential to assure that proper consideration is given to the needs and views of the public, state and local governments, and manufacturers. In view of the changes made to two of these three standards as outlined above, and considering the interrelationship of these proposed standards, it is appropriate at this time to solicit such views.

The technical specifications contained in these proposed standards were prepared under the auspices of the American National Standards Institute, Technical Subcommittee X3T9. The technical specifications for the first standard have been published in ANSI document number X3T9/600,

Rev. 2, "Draft Proposed American National Standard Specifications for I/O Channel Interface." The technical specifications for the second standard have been published in ANSI document number X3T9/666, Rev. 2, "Draft proposed American National Standard Specifications for Power Control Interface." The technical specifications for the third standard have been published in ANSI document number X3T9/780, Rev. 3, "Draft Proposed American National Standard Operational Specifications for Magnetic Tape Subsystems."

The proposed Federal Information Processing Standards each contain two basic sections: (1) An announcement section which provides information concerning the applicability and implementation of the standard, and (2) a specification section which defines the technical parameters of the standard. Only the announcement section is provided in this notice.

Interested parties may obtain copies of the specification section of each of these standards and a document describing proposed criteria for exclusion of systems as referenced in the Applicability section of the proposed standard I/O Channel Interface from the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. Interested parties may also obtain a copy of a cost benefit analysis for these standards from the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Va. 22161. When ordering, refer to NBSIR 78-1487, A Cost Benefit Analysis of Proposed Federal I/O Channel Level Computer Interface Standards, available for \$4.50 per copy. Payment may be made by check or money order payable to the NTIS, or by reference to an existing NTIS deposit account.

Written comments on these proposed standards should be submitted to the Director, Institute for Computer Sciences and Technology at the above address. Comments to be considered must be received on or before August 18, 1978.

Additionally, the National Bureau of Standards will hold an informal public hearing on the proposed standards. The hearing will be held on Monday, July 10, 1978 at 9:00 A.M. Eastern Daylight Saving Time in the Green Auditorium, National Bureau of Standards, Gaithersburg, Md.

Persons desiring to testify at this hearing should notify the Director, Institute for Computer Sciences and Technology at the above address as promptly as possible, and not later than 9:00 a.m. Eastern Daylight Saving Time, Wednesday, July 5, 1978. Persons desiring to testify should submit to the Director, Institute for Computer Sciences and Technology,

four copies of their statement not later than 9:00 a.m. Eastern Daylight Saving Time, Wednesday, July 5, 1978.

The following procedures are established for the informal hearing:

1. *Purpose.* The purpose of the informal hearing on the proposed I/O channel level interface standards is to provide all interested segments of the public with the opportunity to comment on these proposed standards.

2. *Conduct of Hearings.* (a) This hearing shall be an informal, non-adversary proceeding at which there will be no formal pleadings or adverse parties. Witnesses should submit a written presentation for the record as indicated above.

(b) The presiding officer shall have the right to apportion the time available for making presentations in an equitable manner, and to terminate or shorten the presentation of any witnesses when, in his opinion, such presentation is repetitive or not relevant to the purpose of the hearing.

(c) The presiding officer and other members of the National Bureau of Standards hearing panel shall have the right to question witnesses on their testimony and other matters relating to the proposed standards.

(d) The presiding officer has the right to exercise such authority as may be necessary to insure the equitable and efficient conduct of the hearing and to maintain order.

3. *General Provisions.* (a) This informal hearing shall be open to the members of the public whether or not such members wish to testify at the hearing.

(b) A transcript will be made of the informal hearing.

(c) Copies of the transcript, all materials presented by the witnesses at the hearing, and all written comments submitted in response to this notice shall be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between E and Constitution Avenue, NW., Washington, D.C. 20230.

Dated: June 15, 1978.

ERNEST AMBLER,  
Director.

FEDERAL INFORMATION PROCESSING  
STANDARDS PUBLICATION —

(Date)

Announcing

I/O CHANNEL INTERFACE STANDARD

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

*Name of Standard.* I/O Channel Interface Standard (FIPS PUB—).

*Category of Standard.* Hardware Standard, Interface.

*Explanation.* This standard defines the functional, electrical, and mechanical interface specifications for connecting computer peripheral equipment as a part of automatic data processing (ADP) systems. This standard, together with a companion standard for power control, defines the hardware characteristics for the I/O channel level interface. In order to achieve full plug-to-plug interchangeability of peripheral components, device class specific operational specifications standards are also required for each class of peripheral device. These operational specifications standards will be proposed as Federal Information Processing Standards to accompany this standard as they are developed.

The Government's intent in employing this I/O Channel Interface Standard is to reduce the cost of satisfying its data processing requirements through increasing its available alternative sources of supply for computer system components at the time of initial system acquisition, as well as in system replacement and augmentation and in system component replacement.

This standard is also expected to lead to improved reutilization of system components. When acquiring ADP systems and system components, Federal agencies shall cite this standard in specifying the interface for connecting computer peripheral equipment as a part of ADP systems.

*Approving Authority.* Secretary of Commerce.

*Maintenance Agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

*Cross Index.* American National Standards Institute document X3T9/600, Rev. 2, Draft Proposed American National Standard for I/O Channel Interface.

*Applicability.* This standard is applicable to the acquisition of all ADP systems and peripheral equipment for those systems except those minicomputer, microcomputer, and other small scale systems which are specifically excluded by the National Bureau of Standards (NBS). A list of such currently excluded systems and the current criteria for exclusion will be developed and maintained by NBS and will be periodically distributed to all Federal agencies and be publicly available upon request.

This standard is applicable to the acquisition of (1) all new and replacement ADP systems, (2) computer peripheral equipment acquired to replace existing peripheral equipment of or to augment ADP systems that employ interfaces conforming with this standard, and (3) peripheral equipment acquired to replace existing peripheral equipment of or to augment ADP systems that do not conform to this standard, but for which the hardware and software necessary to conform to this standard are commercially available.

Specifically, this standard shall be employed in the interconnection of computer peripheral equipment as a part of ADP systems for the following types of peripherals: (1) Magnetic tape equipment employing open reel-to-reel magnetic tape storage devices, specifically excluding magnetic tape cassette and tape cartridge storage devices, (2) magnetic disk storage equipment employing disk drives each having a capacity greater than 7 megabytes per storage

module, specifically excluding flexible disk and disk cartridge devices having a smaller storage capacity per device, and (3) peripheral equipment employing all peripheral device types for which accompanying operational specifications standards have been issued as Federal Information Processing Standards.

Verification of the correct operation of all interfaces that are required to conform to this standard shall, through demonstration or other means acceptable to the Government, be provided prior to the acceptance of all applicable ADP equipment.

*Specifications.* This standard incorporates by reference the technical specifications of ANSI document number X3T9/699, Rev. 2. At such time as this standard is published in the FEDERAL REGISTER as an approved Federal Information Processing Standard, copies of the technical specifications will be available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

*Implementation.* The provisions of this standard are effective 120 days after date of publication of the approved standard in the FEDERAL REGISTER. All applicable equipment ordered on or after the effective date, or procurement actions for which solicitation documents have not been issued by that date, must conform to the provisions of this standard unless a waiver has been granted in accordance with the procedure described elsewhere in this publication.

Regulations concerning the specific use of this standard in Federal procurement will be issued by the General Services Administration to be a part of the Federal Property Management Regulations.

This standard shall be reviewed by NBS within three years after its effective date, taking into account technological trends and other factors, to determine whether the standard should be affirmed, revised, or withdrawn.

*Waivers.* Heads of agencies may request that the requirements stated in this publication be waived so as to acquire ADP equipment that does not conform to this standard by submitting a request for waiver to the Secretary of Commerce for review and approval. Approval will be granted if, in the judgment of the Secretary based on all available information, including that provided in the waiver request, a major adverse economic or operational impact would occur through conformance with this standard.

Requests for waivers shall include: (1) A description of the existing or planned ADP system for which the waiver is being requested (2) a description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, and (3) a justification for the waiver, including a description and discussion of the major adverse economic or operational impact that would result through conformance to this standard as compared to the alternative for which the waiver is requested.

Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for Waiver to a Federal Information Processing Standard. Waiver requests will normally be processed within 45 days of receipt by the Secretary. No action shall be taken to issue solicitation documents or to order equipment for which a waiver has been requested prior to receipt of a waiver approval response from the Secretary.

*Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161. When ordering, refer to Federal Information Processing Standards Publication—(NBS-FIPS-PUB—), I/O Channel Interface. When microfiche is desired, this should be specified. Payment may be made by check or money order payable to NTIS or by reference to an existing NTIS deposit account.

FEDERAL INFORMATION PROCESSING  
STANDARDS PUBLICATION —

(Date)

Announcing  
CHANNEL LEVEL POWER CONTROL INTERFACE  
STANDARD

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

*Name of Standard.* Channel Level Power Control Interface Standard (FIPS PUB—).

*Category of Standard.* Hardware Standard, Interface.

*Explanation.* This standard defines the functional, electrical, and mechanical interface specifications for a power control interface for use in connecting computer peripheral equipment as a part of automatic data processing (ADP) systems. This standard, together with a companion standard for I/O Channel Interface, defines the hardware characteristics for the I/O channel level interface.

The Government's intent in employing this Channel Level Power Control Interface Standard is to reduce the cost of satisfying its data processing requirements through increasing its available alternative sources of supply for computer system components at the time of initial system acquisition, as well as in system replacement and augmentation and in system component replacement. This standard is also expected to lead to improved reutilization of system components.

When acquiring ADP systems and system components, Federal agencies shall cite this standard in specifying the power control interface for connecting computer peripheral equipment as a part of ADP systems.

*Approving Authority.* Secretary of Commerce.

*Maintenance Agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

*Cross Index.* American National Standards Institute document X3T9/666, Rev. 2, Draft Proposed American National Standard Specifications for Power Control Interface.

*Applicability.* This standard is applicable whenever use of Federal Information Processing Standard I/O Channel Interface (NBSFIPSPUB—) is required.

Verification of the correct operation of all interfaces that are required to conform to this standard shall, through demonstration or other means acceptable to the Government, be provided prior to the acceptance of all applicable ADP equipment.

*Specifications.* This standard incorporates by reference the technical specifications of ANSI document number X3T9/666, Rev. 2. At such time as this standard is published in the FEDERAL REGISTER as an approved Federal Information Processing Standard, copies

of the technical specifications will be available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

*Implementation.* The provisions of this standard are effective 120 days after date of publication of the approved standard in the FEDERAL REGISTER. All applicable equipment ordered on or after the effective date, or procurement actions for which solicitation documents have not been issued by that date, must conform to the provisions of this standard unless a waiver has been granted in accordance with the procedure described elsewhere in this publication.

Regulations concerning the specific use of this standard in the Federal procurement will be issued by the General Services Administration to be a part of the Federal Property Management Regulations.

This standard shall be reviewed by NBS within three years after its effective date, taking into account technological trends and other factors, to determine whether the standard should be affirmed, revised or withdrawn.

*Waivers.* Heads of agencies may request that the requirements stated in this publication be waived so as to acquire ADP equipment that does not conform to this standard by submitting a request for waiver to the Secretary of Commerce for review and approval. Approval will be granted if, in the judgment of the Secretary based on all available information, including that provided in the waiver request, a major adverse economic or operational impact would occur through conformance with this standard.

Requests for waivers shall include: (1) A description of the existing or ADP planned system for which the waiver is being requested, (2) a description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, and (3) a justification for the waiver, including a description and discussion of the major adverse economic or operational impact that would result through conformance to this standard as compared to the alternative for which the waiver is requested.

Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for Waiver to a Federal Information Processing Standard. Waiver requests will normally be processed within 45 days of receipt by the Secretary. No action shall be taken to issue solicitation documents or to order equipment for which a waiver has been requested prior to receipt of a waiver approval response from the Secretary.

*Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161. When ordering, refer to Federal Information Processing Standards Publication—(NBS-FIPS-PUB—), Channel Level Power Control Interface. When microfiche is desired, this should be specified. Payment may be made by check or money order payable to NTIS or by reference to an existing NTIS deposit account.

FEDERAL INFORMATION PROCESSING  
STANDARDS PUBLICATION —

(Date)

Announcing  
OPERATIONAL SPECIFICATIONS FOR MAGNETIC  
TAPE SUBSYSTEMS

Federal Information Processing Standards

Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

*Name of Standard.* Operational Specifications for Magnetic Tape Subsystems (FIPS PUB—).

*Category of Standard.* Interface.

*Explanation.* This standard defines the peripheral device dependent operational interface specifications for connecting magnetic tape equipment as a part of automatic data processing (ADP) systems. It is to be used together with FIPS PUB—, I/O Channel Interface and FIPS PUB—, Channel Level Power Control Interface. This standard, together with these two referenced standards, provides for full plug-to-plug interchangeability of magnetic tape equipment as part of ADP systems.

The Government's intent in employing this standard for Operational Specifications for Magnetic Tape Subsystems is to reduce the cost of satisfying its data processing requirements through increasing its available alternative sources of supply for computer system components at the time of initial system acquisition, as well as in system replacement augmentation and in system component replacement. This standard is also expected to lead to improved reutilization of system components.

When acquiring ADP systems and system components, Federal agencies shall cite this standard in specifying the interface for connecting magnetic tape peripheral equipment as a part of ADP systems.

*Approving Authority.* Secretary of Commerce.

*Maintenance Agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

*Cross Index.* American National Standards Institute document X3T9/780, Rev. 3, Draft Proposed American National Standard Operational Specifications for Magnetic Tape Subsystems.

*Applicability.* This standard is applicable to the acquisition of all magnetic tape equipment whenever the use of Federal Information Processing Standard I/O Channel Interface (NBSFIPSPUB—) is required.

Verification of the correct operation of all interfaces that are required to conform to this standard shall, through demonstration or other means acceptable to the Government, be provided prior to the acceptance of all applicable ADP equipment.

*Specifications.* This standard incorporates by reference the technical specifications of ANSI document X3T9/780, Rev. 3. At such time as this standard is published in the FEDERAL REGISTER as an approved Federal Information Processing Standard, copies of the technical specifications will be available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

*Implementation.* The provisions of this standard are effective 120 days after date of publication of the approved standard in the FEDERAL REGISTER. All applicable equipment ordered on or after the effective date, or

procurement actions for which solicitation documents have not been issued by that date, must conform to the provisions of this standard unless a waiver has been granted in accordance with the procedure described elsewhere in this publication.

Regulations concerning the specific use of this standard in Federal procurement will be issued by the General Services Administration to be a part of the Federal Property Management Regulations.

This standard shall be reviewed by NBS within three years after its effective date, taking into account technological trends and other factors, to determine whether the standard should be affirmed, revised, or withdrawn.

**Waivers.** Heads of agencies may request that the requirements stated in this publication be waived so as to acquire ADP equipment that does not conform to this standard by submitting a request for waiver to the Secretary of Commerce for review and approval. Approval will be granted if, in the judgment of the Secretary based on all available information, including that provided in the waiver request, a major adverse economic or operational impact would occur through conformance with this standard.

Requests for waivers shall include: (1) A description of the existing or planned ADP system for which the waiver is being requested, (2) a description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, and (3) a justification for the waiver, including a description and discussion of the major adverse economic or operational impact that would result through conformance to this standard as compared to the alternative for which the waiver is requested.

Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for Waiver to a Federal Information Processing Standard. Waiver requests will normally be processed within 45 days of receipt by the Secretary. No action shall be taken to issue solicitation documents or to order equipment for which a waiver has been requested prior to receipt of waiver approval response from the Secretary.

**Where To Obtain Copies.** Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161. When ordering, refer to Federal Information Processing Standards Publication—(NBS-FIPS-PUB—), Operational Specifications for Magnetic Tape Subsystems. When microfiche is desired, this should be specified. Payment may be made by check or money order payable to NTIS or by reference to an existing NTIS deposit account.

[FR Doc. 78-16963 Filed 6-16-78; 8:45 am]

### [3510-22]

#### National Oceanic and Atmospheric Administration

#### EL PASO ZOOLOGICAL PARK

#### Modification of Permit

Notice is hereby given that pursuant to the provisions of § 216.33 (b) and (c) of the regulations governing the taking and importing of marine mam-

mals (39 FR 1851, January 15, 1974), the Public Display Permit issued to El Paso Zoological Park, Evergreen and Paisano, El Paso, Tex. 79905, on January 23, 1976, as modified on February 10, 1976 (41 FR 10247), is further modified in the following manner:

The period of validity of the Permit during which the authorized taking may occur is extended from June 1, 1978, to June 30, 1979.

This modification is effective on June 19, 1978.

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, Duval Building, St. Petersburg, Fla. 33702.

Dated: June 9, 1978.

JACK GEHRINGER,  
Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 78-16864 Filed 6-16-78; 8:45 am]

### [3510-11]

#### United States Travel Service

#### INTERNATIONAL TRAVEL PROMOTIONAL PROJECTS

#### Availability of Matching Funds

Notice is hereby given to State and local governments and nonprofit organizations that the United States Travel Service (USTS) will have available matching funds for international travel promotional projects during the 1979 fiscal year budgetary period, October 1, 1978 through September 30, 1979.

Applications for these funds must be postmarked by August 15, 1978. Applicants must use the USTS application form SF-424. The substantive regulations governing the program appear in the Code of Federal Regulations, volume 15, part 1200 (15 CFR Part 1200). The guidelines governing administrative requirements are contained in the Office of Management and Budget Circular A-102; and the guidelines covering allowable and non-allowable costs are found in Federal Management Circular 74-4. Interested parties may obtain the above documents upon written request to: Grants Office, United States Travel Service, U.S. Department of Commerce, Washington, D.C. 20230.

Due to the funding level authorized for matching grants in fiscal year 1979 and the number of applications anticipated, the limitations and criteria listed below will apply.

#### I. LIMITATIONS

A. Only one award will be granted per applicant, with the exception that an individual applicant may also participate in a separate cooperative project involving a state and one or more of its major cities or a regional organization.

B. Applications must be limited to one of the following seven international tourism project activities:

1. Advertising.
2. Market development.
3. Visitor facilitation.
4. Research.
5. Media product information.
6. Trade development.
7. International convention sales.

C. Projects should be aimed at one market country unless the applicant is able to demonstrate that the project is applicable to and viable in additional markets.

D. The maximum amount available for each matching grant award is, \$10,000. The minimum amount for which one may apply is \$2,500, excepting International Convention Sales and Visitor Facilitation projects.

#### II. CRITERIA

Each grant proposal will be reviewed for required information upon receipt of the application. The applicant will be contacted concerning incompleteness of documentation. If the required information is not received within a reasonable amount of time, the application will not be considered.

A. **Advertising.** Applicants for advertising projects should provide planned campaign details, including program narrative, sample layouts, copy, and specific media plans. If a complete media schedule is not available at the time application is made an outline of media plans will be accepted, provided that specific campaign details are forwarded to the Grants Office prior to the actual placement of the advertising in the media.

Applications for advertising grants will be evaluated according to the following:

1. Basic marketing approach and objectives (25 points).
2. Evidence that economic, marketing and statistical data necessary to develop marketing and advertising strategy is available (15 points).
3. Creative interpretation of this strategy (25 points).
4. Expected reach of the advertising campaign in relation to its cost and short-term impact on the market (20 points).
5. Measurement plan to assess program cost effectiveness (15 points).

B. **Market development.** Market development projects are those designed to develop increased travel to the U.S.A. Major emphasis will be placed on three types of such projects:

1. **Product inspection familiarization tours.** a. Preliminary planning

and packaging of the familiarization tour(s) to cities, states, or regions for tour operators to introduce the touristic project for marketing to the foreign consumer (35 points).

b. Plans for subsequent implementation of the familiarization tour program in coordination with USTS or Visit U.S.A. Committee (65 points).

2. *Tour package development.* a. Preliminary planning for and packaging of the tour development program, example—choice of market to package tour arrangements with trade (35 points).

b. Plans for subsequent implementation of the program in conjunction with tour wholesalers, etc. (65 points).

3. *Special travel shows.* a. Preliminary planning and packaging of the project primarily in support of tour development efforts in foreign markets (35 points).

b. Plans for subsequent implementation of the project (65 points).

C. *Visitor facilitation.* Visitor facilitation programs apply to all programs and services designed to facilitate travel in the United States for foreign visitors. These programs can include, but are not limited to, the sponsorship of seminars or workshops developed to educate people in the travel trade and the public about the importance of international tourism and ways to eliminate travel barriers for foreign visitors such as the establishment of language interpretation and currency exchange facilities; the use of international signs and symbols in public places; and the training of hotel, restaurant, and other employees who often come into contact with foreign visitors.

Applications for visitor facilitation grants will be evaluated according to the following:

1. Demonstration of need for program/service proposed based on current and potential tourism activities in the area (20 points).

2. Program description, stated goals and the plan designed to fulfill program goals (40 points).

3. Availability of resources nonmonetary necessary to complete or carry out the proposed program (20 points).

4. Life expectancy of proposed program/service without further USTS funding. If not applicable, the program/service will be rated according to its usefulness as a model for other communities with similar problems (20 points).

D. *Research.* Applications for research grants will be evaluated according to the following:

1. Demonstration of need for this type of research and expected results (20 points).

2. Value of the project in terms of increasing the overall information base on foreign travelers to and within the United States (20 points).

3. Quality and validity of data-gathering techniques to be utilized (20 points).

4. Potential for tourism development in the applicant's area and compatibility of the project with the total economic development plan of the area (15 points).

5. Value of the project in terms of its contribution and usefulness to others who may wish to use the research design in their research efforts (10 points).

6. Involvement and coordination of the project with other organizations in the community (5 points).

7. Scope of the project in terms of involvement and coordination with other cities and states (5 points).

8. Compatibility with national and international tourism issues (5 points).

E. *Media product information.* Media product information projects include the development of familiarization tours for journalists and dissemination of product information on the destination.

Applications for media product information grants will be evaluated according to the following:

1. Correlation of media programs with applicant's overall tourism marketing strategy (40 points).

2. Program content and potential acceptance by the target media (35 points).

3. Project cost versus media space/time return (a minimum 10-1 return on investment is suggested) (25 points).

F. *Trade development.* Trade development projects are those which complement ongoing Visit U.S.A. marketing programs directed toward the members of the travel trade industry in foreign USTS market countries: Canada, Mexico, Japan, United Kingdom, France, West Germany, Belgium, Brazil, Italy, Netherlands, Switzerland, Venezuela, Sweden, Spain, and Australia. The projects are not concerned with either the development or promotion of tour packages.

Such projects may include: Trade-oriented travel missions, sponsoring familiarization tours for foreign retail travel agents, and participation in foreign travel trade shows in which USTS participates.

Applications for trade development grant will be evaluated according to the following:

1. Techniques used to create an awareness and encourage selling of the destination to the foreign travel trade (25 points).

2. Implementation time and project benefits derived after grant expiration (25 points).

3. Goals of project and methods used to measure program results (50 points).

G. *International convention sales.* The following conditions apply to all international convention grants:

1. Applications will be considered only for equipment and services to provide simultaneous language trans-

lations at international meetings.

2. The international meeting must have an expected registration of at least 50 foreign participants.

3. Funding may not exceed \$10,000 or half of the cost of the services and equipment, whichever is less. Allowable funding is as follows:

a. \$10.00 per foreign participant from 50 to 500,

b. \$5.00 per foreign participant from 501 to 1,000, and

c. \$2.50 per foreign participant over 1,001.

4. The final technical report must include a listing, by country, of the numbers of foreign participants.

Applications for international convention sales grants will be evaluated according to the following:

1. Verification of event as international convention (10 points).

2. Verification of valid U.S. affiliate (10 points).

3. Determination of need for grant in mounting convention (10 points).

4. Establishment of need for interpretive services to accommodate meeting clientele (10 points).

5. Impact of interpretive services on projected attendees (10 points).

6. Coordination with USTS in venue selection (20 points).

7. Number of foreign attendees (10 points).

8. Estimated U.S. balance of payments revenue (10 points).

9. Capability of destination area to accommodate convention participants (10 points).

JOHN K. SNYDER, JR.,

Director,

Office of Governmental Affairs.

[FR Doc. 78-16867 Filed 6-16-78; 8:45 am]

[3125-01]

**COUNCIL ON ENVIRONMENTAL QUALITY**

**ENVIRONMENTAL PROTECTION AGENCY**

**INTERAGENCY TOXIC SUBSTANCES DATA COMMITTEE**

**Change of Meeting Date**

The next meeting of the Interagency Toxic Substances Data Committee, originally scheduled for the first Tuesday in July, will be held on Tuesday, June 27, 1978, 9:30 a.m. at the New Executive Office Building, Room 2010, 17th and Pennsylvania Avenue, Washington, D.C. 20006.

This meeting will be open to the public.

The meeting information announced in the FEDERAL REGISTER of May 26, 1978 concerning this Committee is still in effect. These meetings will continue to take place on the first Tuesday of each month at the above time and location. The date of the following meeting will be August 1, 1978.

For further information, contact Ms. Barbara Ostrow, Executive Secretary, Interagency Toxic Substances Data Committee, at (202)-755-4880 or address correspondence to: Ms. Barbara Ostrow, Office of Toxic Substances, TS-793, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Dated: June 12, 1978.

Ms. BARBARA OSTROW,  
Executive Secretary, Interagency  
Toxic Substances Data Com-  
mittee.

[FR Doc. 78-16830 Filed 6-16-78; 8:45 am]

[3810-70]

## DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

### DEFENSE SCIENCE BOARD TASK FORCE ON SPACE SYSTEMS PLANNING AND DEVELOP- MENT

#### Advisory Committee Meeting

The Defense Science Board Task Force on Space Systems Planning and Development will meet in closed session on July 13-15, 1978 at Building 110, Los Angeles Air Force Station, Calif..

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering an overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force is examining possible improvements in the process by which the Department of Defense plans for and develops space systems.

In accordance with section 10(d) of appendix I, title 5, U.S. Code, it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of title 5 of the U.S. Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, Washington Head-  
quarters Services, DOD.

JUNE 14, 1978.

[FR Doc. 78-16870 Filed 6-16-78; 8:45 am]

[3128-01]

## DEPARTMENT OF ENERGY

### VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATION- AL ENERGY PROGRAM

#### Meetings

In accordance with section  
252(c)(1)(A)(i) of the Energy Policy

and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meetings:

(A) A meeting of the Industry Supply Advisory Group (ISAG) of the Industry Advisory Board to the International Energy Agency (IEA) will be held on June 26, 1978, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 9:30 a.m. The agenda is as follows:

1. Opening remarks.
2. Review draft appraisal report of 1978 IEA Allocation Systems Test.
3. Development of ISAG/Secretariat operations manual.
4. Future work program and schedule.

(B) A meeting of Subcommittee A of the Industry Advisory Board to the International Energy Agency (IEA) will be held on June 27, 1978, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 9 a.m. The agenda for the meeting is as follows:

1. Opening remarks.
2. Review Secretariat paper on product imbalances.
3. Review revised draft ISAG/Secretariat appraisal report of 1978 IEA Allocation Systems Test (AST-2).
4. Develop proposed follow-up action from AST-2 based on:
  - (A) ISAG/Secretariat appraisal report.
  - (B) Secretariat summary.
5. Future work program and schedule.

(C) A meeting of Subcommittee C of the Industry Advisory Board to the International Energy Agency (IEA) will be held on June 27, 1978, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 2:30 p.m. The agenda is as follows:

1. Opening remarks, including a review of developments since last meeting.
2. Settlement of disputes.
3. Pricing in an emergency.
4. Extraordinary and additional costs.
5. Legal clearances from Commission of the European Economic Community for Reporting Companies.
6. Membership/Chairmanship.
7. Future work of Subcommittee C.

(D) A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on June 28, 1978, at the Centre de Conference Internationale, 19 Avenue Kleber, Paris 16, France, beginning at 9:30 a.m. The agenda is as follows:

1. Opening remarks by the Chairman including:
  - A. Communications to and from the IEA.
  - B. Report on SEQ meeting of February 16, 1978.
  - C. Report on IAB meeting of February 17, 1978, with representatives of the European Economic Community (EEC).
2. Matters arising from the record note of IAB meeting on January 26, 1978.
3. Position of Reporting Companies under:
  - A. EEC Competition regulations.
  - B. U.S. Voluntary Agreement.
4. Report of Subcommittee C including:
  - A. Settlement of disputes.
  - B. Pricing in an emergency.

- C. Extraordinary and additional costs.
  - D. Legal clearances for participation in National Emergency Sharing Organizations.
  - E. Membership/Chairmanship of the subcommittee.
5. Report of Subcommittee A including:
    - A. Review of AST-2 appraisal report.
    - B. Follow-up items from AST-2.
    - C. Future work program.
  6. Report of ISAG including:
    - A. ISAG appraisal report.
    - B. ISAG procedures manual.
    - C. The effect of government regulation and lack of adequate clearance on the effectiveness of industry in an emergency.
  7. Future work program for the IAB including:
    - A. ISAG staffing.
    - B. Continued evaluation of AST-2.
    - C. Dates and venues of future meetings of IAB and subcommittees.

As provided in section 252(c)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public. If you have any questions regarding the above meetings, please contact Robert C. Goodwin, Jr. at 202-566-9380.

Issued in Washington, D.C., June 14, 1978.

WILLIAM P. DAVIS,  
Deputy Director of Administration.

[FR Doc. 78-16894 Filed 6-16-78; 8:45 am]

[3128-01]

## Economic Regulatory Administration

### ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

#### Notices of Effectiveness of Construction Orders Issued to Certain Major Fuel Burning Instal- lations

Pursuant to 10 CFR 303.10(b), 303.47(b), and 307.5, the Department of Energy (DOE) hereby gives notice that on June 12, 1978, it issued notices of effectiveness (NOE's) making effective certain construction orders previously issued on June 30, 1977 (42 FR 36293, 36294, 36295, July 14, 1977). The NOE's were issued under the authorities granted to DOE<sup>1</sup> by Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended, (15 U.S.C. 791 et seq.) and pursuant to 10 CFR parts 303 and 307. The following major fuel burning installations (MFBI's) were issued construction orders on June 30, 1977:

<sup>1</sup>Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act, Pub. L. No. 95-91.

Docket No.	Owner	Installation	Unit	Location
OCU-0900-1-1	Supervisory Committee of Bellefield boiler plant.	Bellefield boiler plant	Replacement No. 3	Pittsburgh, Pa.
OCU-4920-1-2	Phillip Morris, Inc./Miller Brewing Co.	Eden plant	Riley 1	Eden, N.C.
OCU-4920-1-3	do	do	Riley 2	Do.
OCU-6290-2-1	Republic Steel Corp	Lime plant	Kiln 4	Grand River, Ohio
OCU-6290-2-2	do	do	Kiln 5	Do.
OCU-7410-5-2	United States Steel Corp	Minnesots ore operations (Minnnac).	Kiln burner 252-08-2	Mountain Iron, Minn.
OCU-7410-5-4	do	do	Kiln burner 252-09-2	Do.

The construction orders issued by the Federal Energy Administration (FEA) on June 30, 1977, to the above listed MFBI's in the early planning process require the MFBI's to be designed and constructed to be capable of using coal as their primary energy source. In accordance with the requirements of 10 CFR Parts 303 and 307, however, the orders provided that they would not become effective until FEA had considered the environmental impact of the orders and until FEA had served the affected MFBI's with NOE's.

Pursuant to the requirements of 10 CFR 208.3(a)(4) and 307.7(c), DOE, prior to issuance of the NOE's but subsequent to the issuance of the construction orders to the above named MFBI's, performed analyses and reviews of the environmental impact of the issuance of those NOE's. These analyses resulted in a determination that it is clear that issuance of NOE's making these construction orders effective 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 (42 U.S.C. 4332(2)(C)). Public notice of this negative determination for the above MFBI's appeared in the FEDERAL REGISTER on March 10, 1978 (43 FR 9843).

Upon completion of these environmental analyses, DOE issued NOE's on June 12, 1978, making the construction orders to the above listed MFBI's effective on the date of service of the NOE's. Pursuant to 10 CFR 303.7, service of the NOE's is complete upon mailing. The NOE's were served on the MFBI's by registered mail. The notices make effective the construction orders, including the requirements contained therein that the MFBI's be designed and constructed to be capable of using coal as their primary energy source.

Any person aggrieved by the effective construction order may file an appeal with the DOE Office of Hearings and Appeals (previously the Office of Exceptions and Appeals) in accordance with 10 CFR, part 303, subpart H. The appeal shall be filed within 30 days after the service of the NOE. There has not been an exhaus-

tion of administrative remedies until an appeal has been filed pursuant to subpart H of part 303, and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for a modification or rescission of the construction order in accordance with the provisions of 10 CFR, part 303, subpart J. An application for modification or rescission of a construction order based on "significantly changed circumstances," which circumstances occurred during the interval between issuance of the order and service of the NOE, shall be filed within 30 days of service of the NOE. Application for modification or rescission of a construction order based on significantly changed circumstances occurring after the interval may be filed at any time after the NOE is served.

All terms and conditions of the construction order and the NOE may be the subject either of an appeal or an application for modification or rescission.

The construction orders made effective by these NOE's are effective against any persons that, as of the date of service of these NOE's, own, lease, operate, or control the above named MFBI's, and against any successors-in-interest or assignees of such persons.

All of the above listed MFBI's have been served NOE's by registered mail. In addition, copies of these documents will be available for inspection by any interested members of the public at the DOE public docket room located in Room B-120, 2000 M Street NW., Washington, D.C., from 1 to 5 p.m., Monday through Friday. Copies will also be available in the appropriate DOE regional offices and in the Freedom of Information Reading Room, Room 2107, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, between the hours of 8:15 a.m. and 4:15 p.m., Monday through Friday. The negative determination and environmental analyses are available upon request from the DOE National Energy Information Center, Room 1404, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of

these documents are also available for public review in the DOE Freedom of Information Reading Room, at the above address.

Any question regarding this notice should be directed to Mr. Walter A Romanek, Director, Division of Coal Utilization, Department of Energy, Code DCU (Docket No. ———), 2000 M Street NW., Washington, D.C. 20461, 202-254-3910.

Issued in Washington, D.C., June 12, 1978.

BARTON R. HOUSE,  
Assistant Administrator, Fuels  
Regulation, Economic Regu-  
latory Administration.

[FR Doc. 78-16695 Filed 6-16-78; 8:45 am]

[6560-01]

#### ENVIRONMENTAL PROTECTION AGENCY

[FRL 912-6; OPP-66043]

#### PESTICIDE PROGRAMS

#### Intent To Cancel Registrations of Certain Pesticide Products

Pursuant to section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136(a) et seq., firms listed below have requested that the Environmental Protection Agency (EPA) cancel the registrations of several pesticide products. Such cancellation shall be effective on or before July 19, 1978, unless the registrant or an interested person with the concurrence of the registrant, requests that the registration be continued in effect.

The Agency has determined that the distribution and sale of stocks of these products which were produced on or before the effective date of cancellation would not be inconsistent with the purposes of FIFRA and would not have an unreasonable adverse effect on the environment. Therefore, the distribution and sale of existing stocks of these products shall be permitted until the supply is exhausted or for one year after the effective date of cancellation, whichever occurs earlier, provided that these products shall be

## NOTICES

used only in a manner consistent with the label and labeling registered with EPA. Production of these products after the effective date of cancellation will be considered a violation of FIFRA.

Requests that the registration of these products be continued may be submitted to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington D.C. 20460. Any comments filed re-

garding this notice of intended cancellation will be available for public inspection in the office of the Product Control Branch from 8:30 a.m. to 4 p.m. Monday through Friday.

The registrants concerned and the products affected by this action are listed below.

Dated June 13, 1978.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

EPA Reg. No.	Product name	Registrant
90-6	Johnson's Diaper Liners	Johnson & Johnson, New Brunswick, N.J. 08901.
226-70	Tobacco States Brand Endrin Emulsible Concentrate.	Tobacco States Chemical Co., Inc., P.O. Box 12046, Lexington, Ky. 40580.
239-1313	Ortho Phosdrin Perthane 2-5 Dust	Chevron Chemical Co., Ortho Division, 940 Hensley St., Richmond, Calif. 94804.
239-1410	Ortho Phosdrin Sulfur 2-30 Dust	Do.
239-1888	Orthocide Phosdrin 5-2 Dust	Do.
239-1924	Orthocide Lead Arsenate 20-38-5 Wettable.	Do.
241-5	Cyanogas A-Dust	American Cyanamid Co., P.O. Box 400, Princeton, N.J. 08540.
241-6	Cyanogas G-Fumigant	Do.
241-7	Aero HCN Discoids	Do.
241-219	Cygard 510 Insecticide for Use on Alfalfa.	Do.
241-232	Cyanogas Calcium Cyanide A-Dust	Do.
449-450	Sure Death Brand Phosdrin Emulsible Concentrate.	Techne Corp., P.O. Box 10718, Gladstone, Mo. 64118.
476-333	TEPP 40 WM	Stauffer Chemical Co., 1200 South 47th St., Richmond, Calif. 94804.
476-857	Acritet 34-66 Grain Fumigant	Do.
706-35	Claire Bee, Wasp & Hornet Killer	Claire Manufacturing Co., 7620-28 South Harvard St., Chicago, Ill. 60620.
814-2	Force's Quick Acting House Seed	CaraJohn Chemical Co., Inc., 505 South Division Ave., Box 167, Fremont, Mich. 49412.
1222-86	One Package Fruit Spray No. 2	Indiana Farm Bureau Cooperative Association, Inc., 47 South Pennsylvania St., Indianapolis, Ind. 46204.
2518-7	Bar-O-Vert, Component B	The F. A. Bartlett Tree Expert Co., Stamford, Conn. 06904.
2518-8	Bar-O-Vert, Component A	Do.
2596-33	Hartz Mountain 90-day Brand Bird Perch.	Hartz Mountain Corp., 700 South Fourth St., Harrison, N.J. 07029.
2829-93	Vinyzene BP-10	Ventron Corp., Chemical Division, Congress St., Beverly, Maine 01915.
2839-5622	Linethan	Sanitek Product, Inc., 3959 Goodwin Ave., Los Angeles, Calif. 90039.
2839-5624	Banes Laboratories Bath a Month	Do.
2881-12	Compound 1080 (Sodium Fluoracetate)	Lystad Inc., 901 University Ave., Grand Forks, N. Dak. 58201.

EPA Reg. No.	Product name	Registrant
2881-49	Lystads Grain Fumigant 73	Do.
3743-57	Royal Brand Bed Drench	Southern Agricultural Chemical, Inc., P.O. Box 527, Kingstree, S.C. 29556.
3876-29	Betz Slime-Trol RX-20	Betz Laboratories, Inc., Somerton Rd., Trevoise, Pa. 19047.
3876-35	Betz Slimicide C-20	Do.
4185-135	3 pct Sevin 1 pct Parathion Dust	Smith-Douglas, division of Borden Chemical, Borden Inc., 5100 Virgin- ia Beach Blvd., P.O. Box 419, Nor- folk, Va. 23501.
4185-141	2 pct Phosdrin Dust	Do.
4185-348	Brom-O-Sol	Do.
4185-356	Mal Par	Do.
4185-406	Parathion 8 lb Flowable	Do.
5348-8	Patco's Lawn Medic A Lawn and Grass Fumigicide.	Patco Products, Inc. division of Vaughan's Seed Co., Chimney Rock Rd., Bound Brook, N.J. 08805.
9159-54	KAC Brom-O-Sol	Kaiser Agricultural Chemicals, P.O. Box 246, Savannah, Ga. 31402.
9159-113	KAC Thiodan-Parathion 3-1 Tobacco Dust.	Do.
9288-4	Riedel's Supercosan Fungicide-Miti- cide for Home Use.	Haley & Kruger Co., Inc., 19931 East Manning Ave., Rudley, Calif. 93654.
9786-1	Balley's Molex	Honey Bee Enterprises, Route 2, Box 41, Battle Ground, Wash. 98604.
11932-1	GHK Disinfectant Cleaner 19A	Good Housekeeping Maintenance Supplies, Inc., 906 Jacob St., Tho- masville, N.C. 27360.
12015-13	Licide Shampoo	Allied Laboratories, Inc., 975 Lake Rd., Medina, Ohio 44256.

[FR Doc. 78-16852 Filed 6-16-78; 8:45 am]

[6732-01]

**FEDERAL MEDIATION AND  
CONCILIATION SERVICE**

**ARBITRATION SERVICES ADVISORY  
COMMITTEE**

**Meeting**

Notice is hereby given that the Federal Mediation and Conciliation Service Arbitration Services Advisory Committee, in accordance with Section 10 of the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), will meet on Thursday, July 13 and Friday, July 14, 1978 at 9 a.m. in Conference Room 413, 2100 K Street NW., Washington, D.C.

The agenda is as follows:

1. Labor arbitrator development programs.
2. Arbitrator symposia.
3. Arbitration decisions libraries.
4. Report of Arbitrator Review Board.
5. Case processing: statistics and updating.
6. Office of Arbitration Services newsletter for arbitrators.

This meeting shall be open to the public.

Communications regarding this meeting should be addressed to:

Mr. John Canestraight, Associate Director, Office of Arbitration Services, Federal Mediation and Conciliation Service, Washington, D.C. 20427.

Signed at Washington, D.C., this 13th day of June 1978.

WAYNE L. HORVITZ,  
Director.

[FR Doc. 78-16868 Filed 6-16-78; 8:45 am]

[1610-01]

**GENERAL ACCOUNTING OFFICE****REGULATORY REPORTS REVIEW****Notice of Receipt of Report Proposals**

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on June 12, 1978. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable, and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before July 7, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

**INTERSTATE COMMERCE COMMISSION**

The ICC requests an extension without change clearance of form ACC-95, Terminal Listing Sheet, used to obtain a listing of all terminals for those motor carriers designated to participate in Highway Form A and B Cost Studies for a particular year. Information reported on ACC-95 is used at the outset of a study to determine the selection of days and trips for form 4 data (Pickup and Delivery Study), form 7 data (Intercity Trip Study), and a sample of days and terminals for form 10 data (Platform Handling Study). The ICC states that approximately 250 carriers out of a universe of 750 are studied each year. Data developed through regional Cost Studies are used by the carriers themselves, by the ICC and by others in determining and evaluating motor carrier operating costs for ratemaking and related purposes. The ICC estimates that the time for carriers to prepare reports will average 2 hours per response.

The ICC requests clearance of revisions to form OP-OR-11, Application for Brokerage License. Changes to the application form are made necessary by recent procedural revisions adopted formally by the Commission, and to eliminate outdated material. The only

addition to the form is the requirement in Item VI(d) that an applicant file information as to its affiliations. Altering the information requirement here makes it consistent with the information required in 49 CFR 1045(A)(b)(4)(ii)(c) for general commodities property brokerage applications. It also reflects longstanding ICC concern over affiliations between brokers and other entities, expressed in ICC cases such as Merriman Broker Application, 43 MCC 372 (1944). The ICC formally adopted the change May 9, 1978. Other changes are to reflect current ICC regulations and policies which have an indirect effect on brokerage operations. Form OP-OR-11 is used by persons seeking new or extended authority to operate as a broker of household goods or passengers, arranging transportation by motor vehicle, in interstate or foreign commerce. These changes will apply to all applications filed on or after October 13, 1978. The ICC anticipates that 300 applications will be received annually. Each such application may lead to a formal proceeding before the Commission. The ICC estimates that time to prepare application form OP-OR-11 will average 10 hours.

NORMAN F. HEYL,  
*Regulatory Reports Review  
Officer.*

[FR Doc. 78-16829 Filed 6-16-78; 8:45 am]

[6820-22]

**GENERAL SERVICES  
ADMINISTRATION****REGIONAL PUBLIC ADVISORY PANEL ON  
ARCHITECTURAL AND ENGINEERING SERVICES****Notice of Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 10, July 7, 1978, from 9 a.m. to 3 p.m., Public Buildings Service Conference Room, GSA Center, 15th and C Streets SW., Auburn, Wash. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for one year A/E term contracts for Washington State, west of the Cascade Crest and southeast Alaska, within the Pacific time zone. The meeting will be open to the public.

Dated: June 8, 1978.

R. D. CASAD,  
*Regional Administrator.*

[FR Doc. 78-16822 Filed 6-16-78; 8:45 am]

[6820-22]

**REGIONAL PUBLIC ADVISORY PANEL ON  
ARCHITECTURAL AND ENGINEERING SERVICES****Notice of Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 2, 26 Federal Plaza, New York, N.Y. from July 6, 1978 to July 7, 1978, Room 305-C on the 3rd floor at 9 a.m. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed alteration and renovation of the Old Custom House, 1 Bowling Green, New York, N.Y. The meeting will be open to the public.

Dated: June 6, 1978.

GERALD J. TURETSKY,  
*Regional Administrator.*

[FR Doc. 78-16821 Filed 6-16-78; 8:45 am]

[4110-35]

**DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE****Health Care Financing Administration****DEPUTY ADMINISTRATOR ET AL.****Statement of Organization, Functions, and  
Delegations of Authority**

Part F, Chapter F, of the Statement of Organization, Functions, and Delegations of Authority of the Health Care Financing Administration (42 FR 33071, dated June 29, 1977), as amended, is further amended to reflect the order of succession to act as Administrator of the Health Care Financing Administration.

The Order of Succession is contained in a new Section F.70, which reads as follows:

F.70 *Order of Succession.* During the absence or disability of the Administrator of the Health Care Financing Administration, or in the event of a vacancy in that position, the first available official listed below will act as Administrator. During a period of planned absence, the Administrator may designate a different order. The list is as follows:

- (1) Deputy Administrator.
- (2) Deputy Administrator for Operations.
- (3) Director, Office of Management and Budget.
- (4) Director, Medicare Bureau.
- (5) Director, Medicaid Bureau.
- (6) Director, Health Standards and Quality Bureau.

Dated: June 12, 1978.

LEONARD D. SCHAEFFER,  
Assistant Secretary for  
Management and Budget.

[FR Doc. 78-16865 Filed 6-16-78; 8:45 am]

[4310-84]

**DEPARTMENT OF THE INTERIOR**

Bureau of Land Management

**CALIFORNIA DESERT CONSERVATION AREA  
ADVISORY COMMITTEE**

**Meeting**

Notice is hereby given in accordance with Pub. L. 92-463 and 94-579 that the California Desert Conservation Area Advisory Committee to the Bureau of Land Management, U.S. Department of the Interior, will meet July 20-21, 1978, in San Bernardino, Calif. The committee will hold public forums on energy sources, powerplant siting, utility corridors, and mineral resources and development in the California Desert Conservation Area, and discussions of identification of land use allocation types and a map of committed land uses. The committee also will receive subcommittee reports and a special report from contractors on geostatistical and lineament studies in the geology-energy-minerals program. Questions will be invited from the audience on items discussed in the public forums.

The meetings will be held at the San Bernardino Convention Center, 303 North E Street, San Bernardino, Calif. 92418, beginning at 7:30 a.m., Thursday, July 20, and 8 a.m., Friday, July 21. The subcommittee on public participation will meet at 7 p.m., Wednesday, July 19, to review the program for obtaining public involvement in the California Desert program. All meetings of the committee and subcommittees will be open to the public, and time will be made available for brief oral statements by the public on subjects under discussion.

Further information, including the meeting agenda, may be obtained from the Chairman, California Desert Conservation Area Advisory Committee, c/o Desert Plan staff, bureau of Land Management, 3610 Central Avenue, Suite 402, Riverside, Calif. 92506.

Advance notice is also given that the Advisory Committee will hold the following meetings during the remainder of 1978:

September 27-29, San Bernardino, to consider concerns of desert residents communities, land tenure adjustments, military bases, special concerns of native Americans, and cultural resources.

November 30-December 2, Riverside, Calif., to consider desert natural resources—soils, plants, and wildlife; livestock grazing, scientific research

and educational use of the desert; and impacts on resources.

Dated: June 8, 1978.

ED HASTEY,  
State Director.

[FR Doc. 78-16880 Filed 6-16-78; 8:45 am]

[6820-35]

**LEGAL SERVICES CORPORATION**

**LEGAL AID ASSOC. AND CALIFORNIA RURAL  
LEGAL ASSISTANCE**

Grants and Contracts

JUNE 14, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996I, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly \* \* \* such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Legal Aid Association of Ventura County in Oxnard, Calif. to serve San Luis Obispo County.

2. California Rural Legal Assistance in San Francisco, Calif. to serve San Luis Obispo County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, San Francisco Regional Office, American Savings Building, Suite 700, 690 Market Street, San Francisco, Calif. 94104.

THOMAS EHRLICH.

[FR Doc. 78-16871 Filed 6-16-78; 8:45 am]

[4410-01]

**NATIONAL COMMISSION FOR THE  
REVIEW OF ANTITRUST LAWS AND  
PROCEDURES**

**COMPLEX ANTITRUST LITIGATION**

Public Hearing

Notice is hereby given that the National Commission for the Review of Antitrust Laws and Procedures (hereinafter "the Commission") in accordance with Executive Order 12022 and section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), and as previously indicated in FR Doc. 78-15693 (6-6-78), will hold public hearings on July 11, 12, and 13, 1978, beginning at 10 a.m. on July 11,

in Room 2228, Dirksen Senate Office Building, 1st and Constitution Avenue NE., Washington, D.C.

The purpose of these hearings is to receive public comment and testimony on the problems and issues that the Commission should address in the area of complex antitrust litigation, including suggested priorities within the general framework for review set forth in Executive Order 12022.

Interested parties who wish to appear and testify should submit written requests to appear to the Commission offices (Attention: Ms. Deana Harvell), Room 7315, Department of Justice Building, 10th Street and Pennsylvania Avenue NW., Washington, D.C. 20530. Such requests must be received no later than July 5, 1978, and should be accompanied by three (3) copies of the proposed prepared testimony or a summary thereof.

Time limitations may be set for oral testimony, but written submissions, supplementing such testimony, are invited. Notice of a date and estimated time for testimony will be provided by telephone on or before July 7, 1978, provided that those scheduled to testify on July 13 may be notified on July 10. The name of a specified person to receive such notice, with a telephone number, should be included in the request to appear and testify.

In the event the number of those seeking to appear is too great to accommodate in the allotted time, similar notice by telephone will be provided, and an appropriate number of the requesting parties will be asked to submit written submissions in lieu of testimony. Written submissions relating to suggested priorities of the Commission may be made after the hearings, but should be received at the Commission offices no later than August 1, 1978.

Following the Commission's meeting on June 21, 1978, and with the approval of the Commission, further information relating to proposed hearings on July 26-27, 1978, concerning suggested priorities for the work of the Commission in the areas of antitrust immunities and exemptions will be provided by public notice.

Dated: June 14, 1978.

TIMOTHY G. SMITH,  
Staff Director for  
John H. Shenefield, Chairman.

[FR Doc. 78-16896 Filed 6-16-78; 8:45 am]

[3110-01]

**OFFICE OF MANAGEMENT AND  
BUDGET**

**CLEARANCE OF REPORTS**

**List of Request**

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 June 13, 1978 (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; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

#### NEW FORMS

##### NATIONAL SCIENCE FOUNDATION

Nuclear Science Advisory Committee Survey of Manpower in Basic U.S. Nuclear Science, single time, 2,000 U.S. nuclear scientists, Clearance Office, 395-3772.

##### DEPARTMENT OF ENERGY

Domestic Policy Review Survey of Public Attitudes Toward Energy, single time, 11,000 DPR public hearings on the Nation's solar energy, C. Louis Kincannon, Office of Federal Statistical Policy and Standard, 395-3211.

##### DEPARTMENT OF COMMERCE

###### Bureau of Census:

Employment Reference Check, D-296(XN), single time, 125 employers, teachers, et cetera, Clearance Office, 395-3772.

Census Employment Inquiry, BC-170A, single time, 100,000 applicants for census work, Clearance Office, 395-3772.

#### REVISIONS

##### U.S. CIVIL SERVICE COMMISSION

PATC—Level of Benefits Summer 1978 Test Study of Sick Leave/Sickness and Accident Insurance in AWS Establishments, single time, 100 private establishments and plan administrators, 50 responses, 25 hours, Marsha Traynham, Strasser, A., 395-3773.

##### DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service Record of Acres, Production, and Disposition, ASCS-658, annually, 500,000 farm operators, 500,000 responses, 250,000 hours, Office of Federal Statistical Policy and Standard, 673-7959.

Economics, Statistics, and Cooperatives Service June Acreage Survey, annually, 172,400 general farms, 164,440 responses, 27,460 hours, Office of Federal Statistical Policy and Standard, 673-7959.

##### DEPARTMENT OF COMMERCE

Economic Development Administration, Questionnaires and Letters for Local Public Works, Employees Survey, LPW-1,2,3,4,20,21, single time, 9,700 Construction workers at 1,200 local public works projects, 37,468 responses, 1,571 hours, Strasser, A., 395-6132.

##### DEPARTMENT OF LABOR

Employment and Training Administration, Weekly Corps Member Strength Report (WCSR), ETA 6-142 A and B, weekly, 5,944 all Job Corps centers, 3,840 responses, 3,000 hours, Strasser, A., 395-6132.

#### EXTENSIONS

##### AGENCY FOR INTERNATIONAL DEVELOPMENT

Voluntary Agency Quarterly Report of Shipping Activity AID 1,550-6, quarterly, 132 private voluntary organizations, 120 responses, 960 hours, Lowry, R. L., 395-3772.

##### DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Food Stamp Program—Regulations, on occasion, 930,368 State Agencies, 930,368 responses, 432,030 hours, Human Resources Division, Warren Topellius, 395-3532.

##### DEPARTMENT OF STATE

Department of State (Excl. AID and Action), Statement of Nonreceipt of Passport, DSP-86, on occasion, 10,000 passport applicants, 10,000 responses, 1,000 hours, Clearance Office, 395-3772.

DAVID R. LEUTHOLD,  
*Budget and Management Officer.*

[FR Doc. 78-16990 Filed 6-16-78; 8:45 am]

#### [4710-07]

##### DEPARTMENT OF STATE

[Public Notice CM-8/70]

##### SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

#### Meeting

The Working Group on Safety of Navigation of the Shipping Coordinating Committee's Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 a.m. on Tuesday, July 18, 1978 in Room 7202 of the Nassif Building, Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting is to consider matters relating to the twenty-first session of the Subcommittee on Navigation of the Intergovernmental Maritime Consultative Organization (IMCO), scheduled to take place in London from July 31 to August 4, 1978. In preparation for this session, the SOLAS Working Group will discuss in particular the following topics:

Matters relating to ships' routings;  
Navigational aids and equipment;  
Matters related to the 1972 IMCO Collision Regulations;

Single-handed voyages;  
Collision avoidance aids;  
Any other business.

Requests for further information on the meeting should be directed to Lt. Cdr. J. D. Bannan, or Mr. F. Schwer, c/o Commandant (G-WLE-4/73), U.S. Coast Guard, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-4958.

The Chairman will entertain comments from the public as time permits.

Dated: June 9, 1978.

RICHARD K. BANK,  
*Chairman, Shipping  
Coordinating Committee.*

[FR Doc. 78-16882 Filed 6-16-78; 8:45 am]

#### [4910-14]

##### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

[CG 78-85]

##### RULES OF THE ROAD ADVISORY COMMITTEE

#### Meeting

JUNE 12, 1978.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; U.S.C. App. I), notice is hereby given of a meeting of the Rules of the Road Advisory Committee to be held Wednesday and Thursday, July 12 and 13, 1978, beginning at 9:30 a.m. each day in the Michigan Room of the St. Clair Inn, St. Clair, Mich.

The agenda for the meeting is as follows:

1. Welcome.
2. Adoption of Agenda.
3. Adoption of the minutes of the February 15 and 16, 1978 meeting.
4. Consideration of proposed Coast Guard amendments to the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to be presented at the July 1978 meeting of the International Maritime Consultative Organization's Subcommittee on the Safety of Navigation.
5. Consideration of the draft rules for U.S. waters being developed to unify the present Inland, Western Rivers, Great Lakes, and Pilot Rules.
6. Consideration of lighting requirements for small craft under the 72 COLREGS being developed by the Coast Guard.
7. Any other business.

Attendance is open to the public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify Captain D. B. Charter, Executive Director, Rules of the Road Advisory Committee, c/o Commandant (G-WLE/73), U.S. Coast Guard, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-4958, not later than the day before the meeting. Information about the meeting may be obtained from the above address. A

member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C.

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

[FR Doc. 78-16883 Filed 6-16-78; 8:45 am]

[4910-13]

Federal Aviation Administration

METROPOLITAN WASHINGTON AIRPORTS

Reopening of Comment Period

The Federal Aviation Administration published in the FEDERAL REGISTER on March 23, 1978, a proposed policy for the operation of the Metropolitan Washington Airports, 43 FR 12141. This notice indicated that comments were to be submitted to Mr. James T. Murphy, Director, Metropolitan Washington Airports, Washington National Airport, Hangar 9, Washington, D.C. 20001.

Requests for an extension time to provide written comments were received from the U.S. Environmental Protection Agency and a Member of Congress. The FAA believes such an extension is in the public interest.

Accordingly, the review period for the proposed policy is reopened for the receipt of public comment until July 1, 1978.

Issued in Washington, D.C., June 14, 1978.

JAMES T. MURPHY,  
Director, Metropolitan  
Washington Airports.

[FR Doc. 78-16900 Filed 6-16-78; 8:45 am]

[4810-25]

TREASURY DEPARTMENT

Office of Foreign Assets Control

IMPORTATION FROM INDIA OF FERROCHROMIUM AND CHROMIUM-BEARING STEEL MILL PRODUCTS UNDER THE RHODESIAN SANCTIONS REGULATIONS

Availability of Special Certificates for Imports From India

Special certificates of origin issued by the Office of the Industrial Adviser, Department of Steel, Ministry of Steel and Mines of the Government of India are available as of May 1, 1978 for imports from that country of ferrochromium and chromium-bearing steel mill products. The certificates will be issued pursuant to a formal certification agreement between the Government of India and the Government of the United States. They will serve to establish that materials exported from India to the United States do not

contain any chromium of Rhodesian origin. Materials shipped after May 1, 1978 may only be imported if a special certificate of origin is presented to Customs at the time of entry. Importers are reminded that special certificates of origin must be presented to U.S. Customs to complete liquidation of entries on goods shipped after July 18, 1977 and prior to May 1, 1978.

Dated: June 7, 1978.

STANLEY L. SOMMERFIELD,  
Acting Director.

Approved:

RICHARD J. DAVIS,  
Assistant Secretary.

[FR Doc. 78-16920 Filed 6-16-78; 8:45 am]

[4810-22]

Office of the Secretary

OFFSET PAPER FROM CANADA

Antidumping; Termination of Investigation

AGENCY: U.S. Treasury Department.

ACTION: Termination of Antidumping Investigation.

SUMMARY: This notice is to inform the public that the antidumping investigation on offset paper from Canada is being terminated based on a determination by the United States International Trade Commission that there is no reasonable indication that an industry in the United States is being, or is likely to be injured, by reason of the importation of offset paper from Canada into the United States.

EFFECTIVE DATE: June 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C., telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On February 17, 1977, an "Antidumping Proceeding Notice" with respect to offset paper from Canada was published in the FEDERAL REGISTER (43 FR 7079).

For purposes of this notice "offset paper" means chemical-wood-pulp based offset printing paper, containing less than 5 percent by weight mechanical wood pulp, whether or not cut to size or shape, not impregnated, not coated, not surface-colored, not embossed, not ruled, not lined, not printed, and not decorated, provided for in item numbers 252.67 and 256.30 of the Tariff Schedules of the United States Annotated (TSUSA).

The notice stated that there was evidence on record that imports of offset paper from Canada accounted for only

about 2 percent of the U.S. market for this product during the first 10 months of 1977, only a slight increase from 1975 and 1976, that U.S. producers market share has remained close to 90 percent since 1975, and that the profitability and capacity utilization of the petitioner, the International Paper Company, has improved since 1975.

On the basis of such information, the Secretary concluded that there was substantial doubt of injury to, or likelihood of injury to, an industry in the United States by reason of such importations from Canada. Accordingly, the United States International Trade Commission was advised of such doubt pursuant to section 201(c)(2) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)(2)).

The United States International Trade Commission has determined and on March 20, 1978, it advised the Secretary that there is no reasonable indication that an industry in the United States is being or is likely to be injured, by reason of importation of offset paper from Canada into the United States. This determination was published in the FEDERAL REGISTER of March 24, 1978 (42 FR 12389).

Accordingly, the antidumping investigation with respect to offset paper from Canada is hereby terminated, as provided for in section 201(c)(2) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)(2)).

ROBERT H. MUNDHEIM,  
General Counsel of the Treasury.

JUNE 13, 1978.

[FR Doc. 78-16869 Filed 6-16-78; 8:45 am]

[4810-40]

[Department Circular; Public Debt Series—  
No. 14-78]

TREASURY NOTES OF JUNE 30, 1980

Series Q-1980

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$3,000,000,000 of United States securities, designated Treasury Notes of June 30, 1980, Series Q-1980 (CUSIP No. 912827 HV 7). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in ex-

change for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

## 2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated June 30, 1978, and will bear interest from that date, payable on a semiannual basis on December 31, 1978, and each subsequent 6 months on June 30 and December 31, until the principal becomes payable. They will mature June 30, 1980, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

## 3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, June 20, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, June 19, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more

than one noncompetitive tender and the amount may not exceed \$1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a  $\frac{1}{2}$  of one percent increment, which results in an equivalent average accepted price close to 100,000 and a lowest accepted price above the original issue discount limit of 99,500. That rate of interest

will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

## 4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

## 5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Friday, June 30, 1978, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

- (a) Wednesday, June 28, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or
- (b) Monday, June 26, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will

not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5. 2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5. 3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5. 4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5. 5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

#### 6. GENERAL PROVISIONS

6. 1. As fiscal agents of the United States, Federal reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6. 2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,  
*Acting Fiscal Assistant Secretary.*

[FR Doc. 78-17005 Filed 6-16-78; 9:03 am]

[7035-01]

### INTERSTATE COMMERCE COMMISSION

[Notice No. 687]

#### ASSIGNMENT OF HEARINGS

JUNE 14, 1978.

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.

No. MC 57298 (Sub-No. 11), Union Bus Lines, Inc., now being assigned June 21, 1978 (1 day), for continued hearing at Austin, Tex. and will be held in Room 212, Lamar Crest Office Towers, 7703 North Lamar Boulevard.

No. MC 32779 (Sub-No. 13), Silver Eagle Co., now assigned June 20, 1978, at Olympia, Wash., is postponed to July 25, 1978 (6 days), at the Greenwood Inn, 2300 Upper Green Park Drive, Olympia, Wash.

No. MC-F-13458, Holland Motor Express, Inc.—Purchase (Portion)—Navajo Freight Lines, Inc. and No. MC 76032 (Sub-No. 331), Navajo Freight Lines, Inc., are now assigned for hearing July 19, 1978 (3 days), at Chicago, Ill., and will be held in Room 572, Everett McKinley Dirksen Building, 219 South Dearborn Street.

No. MC-F-13376, Don Paffile, d.b.a. Paffile Truck Lines—Purchase—Idaho Packers Express, Inc. and Idaho Pacific Freight Lines and MC 117304 (Sub-No. 37), Don Paffile, d.b.a. Paffile Truck Lines now being assigned July 24, 1978 (2 days), at Seattle, Wash., in a hearing room to be later designated.

No. MC 117589 (Sub-No. 47), Provisioners Frozen Express, Inc., now being assigned

July 26, 1978 (3 days), at Seattle, Wash., in a hearing room to be later designated. No. MC 141108 (Sub-No. 1), D. & C. Express, Inc., is now assigned for hearing September 6, 1978 (1 day), at Omaha, Nebr., at a location to be later designated.

No. MC 114211 (Sub-No. 343), Warren Transport, Inc., is now assigned for hearing September 7, 1978 (2 days), at Omaha, Nebr., at a location to be later designated. No. MC 108375 (Sub-No. 42), LeRoy L. Wade & Son, Inc., is now assigned for hearing September 11, 1978 (2 days), at Omaha, Nebr., at a location to be later designated.

No. MC 108375 (Sub-No. 39), LeRoy L. Wade & Son, Inc., is now assigned for hearing September 13, 1978 (3 days), at Omaha, Nebr., at a location to be later designated. No. MC 115826 (Sub-No. 267), W. J. Digby, Inc. and No. MC 128273 (Sub-No. 256), Midwestern Distribution, Inc., are now assigned for continued hearing September 18, 1978 (1 week), at San Francisco, California., at a location to be later designated.

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

[FR Doc. 78-16875 Filed 6-16-78; 8:45 am]

[7035-01]

[Notice No. 66]

#### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JUNE 19, 1978.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before July 10, 1978. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-77599 by order of June 13, 1978 the Motor Carrier Board approved the transfer to KMA Leasing, Inc., Philadelphia, PA, of Certificate No. MC 38921 (Sub-No. 10) issued May 12, 1978, to Wm. H. P., Inc., authorizing the transportation of (1) (a) Malt beverages, and (b) materials and supplies in the production and sale of malt beverages (except in bulk), between the plant sites of C. Schmidt & Sons, Inc., at or near Philadelphia, PA, and Cleveland, OH; (2) (a) Malt

beverages, and (b) materials and supplies used in the sale of malt beverages, from the plant site of C. Schmidt & Sons, Inc., at or near Cleveland, OH, to points in NY, NJ, PA, MD, and DC. By the same order, the Board also approved the transfer of transferor's certificates Nos. MC 38921 and MC 38921 (Sub-No. 9), notice of which was given in the April 13, 1978 issue of the FEDERAL REGISTER. Petitions for reconsideration may be filed by any interested person within 20 days from date of this publication.

A. David Millner, Esq., P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ, 07006—Applicants' Representative.

NANCY L. WILSON,  
Acting Secretary.

[FR Doc. 78-16873 Filed 6-16-78; 8:45 am]

### [7035-01]

[Notice No. 671]

#### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before July 19, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77626, filed April 19, 1978. Transferee: HARRINGTON

TRUCKING, INC., P.O. Box 15771, 1769 Sitzmark Drive, Salt Lake City, UT 84115. Transferor: Transport Expeditors, Inc., 1240 North 1760 West, Orem, UT 84057. Applicants' representative: Miss Irene Warr, Attorney at Law, 430 Judge Building, Salt Lake City, UT 84111. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 141016 issued January 26, 1977, as follows: *Machinery and machinery parts, and mining and construction materials, equipment, and supplies*, between points, both of which are in the same State, in ID, UT, and MT. Restriction: the authority granted herein is restricted to traffic having an immediately prior or subsequent movement by rail carrier. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77664, filed May 10, 1978. Transferee: E. J. CARRIER, INC., P.O. Box 5, Jackman, ME 04945. Transferor: E. R. Comber & Son, Inc., P.O. Box 217, Jackman, ME 04945. Applicants' representative: Peter L. Murray, Esquire, 30 Exchange Street, Portland, ME 04111. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 140708 (Sub-No. 1), issued June 2, 1976, as follows: *Lumber*, for the account of Beaudry Lumber Co., from the plantsite of Beaudry Lumber Co., at Holeb and Greenville, ME, to the port of entry on the United States-Canada Boundary line at or near Jackman, ME, and to points in NH, VT, MA, RI, CT, NY, NJ, and PA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77677, filed May 17, 1978. Transferee: QUALITY MOVERS, INC., 601 North Fourth Street, Jeannette, PA 15644. Transferor: William F. Maroadi, d.b.a. Maroadi Transfer & Storage, 101 Parkway, McKeesport, PA 15131. Applicants' representative: Robert E. Michelson, Sullivan & Dubin, 1819 H Street NW., Washington, DC 20006. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 60604, issued July 27, 1976, as follows: *Household goods*, between points in that part of PA south of U.S. Hwy 422 and West of U.S. Hwy 119, including points on the indicated portions of the hways specified, on the one hand, and, on the other, points in IL, MD, IN, MI, NJ, NY, OH, VA, WV, and DC. Transferee presently holds no authority from this Commission but is affiliated with Roy W. Nichols d.b.a. Quality Movers an authorized motor carrier holding au-

thority under MC 75535. Application has been filed for temporary authority under section 210a(b).

No. MC-FC-77681, filed May 18, 1978. Transferee: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Transferor: John Townrow, d.b.a. John Townrow Trucking, 4290 Elton Street, Baldwin Park, CA 91706. Applicants' representatives: Paul M. Daniell, 1200 Gas Light Tower, Atlanta, GA 30303, and Gilbert Barnard, P.O. Box 7, Darlington, WI 53540. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit Nos. MC 138413 (Sub-No. 1), MC-138413 (Sub-No. 4), MC-138413 (Sub-No. 5), MC-138413 (Sub-No. 6), and MC-138413 (Sub-No. 7), issued November 1, 1976, September 21, 1976, October 13, 1976, August 5, 1977, and September 6, 1977, as follows: *Floor coverings and materials and supplies* used in the sale and installation of floor coverings, except commodities in bulk, from points in IN, NJ, and PA to points in AZ and CA restricted to a transportation service to be performed under a continuing contract with Congoleum Industries, Inc; *glass tile and materials and supplies* (except in bulk), used in the installation thereof, from Newark, NJ, to points in AZ, CA, CO, ID, MT, NE, NM, OR, UT, WA, and WY restricted to a transportation service to be performed under a continuing contract with New Age Mirror and Title Industries, Inc., of Newark, NY; *swimming pools, swimming pool supplies, swimming pool equipment, toys, and games*, from Amsterdam and Gloversville, NY, to points in AZ, CA, NE, OR, UT, and WA restricted to a transportation service to be performed under a continuing contract with Coleco Industries, Inc. of Gloversville, NY; *toilet preparations and accessories for the foregoing commodities* (except commodities in bulk, in tank vehicles), from Clark and Avenel, NJ, to points in CA, CO, and NV, restricted to a transportation service to be performed under a continuing contract with Cosmair, Inc.; *games, toys, juvenile furniture, and playground apparatus*, (1) from West Point, MS and points in CT, MA, NJ, NY, NC, PA, RI, and VA to Compton and San Jose, CA, and Melvindale, MI; (2) from West Point, MS, and points in CT, MA, NJ (except Secaucus), NY, RI, and VA, to Secaucus, NJ; (3) from West Point, MS and points in CT, MA, NJ, NY, PA, and RI, to Beltsville, MD; (4) from West Point, MS and points in CT, MA, NJ, RI, and VA, to Houston, TX; (5) from points in VA to Bensenville, IL restricted to a transportation service to be performed under a continuing contract with Lash-Tarmaron Division of Toys-R-Us, of Saddle Brook, NJ. Transferee presently holds no authority from this Commission. Application

has been filed for temporary authority under section 210a(b).

No. MC-FC-77685, filed May 22, 1978. Transferee: JOSEPH P. RILEY, d.b.a. RILEY MOVING CO., 6521 North Fourth Street, Philadelphia, PA 19126. Transferor: Anchor Moving Co., Inc., 311 Old Rodgers Road, Bristol, PA 19007. Applicants' representative: Michael J. Flanagan, 1300 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 135666 issued January 4, 1972, as follows: *Household goods*, as defined by the Commission, between Philadelphia, PA, and points within 25 miles thereof, on the one hand, and, on the other, points in the New York, NY, commercial zone as defined by the Commission, and points in NJ, DE, MD, and DC. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77696, filed May 31, 1978. Transferee: CHRISTOFFERSON, INC., 1229 Fifth Street, Beloit, WI 53511. Transferor: Bruner Transfer, Inc., 1543 Henry Avenue, Beloit, WI 53511. Applicants' representative: John L. Bruemmer, Esquire, 121 West Doty Street, Madison, WI 53703. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permit No. MC 133444 issued September 11, 1972, as follows: *Engine parts and accessories, motors, and compressors*, between the facilities of Fairbanks Morse, Inc., Power System Division, at or near Beloit, WI on the one hand, and, on the other, points in AZ, CT, IL, IN, KS, KY, LA, MD, MA, MS, MO, NJ, NY, OH, SD, TX, VA, AND WV. Transferee presently holds authority from this Commission in Certificate No. MC 73553. Application has not been filed for temporary authority under section 210a(b).

NANCY L. WILSON,  
Acting Secretary.

[FR Doc. 78-16874 Filed 6-16-78; 8:45 am]

#### [7035-01]

[Notice No. 95]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 12, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publi-

cation no later than the July 5, 1978. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

#### MOTOR CARRIERS OF PROPERTY

No. MC 109692 (Sub-No. 56TA), filed May 24, 1978. Applicant: GRAIN BELT TRANSPORTATION CO., Route 13, P.O. Box 16047, Kansas City, MO 64161. Applicant's representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, and farm, industrial, construction and excavating machinery, and parts, attachments and accessories therefor*, from the facilities of J. I. Case Co., Inc., located at or near Burlington, IA, to points in AZ, AR, LA, MS, NM, OK and TX for 180 days. Supporting shipper(s): J. I. Case Co., Inc., 700 State Street, Racine, WI 53404. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 110656 (Sub-No. 10TA), filed April 25, 1978. Applicant: PARKER MOTOR FREIGHT, INC., 125 Fulton Street, Petoskey, MI 49770. Applicant's representative: Rex Eames and Ronald J. Mastej, 900 Guardian Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), between

junction U.S. Hwy 31 and MI Hwy 37, (near Grawn, MI), and Frankfort, MI; from junction U.S. Hwy 31 and MI Hwy 37, (near Grawn, MI), over U.S. Hwy 31 to junction MI Hwy 115, then over MI Hwy 115 to Frankfort, MI, and return over the same route, serving all intermediate points and off-route points within 6 miles of the described route and 6 miles of Frankfort, MI, for 180 days. Supporting shipper(s): There are approximately (14) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

No. MC 111201 (Sub-No. 30TA), filed May 17, 1978. Applicant: J. N. ZELLNER & SON TRANSFER CO., P.O. Box 90818, East Point, GA 30344. Applicant's representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container components and ends, container closures, and materials, equipment and supplies* used in the manufacture of containers, container components and ends, and container closures, between the facilities of American Can Corp. at Chattanooga, TN, and the facilities of American Can Corp. at Forest Park, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Can Corp., Greenwich, CT 06830. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 113855 (Sub-No. 425TA), filed May 27, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, implements, equipment, parts and accessories*, from Kaukauna, WI, to points in and east of NM, CO, WY and MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Badger Northland, Inc., 1215 Hyland Avenue, Kaukauna, WI 54130. Send protests to: Delores A. Poe, Transportation Assistant, Interstate, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, U.S.

Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 124896 (Sub-No. 58TA), filed May 22, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Thorne and Ralston streets, Wilson, NC 27893. Applicant's representative: Larry Knox, 900 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packing plants*, (except hides and commodities in bulk), for Geo. A. Hormel & Co., from the facilities at Fremont, NE, to Charlotte, NC, with an intermediate stop in Springfield, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

No. MC 126276 (Sub-No. 192TA), filed May 18, 1978. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, IL. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by a producer and distributor of paper and plastic products*, (except commodities in bulk and those which, because of size or weight, require the use of special equipment or handling), between Fort Worth, TX, and Millville, NJ, under a continuing contract, or contracts, with the Continental Group, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Daniel J. Daly, Distribution Manager-Bondware, The Continental Group, Inc., 800 East Northwest Highway, Palatine, IL 60067. Send protests to: Lois M. Stahl, district Supervisor, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 126706 (Sub-No. 5TA), filed April 25, 1978. Applicant: KLEYSEN TRANSPORT, LTD., 2100 McGillivray Boulevard, Winnipeg, MB, Canada. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard, and materials and supplies used in the installation thereof*, from ports of entry on the United States-Canada boundary line in MN and ND, to points in MN,

ND, SD and WI, restricted to traffic originating at the facilities of Domtar, Inc., located at or near Winnipeg, MB, Canada, and moving in foreign commerce, under a continuing contract, or contracts, with Domtar, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Domtar, Inc., 1405 Sargent Avenue, Winnipeg, MB, Canada. Send protest to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268, Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

No. MC 127047 (Sub-No. 32TA), filed May 15, 1978. Applicant: ED RACETTE & SON, INC., 6011 North Broadway, Wichita, KS 67219. Applicant's representative: William B. Barker, 641 Harrison, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, knocked down*, (1) from the facilities of Confederated Builders at Derby, KS, to points in the United States (except AK and HI); and (2) *Materials and supplies* used in the manufacture of (1) above, from points in the United States, (except AK and HI) to the facilities of Confederated Buildings at Derby, KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Confederated Builders, 503 North Buckner, Derby, KS 67037. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

No. MC 129712 (Sub-No. 15TA), filed April 27, 1978. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 954, McDonough, GA 30253. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bakery products, (except frozen), and related stationery and advertising materials*, from the facilities of Sunshine Biscuits, Inc., at Columbus, GA, to points in AR; and (2) *Materials, equipment and supplies* used, sold or dealt in by bakeries, from points in AR, to the facilities of Sunshine Biscuits, Inc., at Columbus, GA, under a continuing contract, or contracts, with Sunshine Biscuits, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sunshine Biscuits, Inc., 3700 Victory Drive, Columbus, GA 31902. Send Protests to: E. A. Bryant, District Supervisor, Interstate Commerce Commission, Room 300, 1252 West Peachtree Street NE., Atlanta, GA 30309.

No. MC 134105 (Sub-No. 29TA), filed April 21, 1978. Applicant: CELERYVALE TRANSPORT, INC., 1011 First Tennessee Bank Building, Chattanooga, TN 37402. Applicant's representative: L. D. Miller, III, 1011 First Tennessee Bank Building, Chattanooga, TN 37402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery, confectionery products, dessert preparations and coin-operated vending machines and stands*, in vehicles with mechanical refrigeration, (except in bulk), from the facilities of Leaf Confectionery, Inc., located at or near Chicago, IL, to points in AL, AR, GA, LA, MS, MO, OK, TN and TX, restricted to the transportation of traffic originating at the named origin and destined to the named destination States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Leaf Confectionery, Inc., 1155 North Cicero, Chicago, IL. Send Protests to: Glenda Kuss Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

No. MC 134286 (Sub-No. 55TA), filed April 12, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Applicant's representative: Charles J. Kimball, Suite 350, Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Needles, syringes, blood collection tubes, and materials, equipment, and supplies* used in the manufacture and distribution of (except commodities in bulk), from the facilities utilized by Sherwood Medical Industries, located at or near Norfolk, NE, to Atlanta, GA; North Brunswick, NJ; St. Louis, MO; Dallas, TX; Libertyville, IL; Anaheim and Hayward, CA; Boston, MA; and Minneapolis, MN; and all points in the respective commercial zones of each city named above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ronald Stauffer Buyer, Sherwood Medical Industries, Inc., P.O. Box 1169, Norfolk, NE 68701. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 134300 (Sub-No. 28TA), filed May 22, 1978. Applicant: TRIPEL R EXPRESS, INC., 498 First Street NW., P.O. Box 12866, New Brighton, MN 55112. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregu-

lar routes, transporting: *Windows, screens, doors, building woodwork and materials and accessories* used in the installation thereof, from Bayport, MN, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV and DC, for 180 days. Supporting shipper(s): Andersen Corp., Bayport, MN 55003. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 135237 (Sub-No. 2TA), filed April 14, 1978. Applicant: EAST PENN TRUCKING CO., R.D. No. 1, Lehigh County, PA 18325. Applicant's representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream, ice milk, and water ice novelties*, in mechanically refrigerated vehicles capable of maintaining a temperature of minus 20° Fahrenheit, from the facilities of Lehigh Valley Refrigerated Services, Upper Macungie Township, Lehigh County, PA to points in MA, RI, CT, NY, NJ, DE, MD, VA, WV, NC, SC, GA, FL and DC; and from Marietta, GA, Milton, MA; Bronx, NY; and Washington, NC, to the facilities of Lehigh Valley Refrigerated Services, Upper Macungie Township, Lehigh County, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Eskimo Pie Corp., 530 East Main Street, Richmond, VA 23219. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503.

No. MC 138054 (Sub-No. 26TA), filed May 15, 1978. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tool stands, service carts, benches, seats, cabinets, shelving, room dividers, partitions, sheet metal products and related parts and accessories*, from Warren, PA, to points in the United States in and west of WI, IL, KY, NC, TN, SC, GA and FL (except AK and HI). Restriction: Restricted against the transportation of commodities in bulk, in tank vehicles, and further restricted to a transportation service to be performed under a continuing contract, or contracts, with InterRoyal Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Inter-

Royal Corp., 151 Struthers Street, Warren, PA 16365. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 139247 (Sub-No. 2TA), filed May 17, 1978. Applicant: COOPER BROTHERS, INC., P.O. Box 167, Highway 53, Braselton, GA 30517. Applicant's representative: Frank D. Hall, 3384 Peachtree Street NE., Suite 713, Atlanta, GA 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is used, sold, or dealt in by wholesale, retail, and chain grocery and food business houses (except commodities in bulk), from points in MN, IA, MO, AR, LA, WI, IL, KY, TN, MI, IN, MS, AL, OH, GA, FL, NY, PA, VT, NH, MA, CT, RI, ME, WV, VA, NC, SC, NJ, and DC, to the facilities of Colonial Stores, Inc., at Cordele, GA, under a continuing contract or contracts with Colonial Stores, Inc., at Atlanta, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Colonial Stores, Inc., 2251 N. Sylvan Road, Atlanta, GA 30302. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 139897 (Sub-No. 3TA), filed May 19, 1978. Applicant: ORRAN HOFSTETTER, INC., P.O. Box 237, Orrville, OH 44667. Applicant's representative: Richard H. Brandon, P.O. Box 97, Dublin, OH 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal* (in bulk, in dump vehicles), from the facilities of C. & J. Coal Co., at or near Clarksburg, WV, to points in Sandusky and Seneca Counties, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Keystone Coal Co., P.O. Box 2027, York, PA 17405. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Blvd., Columbus, OH 43215.

No. MC 140665 (Sub-No. 30TA), filed May 16, 1978. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds, rust preventing compounds, electroplating additives, paint, paint products, petroleum products, nickel, chemicals, and*

*materials and supplies* used in the marketing or distribution of the above commodities, from Cleveland and Euclid, OH, to points in AZ, CA, CO, ID, NM, UT, WY, MT, LA, TX, and WA, for 180 days. Supporting shipper(s): R. O. Hull & Co., Inc., Cleveland, OH 44117. Send protests to: John V. Barry, District Supervisor, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

No. MC 141232 (Sub-No. 4TA), filed April 14, 1978. Applicant: STATEWIDE TRUCKING CO., 1801 West Oxford, P.O. Box 1116, Englewood, CO 80110. Applicant's representative: A. B. Ballah, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials*; and (2) *fence materials and supplies*, between points in WY on the one hand and, on the other, points in NE on and west of U.S. Hwy 281, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Denver Reserve Supply Co., 555 West 48th Avenue, Denver, CO 80216. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

No. MC 142667 (Sub-No. 2TA), filed May 15, 1978. Applicant: BILL MILLWOOD, P.O. Box 195, Nashville, AK 71852. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, AK 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automatic poultry feeder and watering systems*; and (2) *parts, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, from Glendale, CA, to Lincoln, Nashville, Russellville, and Springdale, AK; and Casselberry, FL; and Canton, GA, and Many, LA, and Forest, Miss., for 180 days. Supporting shipper(s): H. W. Hart Manufacturing Co., P.O. Box 158, Nashville, AK 71852. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AK 72201.

No. MC 143236 (Sub-No. 15TA), filed May 17, 1978. Applicant: WHITE TIGER TRANSPORTATION, INC., 115 Jacobus Avenue, Kearny, NJ 07032. Applicant's representative: Jay Schiffies, 1001 Connecticut Avenue NW., Suite 625, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toys, games, and commodities sold in toy stores*, between the stores and warehouses of Toys R Us in the United States east of and including, MN, IA, NE, CO, OK, and TX, on the one hand and, on the other, points in

the United States east of and including MN, IA, NE, CO, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Toys R Us, 299 Market Street, Saddle Brook, NJ. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 143021 (Sub-No. 1TA), filed May 17, 1978. Applicant: R. E. BAIRD & SONS LTD., Perth-Andover, NB, Canada. Applicant's representative: Graeme S. Shaw, Main Street, Perth-Andover, NB, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips, sawdust, and shavings* (in bulk), from ports of entry on the International Boundary between the United States and Canada at or near Houlton and Fort Fairfield, ME, to Houlton, Lincoln, and Oldtown, ME, under a continuing contract or contracts with Ralph F. Sadler Ltd., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ralph F. Sadler Ltd., Box 190, Perth-Andover, NB. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.

No. MC 143590 (Sub-No. 5TA), filed May 19, 1978. Applicant: NEW HAMPSHIRE CONTINENTAL EXPRESS, INC., P.O. Box 4956, Manchester, NH 03108. Applicant's representative: Steven K. Kuhlmann, P.O. Box 80228, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds and materials, supplies, and equipment* used in the manufacture, production, and distribution of cleaning compounds, (1) from Avenel, NJ, to points

in DC, FL, IL, MD, MA, MI, OH, PA, San Jose, CA, and Charlotte, NC; and (2) from Manchester, NH, to Avenel, NJ. Restriction: Restricted against the transportation of commodities in bulk and further restricted to traffic either originating at or destined to the facilities of Economics Laboratory, Inc., for 180 days. Supporting shipper(s): Economics Laboratory, Inc., 255 Blair Road, Avenel, NJ. (Attn: Frank Skidmore, Traffic Manager) Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Loudon Road, Concord, NH 03301.

No. MC 144802 (Sub-No. 5TA), filed May 17, 1978. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Boulevard, P.O. Box 7191, Charlotte, NC 28217. Applicant's representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured or distributed by aluminum article manufacturers, from Manitowoc, WI, to Charlotte, NC, restricted to the transportation of shipments, under a continuing contract, or contracts, with Mirro Aluminum Co., for 180 days. Supporting shipper(s): Mirro Aluminum Co., P.O. Box 409, Manitowoc, WI 54220. Send protests to: Terrell Price District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

No. MC 144622 (Sub-No. 3TA), filed May 17, 1978. Applicant: GLENN BROS. MEAT CO., INC., P.O. Box 9343, Little Rock, AR 72209. Applicant's representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Housewares, lawn and garden accessories and dis-*

*play racks*, from the facilities of Rubbermaid Inc., Wooster, OH, to points in AZ, CA, CO, ID, IA, KS, MN, MO, MT, NE, NV, NM, ND, OR, SD, UT, WA, and WY, for 180 days. Supporting shipper(s): Rubbermaid Inc., 1147 Akron Road, Wooster, OH 44691. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 144782 TA, filed April 19, 1978. Applicant: ZEELAND FARM SERVICES, INC., 2468 84th Street, Zeeland, MI 49464. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients* (in bulk, in dump vehicles), also fertilizer, fertilizer ingredients and agricultural products, in bags in van equipment, from points in IL, IN, and OH to various Smith, Douglas plants, warehouses, and outlets in Branch, St. Joseph, Cass, Berrien, Van Buren, Kalamazoo, Calhoun, Allegan, Barry, Ottawa, Kent, Ionia, Muskegon, Montcalm, Oceana, Newaygo, Mecosta, Mason, Luce, Manistee, Benzie, Grand Traverse, and Leelanau Counties, MI, under a continuing contract, or contracts, with Smith Douglas Division of Borden Chemical, Borden, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Smith Douglas Division, Borden Chemical, Borden, Inc., P.O. Box 3011, Holland, MI 49423. Send protests to: C. R. Flemming, District Supervisor, 225 Federal Building, Lansing, MI 48933.

By the Commission.

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

[FR Doc. 78-16876 Filed 6-16-78; 8:45 am]

# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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### [6730-01]

1

#### FEDERAL MARITIME COMMISSION.

TIME AND DATE: June 22, 1978, 9 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: 1. Commission/staff discussion of general accounting principles and theories.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-1270-78 Filed 6-15-78; 11:48 am]

### [6740-02]

2

#### FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: June 21, 1978, 10 a.m.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda:

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone, 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information.

#### POWER AGENDA—125TH MEETING, JUNE 21, 1978, REGULAR MEETING (10 A.M.)

##### I. ELECTRIC RATE MATTERS

- ER-1.—Docket Nos. ER78-395, ER78-400, Florida Power & Light Co.  
 ER-2.—Docket No. ER78-279, Niagara Mohawk Power Corp.  
 ER-3.—Docket No. ER76-875, Nevada Power Co.  
 ER-4.—Docket No. E-8755, Central Kansas Power Co., Inc.  
 ER-5.—Docket No. ER76-654, Utah Power & Light Co.  
 ER-6.—Docket No. ER78-310, Union Electric Co.  
 ER-7.—Docket No. E-7738 (Remand), Boston Edison Co.

##### II. LICENSED PROJECT MATTERS

- P-1.—Project No. 2645, Niagara Mohawk Power Corp.

#### POWER AGENDA—125TH MEETING, JUNE 21, 1978, REGULAR MEETING

- CAP-1.—Docket No. ER78-287, Upper Mississippi Valley Power Pool.  
 CAP-2.—Project Nos. 2323 and 2669, New England Power Co.  
 CAP-3 (A)—Bureau of Land Management, Boise, Idaho (I-12772).  
 (B) Bureau of Land Management, Boise, Idaho (I-12848).  
 (C) Bureau of Land Management, Portland, Ore. (OR-16790, OR-16793, OR-16795).  
 (D) Bureau of Land Management, Boise, Idaho (I-13032).  
 (E) Bureau of Land Management, Portland, Ore. (OR-16798, OR-16923, OR-16926).  
 CAP-4.—Project No. 2821, City of Portland, Ore.  
 CAP-5.—Jersey Central Power & Light Co. v. F.E.R.C., 3rd Cir. No. 78-1185.  
 CAP-6.—Project No. 2596, Rochester Gas & Electric Corp.

#### MISCELLANEOUS AGENDA, 125TH MEETING, JUNE 21, 1978, REGULAR MEETING

- M-1.—Docket No. RM—, Proposal by the Federal Energy Regulatory Commission to Reexamine Special Relief and Optional Certificate Procedures.  
 M-2 (A)—Docket No. RM76-15, Regulation of Small Producers.  
 (B) Docket No. CS77-767, Emon A. Mahoney.  
 M-3.—Inflated Rate Increase Filings.

#### GAS AGENDA—125TH MEETING, JUNE 21, 1978, REGULAR MEETING

##### I. PIPELINE RATE MATTERS

- A. Pipeline rates  
 RP-1.—Docket Nos. RP74-61 (PGA77-5), RP87-10 (PGA77-5) RP77-54, and RP77-55, Arkansas Louisiana Gas Co.  
 RP-2.—Docket No. RP75-30, United Gas Pipe Line Co.

- RP-3.—Docket Nos. RP76-136 and RP77-26, Transcontinental Gas Pipe Line Corp.  
 RP-4.—Docket No. RP78-46, Northern Natural Gas Co.  
 RP-5.—Docket Nos. RP78-19 and RP78-20, Columbia Gulf Transmission Co. and Columbia Gas Transmission Corp.  
 RP-6.—Docket No. AR61-2, et al., and AR69-1, Area Rate Proceedings, et al., (Southern Louisiana Area)

##### II. PRODUCER CERTIFICATE MATTERS

- A. Producer Rates.  
 CI-1.—Docket No. RI72-250, Rate Schedule Nos. 318 and 415, Mobil Oil Corp.  
 CI-2.—Reserved.  
 CI-3.—Reserved.  
 B. Special Relief.  
 CI-4.—Docket Nos. RI77-109 and RI77-110, Texas Energies, Inc. et al.

##### III. PIPELINE CERTIFICATE MATTERS

- A. Pipeline Certificates.  
 CP-1.—Docket No. CP77-193, Northern Natural Gas Co.  
 CP-2.—Docket No. CP74-149, Consolidated Gas Supply Corp. Docket No. CP78-161, Consolidated Gas Supply Corp.  
 CP-3.—Docket No. CP78-160, Transcontinental Gas Pipe Line Corp.  
 CP-4.—Docket No. CP77-378, Northwest Pipeline Corp., Docket No. CP77-381, Pacific Interstate Transmission Co., Docket No. CP77-407, El Paso Natural Gas Co.  
 CP-5.—Docket No. CP77-627, Tennessee Gas Pipeline Co. and Columbia Gulf Transmission Corp.  
 CP-6.—Reserved.  
 CP-7.—Reserved.  
 CP-8.—Reserved.  
 B. Order No. 2 Authorizations  
 CP-9.—Docket Nos. CP78-77 and CP77-78, Transcontinental Gas Pipe Line Corp.  
 CP-10.—Reserved.  
 CP-11.—Reserved.  
 C. Storage  
 CP-12.—Docket Nos. CP76-285 et al., Mountain Fuel Resources, Inc. et al.  
 CP-13.—Docket No. CP78-209, National Fuel Gas Supply Corp., Docket No. CP78-234, Tennessee Gas Pipeline Co., a division of Tenneco Inc., Docket No. CP77-465, Columbia Gas Transmission Corp. and National Fuel Gas Supply Corp., Docket No. CP78-305, Columbia Gas Transmission Corp., Docket No. CP78-316, Transcontinental Gas Pipe Line Corp.  
 CP-14.—Reserved.  
 D. Liquefied Natural Gas  
 CP-15.—Docket No. CP76-106, Northwest Pipeline Corp.  
 GAS AGENDA, 125TH MEETING, JUNE 21, 1978, REGULAR MEETING  
 CAG-1.—Docket No. RP72-134 (PGA78-5), Eastern Shore Natural Gas Co.  
 CAG-2.—Docket No. RP72-157 (PGA78-10), Consolidated Gas Supply Corp.  
 CAG-3.—Docket No. RP71-15 (PGA78-4), East Tennessee Natural Gas Co.

CAG-4.—Docket No. RP73-77 (PGA78-4), Alabama-Tennessee Natural Gas Co.  
 CAG-5.—Docket No. RP73-17 (PGA78-3a), Granite State Transmission, Inc.  
 CAG-6.—Docket No. CP77-337, Algonquin Gas Transmission Co.  
 CAG-7.—Docket No. RI77-69, McGalliard and Sparks, Inc.  
 CAG-8.—Docket No. CP76-52, Northern Natural Gas Co., Docket No. CP76-166, Northern Natural Gas Operating as Peoples Natural Gas Division—Operator.  
 CAG-9.—Docket No. CP77-558, United Gas Pipe Line Co.  
 CAG-10.—Docket No. CP77-577, Michigan Wisconsin Pipeline Co.  
 CAG-11.—Docket No. CI77-363, Marathon Oil Co.  
 CAG-12.—Docket No. CI78-574, Transwestern Gas Supply Co.  
 CAG-13.—Docket No. CI62-1184, Atlantic Richfield Co., et al., Docket No. CI77-532, Exxon Corp., Docket No. CI77-580, Petroleum Inc.  
 CAG-14.—Docket No. CI78-426, Continental Oil Co.  
 CAG-15.—Docket No. CI76-232 et al., Transco Exploration Co. et al., Docket No. CI76-628, Shell Oil Co.  
 CAG-16.—Docket No. CI77-412, Phillips Petroleum Co.  
 CAG-17.—Docket No. CI78-285, Gulf Oil Corp.  
 CAG-18.—Docket No. CI77-534 et al., Union Oil Co. of California et al.  
 CAG-19.—Docket No. CI78-611, Lario Oil & Gas Co.  
 CAG-20.—Docket No. CP77-151, El Paso Natural Gas Co., Docket No. CI77-253, Phillips Petroleum Co.  
 CAG-21.—Docket No. CP78-227, Transcontinental Gas Pipe Line Corp.  
 CAG-22.—Docket No. CP78-185, Natural Gas Pipeline Co. of America.  
 CAG-23.—Docket No. CP78-242, Southern Natural Gas Co.  
 CAG-24.—Docket No. CP63-32, Panhandle Eastern Pipe Line Co.  
 CAG-25.—Docket No. CP78-224, Southern Natural Gas Co.  
 CAG-26.—Docket No. CP78-310, United Gas Pipe Line Co.  
 CAG-27.—Docket No. RP78-12, East Tennessee Natural Gas Co.  
 CAG-28.—*Brooklyn Union Gas Co. v. FERC*, D.C. Cir. No. 78-1450.

KENNETH F. PLUMB,  
*Secretary.*

[S-1274-78 Filed 6-15-78; 2:07 pm]

[6210-01]

3

**FEDERAL RESERVE SYSTEM  
 (BOARD OF GOVERNORS).**

**TIME AND DATE:** 10 a.m., Friday, June 16, 1978. The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

**PLACE:** 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** 1. Proposed statement to be presented to

the House Committee on Banking, Finance and Urban Affairs regarding certain provisions of the Safe Banking Act, 2. Any agenda items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:**

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: June 14, 1978.

GRIFFITH L. GARWOOD,  
*Deputy Secretary of the Board.*  
 [S-1269-78 Filed 6-15-78; 10:28 am]

[6750-01]

4

**FEDERAL TRADE COMMISSION.**

**TIME AND DATE:** 10 a.m., Friday, June 23, 1978.

**PLACE:** Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Monthly Policy Review Session: Discussion of current and future investigations concerning insurance and the problems peculiar to this area of concern.

**CONTACT PERSON FOR MORE INFORMATION:**

Wilbur T. Weaver, Office of Public Information, 202-523-3830; Recorded Message, 202-523-3806.

[S-1272-78 Filed 6-15-78; 2:07 pm]

[7020-02]

5

**INTERNATIONAL TRADE COMMISSION.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 43 FR 25406, June 12, 1978.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 10 a.m., Monday, June 19, 1978.

**CHANGES IN THE MEETING:** Additional agenda items:

4. Petitions and complaints (if necessary):  
 b. Bolts, nuts, and large screws (Docket No. 517); c. High-carbon ferrochrome (Docket No. 519).

**CONTACT PERSON FOR MORE INFORMATION:**

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1273-78 Filed 6-15-78; 2:07 pm]

[7590-01]

6

**NUCLEAR REGULATORY COMMISSION.**

**TIME AND DATE:** June 14, 1978 (Additional Meetings).

**PLACE:** Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

WEDNESDAY, JUNE 14; 2:30 P.M.

1. Affirmation of Mayor FOIA Appeal. (Approximately 5 minutes—public meeting.)  
 2. Discussion and Vote on Order in UCS Petition for Reconsideration. (Approximately 10 minutes—public meeting.)

By a vote of 3-0 on June 14, (Commissioner Kennedy not participating) the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and §9.107(a) of the Commission's rules that Commission business requires that the above agenda items be held on less than one week's notice to the public. Prompt consideration is required for these urgent items.

**CONTACT PERSON FOR MORE INFORMATION:**

Walter Magee, 202-634-1410.

ROGER M. TWEED,  
*Office of the Secretary.*  
 [S-1275; Filed 6-15-78; 2:07 pm]

[7590-01]

7

**NUCLEAR REGULATORY COMMISSION.**

**TIME AND DATE:** Week of June 19, 1978.

**PLACE:** Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

TUESDAY, JUNE 20; 4 P.M.

Briefing by General Atomic on the National Helium Cooled Reactor Programs. (Approximately 1 hour)—(public meeting.)

**CONTACT PERSON FOR MORE INFORMATION:**

Walter Magee, 202-634-1410.

ROGER M. TWEED,  
*Office of the Secretary.*  
 [S-1276-78 Filed 6-15-78; 2:07 pm]

[7590-01]

8

**NUCLEAR REGULATORY COMMISSION.**

**TIME AND DATE:** Week of June 19, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/Closed.

**MATTERS TO BE CONSIDERED:**

WEDNESDAY, JUNE 21 9:30 A.M.

1. Briefing on EEO Program. (Approximately 1½ hours—public meeting.)
2. Discussion of Amendments to Part 35 to Require Reporting of Misadministration of Byproduct Material. (Approximately 30 minutes—public meeting.)
3. Affirmation Items (Approximately 10 minutes—public meeting.)
  - a. Memorandum and Order, Florida Power & Light Co. (Antitrust).
  - b. Order in Joint Request of Texas Utilities (Tentative).
  - c. Appointment of New ACRS Members.

2 p.m.

1. Discussion of Personnel Matter. (Approximately 1 hour—closed—exemption 6.)
2. Discussion of OIA/OGC Inquiry in Testimony of the Executive Director for Operations. (Approximately 1½ hours—closed—exemption 1.)

**CONTACT PERSON FOR MORE INFORMATION:**

Walter Magee, 202-634-1410.

ROGER M. TWEED,  
*Office of the Secretary.*

[S-1277-78 Filed 6-15-78; 2:07 pm]

[7910-01]

9

**RENEGOTIATION BOARD.**

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 24170 June 2, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Monday, June 19, 1978; 2 p.m.

CHANGE IN MEETING: Date Postponed to: Wednesday, June 28, 1978; 2 p.m.

**CONTACT PERSON FOR MORE INFORMATION:**

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: June 15, 1978.

GOODWIN CHASE,  
*Chairman.*

[S-1278-78 Filed 6-15-78; 3:47 pm]

[8010-01]

10

**SECURITIES AND EXCHANGE COMMISSION.**

STATUS: Closed meeting.

DATE AND TIME: Thursday, June 15, 1978, 10:45 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

The following item will be considered by the Commission at a closed meeting scheduled for Thursday, June 15, 1978, at 10:45 a.m.:

Discussion of an administrative proceeding of an enforcement nature.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the item to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Commissioners Loomis, Pollack, Evans, and Karmel determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

JUNE 15, 1978.

[S-1271-78 Filed 6-15-78; 11:48 am]

[8010-01]

11

**SECURITIES AND EXCHANGE COMMISSION.**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of June 19, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, June 20, 1978, at 10 a.m., on Wednesday, June 21, 1978, at 9 a.m., and on Thursday, June 22, 1978, following the open meeting at 2:30 p.m. Open meetings will be held on Thursday, June 22, 1978, at 10 a.m. and on Thursday, June 22, 1978, at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Pollack, Evans and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, June 20, 1978, at 10 a.m., will be:

Formal orders of investigation.  
Referral of investigative files to Federal, State or Self-Regulatory authorities.

Institution of injunctive actions.  
Institution of administrative proceedings of an enforcement nature.  
Settlement of administrative proceedings of an enforcement nature.

Other litigation matters.  
The subject matter of the closed meeting scheduled for Wednesday, June 21, 1978, at 9 a.m., will be:

Regulatory matter bearing enforcement implications.

Institution of injunctive action.  
Settlement of administrative proceeding of an enforcement nature.  
Institution of administrative proceeding of an enforcement nature.

The subject matter of the closed meeting scheduled for Thursday, June 22, 1978, immediately following the open meeting at 2:30 p.m., will be:

Post oral-argument discussion.  
The subject matter of the open meeting scheduled for Thursday, June 22, 1978, at 10 a.m., will be:

1. Proposed adoption of rules which would require the disclosure of certain auditor services and fees in proxy material.

2. Proposed adoption of amendments to Rule 2-01 of Regulation S-X, Qualifications of Accountants, which specify three types of litigation situations which affect the independence of public accountants with respect to the examination of financial statements.

3. Proposed transmittal of comments to the Senate Committee on Commerce, Science and Transportation concerning, S. 2873, The Ocean Shipping Act of 1978.

4. Proposed transmittal of comments to the House Committee on Interstate and Foreign Commerce, the House Committee on Small Business, and the Office of Management and Budget concerning H.R. 9549, The Small Business Capital, Investment, and Business Opportunity Act of 1977.

The subject matter of the open meeting scheduled for Thursday, June 22, 1978, at 2:30 p.m., will be:

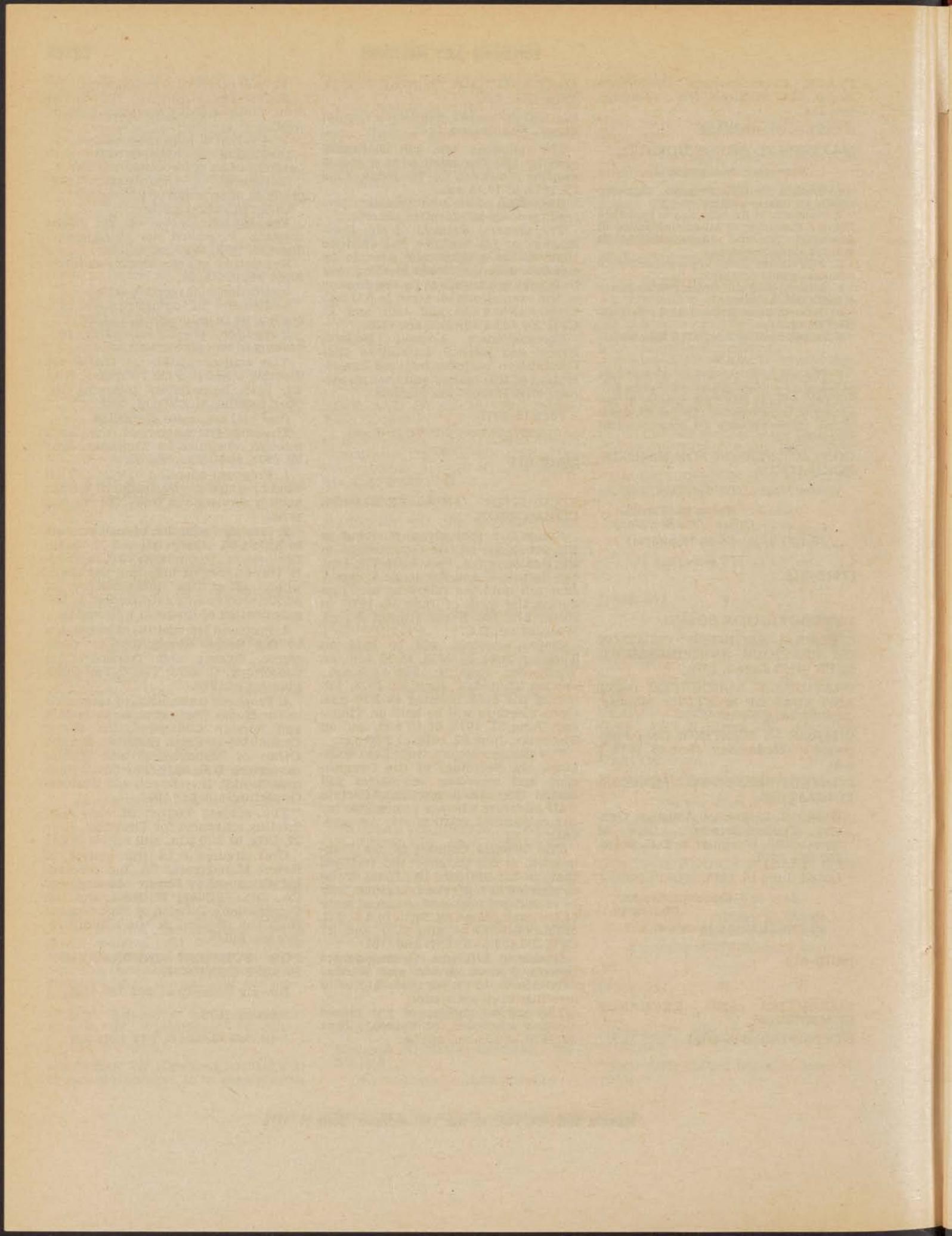
Oral argument in the matter of Revere Management Co., Inc. concerning an appeal by Revere Management Co., Inc., William N. Hess, and the Commission's Division of Enforcement from the decision of the administrative law judge.

**FOR FURTHER INFORMATION, PLEASE CONTACT:**

Beverly Rubman at, 202-755-1103.

JUNE 14, 1978.

[S-1268-78 Filed 6-15-78; 10:28 am]



Registered  
Federal Paper

MONDAY, JUNE 19, 1978  
PART II



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**HARRY S. TRUMAN  
SCHOLARSHIP  
FOUNDATION**

**Program Regulations**



**FINAL PROVISIONS**

## RULES AND REGULATIONS

[6115-02]

## Title 45—Public Welfare

CHAPTER XVIII—HARRY S. TRUMAN  
SCHOLARSHIP FOUNDATIONPART 1801—HARRY S. TRUMAN  
SCHOLARSHIP PROGRAM

## Program Regulations; Final Provisions

AGENCY: Harry S. Truman Scholarship Foundation.

ACTION: Final rule.

SUMMARY: The following are the regulations governing the annual competition for Harry S. Truman Scholarships, as recently amended. The purpose of these amended regulations is to permit each college or university in the country to nominate up to two students for each year's competition. In the first 2 years of the program, each institution could nominate only one student. The Board of Trustees of the Foundation believes that allowing each college or university to nominate two students will result in a pool of highly qualified nominees, especially in the less populated States. If an institution chooses to nominate two students, the two may not have legal residence in the same State. The purpose of this provision is to promote geographical diversity, given the statutory requirement that the Foundation must select at least one scholar from each of the 50 States, the District of Columbia, Puerto Rico, and—considered as a single entity for purposes of the competition—Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. In addition to this single substantive change, several typographical errors have been corrected from the last complete edition of these regulations published in the FEDERAL REGISTER on December 22, 1977 (42 FR 64297).

EFFECTIVE DATE: July 1, 1978.

ADDRESS: Harry S. Truman Scholarship Foundation, 712 Jackson Place NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert E. Cleary, 202-395-4831.

Dated: May 31, 1978.

ROBERT E. CLEARY,  
*Executive Secretary.*

Approved: June 13, 1978.

JOHN W. SNYDER,  
*Chairman,*  
*Board of Trustees.*

Title 45 of the Code of Federal Regulations is amended by establishing a new Chapter XVIII to read as set forth above and adding a new Part 1801, to read as follows:

## Subpart A—General

Sec.

- 1801.1 Annual Truman Scholarship competition.  
1801.2 Truman Scholars are selected from each State.  
1801.3 Students eligible for nomination.  
1801.4 Definitions.

## Subpart B—Nomination

- 1801.10 Nomination by institution of higher education.  
1801.11 Annual nomination.  
1801.12 Institutions with more than one campus.  
1801.13 Two-year institutions.  
1801.14 Submission of application to the Foundation.  
1801.15 Faculty representative.  
1801.16 Closing date for receipt of nominations.  
1801.17 Contents of application.  
1801.18 Harry S. Truman Scholarship Qualifying Test.

## Subpart C—The Competition

- 1801.20 Selection of semi-finalists.  
1801.21 Evaluation criteria.  
1801.22 Interview of student with regional review panel.  
1801.23 Recommendation by panel.  
1801.24 Further recommendations or nominations.  
1801.25 Selection of Truman Scholars by the Foundation.

## Subpart D—Graduate Study and the Work-Experience Program

- 1801.30 Continuation into graduate study.  
1801.31 Approval of graduate programs by the Foundation.  
1801.32 Eligible colleges and degree programs.  
1801.33 The work-experience program.

## Subpart E—Amount of Payments to Students

- 1801.40 Travel expenses of semi-finalists.  
1801.41 Scholarship awards.  
1801.42 Definition of "fee".  
1801.43 Allowance for books.  
1801.44 Allowance for room and board.  
1801.45 Deduction for benefits from other sources.

## Subpart F—Payment Conditions and Procedures

- 1801.50 Acceptance of the scholarship.  
1801.51 Report at the beginning of each term.  
1801.52 Definition of "term".  
1801.53 Payment schedule.  
1801.54 Postponement of payment.

## Subpart G—Duration of Scholarship

- 1801.60 Renewal of scholarship.  
1801.61 Termination of scholarship.  
1801.62 Recovery of scholarship funds.

AUTHORITY: PUB. L. 93-642, 88 Stat. 2276 (20 U.S.C. 2001-2012).

## Subpart A—General

- § 1801.1 Annual Truman Scholarship competition.

Each year, the Harry S. Truman Scholarship Foundation carries out a Nationwide competition to select students to be Truman Scholars.

§ 1801.2 Truman Scholars are selected from each State.

(a) At least one Truman Scholar is selected each year from each State in which there is a resident applicant who meets the eligibility criteria in § 1801.3.

(b) As used in this part, "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, and considered as a single entity: Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

§ 1801.3 Students eligible for nomination.

A student is eligible to be nominated as a Truman Scholar if he or she:

(a) Is a matriculated student pursuing a degree at an institution of higher education during the year in which nominated;

(b) Will be a junior pursuing a bachelor's degree as a full-time student at an institution of higher education the following academic year;

(c) Has an undergraduate field of study that permits admission to a graduate program leading to a career in public service;

(d) Has an undergraduate average of at least "B" or its equivalent and ranks in the upper fourth of his or her class; and

(e) Is a national of the United States, or is in the United States for other than a temporary purpose and intends to become a permanent resident, or is a permanent resident of the Trust Territory of the Pacific Islands.

§ 1801.4 Definitions.

As used in this part:

"Academic year" means the period of time, typically 8 or 9 months in which a full-time student would normally complete two semesters, two trimesters, three quarters, or the equivalent.

"Foundation" means the Harry S. Truman Scholarship Foundation.

"Full-time student" means a student who is carrying a sufficient number of credit hours or their equivalent to secure the degree or certificate toward which he or she is working, in no more than the length of time normally taken at the institution of higher education.

"Graduate study" means courses of study beyond the baccalaureate level which may lead to an advanced degree.

"Institution of higher education" has the meaning given in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"Junior" means a student who has received credit for more than one-half of the coursework required to complete the second year of college, but not more than one-half of the coursework required to complete the third year of college.

"President" means the principal official responsible for the overall direction of the operations of an institution of higher education.

"Public service" means a career at any level or in any function of government.

"Resident" means a person who has legal residence in the State, recognized under State law. If a question arises concerning the State of residence, the Foundation determines, for the purposes of this program of which State the person is a resident, taking into account parent's place of residence, eligibility for "in-State" tuition rates at public institutions of higher education, and place of registration to vote.

"Senior" means the academic level recognized by the institution of higher education as having fourth year standing.

"Sophomore" means the academic level recognized by the institution of higher education as having second year standing.

"Work-experience program" means employment approved by the Foundation that involves an intensive period of practical work in a Federal, State, or local government office.

**Subpart B—Nominations**

**§ 1801.10 Nomination by institution of higher education.**

To be considered in the competition a student must be nominated by the institution of higher education that he or she attends.

**§ 1801.11 Annual nomination.**

(a) Except as provided in §§ 1801.12 and 1801.13, each institution of higher education may nominate up to two students annually. If an institution chooses to nominate two students, the two may not have legal residence in the same State.

(b) All nominations must be made by the President of the institution or the designated Faculty Representative, after the President asks for and considers recommendations by the faculty.

**§ 1801.12 Institutions with more than one campus.**

If an institution of higher education has more than one component separately listed in the current edition of the publication Education Directory: Colleges and Universities (Published by the U.S. Department of Health, Education, and Welfare), each component of the institution may nominate up to two students. However, a component that is organized solely for administrative purposes and has no students enrolled may not nominate a student.

**§ 1801.13 Two-year institutions.**

If an institution of higher education does not offer education beyond the

sophomore level, the institution may nominate only students who will be a junior the following year at another institution of higher education.

**§ 1801.14 Submission of application to the Foundation.**

To nominate a student for the competition, the institution of higher education must send the student's application to the Foundation.

**§ 1801.15 Faculty representative.**

(a) Each institution which nominates a student or which has a Truman Scholar in attendance must give the Foundation the name, business address, and business telephone number of a member of the faculty who will serve as liaison between the institution and the Foundation.

(b) It is the role of this Faculty Representative to publicize the Truman Scholarship Program on campus, solicit recommendations of potential nominees from members of the faculty, and insure that the institution's nomination with all required supporting documents, is forwarded to the Foundation by the required deadline.

**§ 1801.16 Closing date for receipt of nominations.**

The Foundation publishes an annual notice in the FEDERAL REGISTER of the date by which institutions of higher education must submit their nominations and all supporting documents in order to be guaranteed consideration by the Foundation.

**§ 1801.17 Contents of application.**

(a) The Foundation provides a form that must be used as the application.

(b) Each application must include the following:

- (1) A statement that the student is an applicant for a Truman Scholarship;
- (2) A statement that the student plans to pursue a career in public service;
- (3) A list of the student's public service activities, such as those associated with government agencies, community groups, political campaigns, and charities;
- (4) A list of leadership positions the student has held during high school and during the first two years of undergraduate school;
- (5) A statement that the student is willing to participate in an internship or seminar sponsored by the Foundation;
- (6) A statement of interest in a career in government, written by the student, that shows in some detail how the student's academic program and overall education plans will prepare him or her for that chosen career; and
- (7) Examination papers of the Harry S. Truman Scholarship Qualifying Test completed by the student as provided under § 1801.18.

(c) In support of each nomination the following documents must also be submitted:

(1) An essay of 600 words or less written by the student that analyzes a particular public policy issue of interest to the student.

(2) Transcripts of the student's high school and undergraduate scholastic record; and

(3) Three letters of recommendation. One of these letters must be written by a faculty member in the student's field of study, and one must be written by another person who can speak to the student's potential for a career in public service.

**§ 1801.18 Harry S. Truman Scholarship Qualifying Test.**

(a) The Foundation provides the Harry S. Truman Scholarship Qualifying Test to each institution which nominates a student.

(b) The institution must administer the test in accordance with the instructions that accompany the test.

**Subpart C—The Competition**

**§ 1801.20 Selection of semifinalists.**

The Foundation selects semifinalists from the students who are nominated.

**§ 1801.21 Evaluation criteria.**

(a) The Foundation first selects the students from each State who receive the highest scores on the Harry S. Truman Scholarship Qualifying Test.

(b) The Foundation then selects semi-finalists from the students selected under paragraph (a) of this section on the basis of the following criteria:

- (1) The extent to which the student has shown an outstanding potential for leadership in the public service; and
  - (2) The student's academic performance.
- (c) The Foundation evaluates each student solely on the basis of the information required under § 1801.17.

**§ 1801.22 Interview of student with regional review panel.**

The Foundation invites each semifinalist to an interview with a Regional Review Panel.

**§ 1801.23 Recommendation by panel.**

(a) Each Regional Review Panel recommends two finalists from each State to the Foundation.

(b) The two finalists must be recommended by the Panel in the order of their qualification to be a Truman Scholar.

(c) The recommendations are based on the material required under Section 1801.17 and, as determined in the interview, the panel's assessment of each semifinalist's potential for leadership in government.

**§ 1801.24 Further recommendations or nominations.**

(a) The Foundation may ask a Regional Review Panel to submit the names of additional finalists for consideration, or may ask institutions of higher education to submit additional nominations.

(b) If additional nominations are made under paragraph (a) of this section, the applications must meet the requirements of Subpart B of this part, and are considered under the procedures of this subpart.

**§ 1801.25 Selection of Truman Scholars by the Foundation.**

(a) The Foundation names Truman Scholars after receiving recommendations from the Regional Review Panels.

(b) The Foundation also names an alternate for each Truman Scholar. The alternate receives the scholarship if:

(1) The person named as a Truman Scholar is not able to begin studies at the start of the following academic year, and

(2) Payments are not postponed under § 1801.54.

**Subpart D—Graduate Study and the Work-Experience Program**

**§ 1801.30 Continuation into graduate study.**

(a) The Foundation will not conduct a new and separate competition for graduate scholarships, nor will it add new Truman Scholars at the graduate level.

(b) Only Truman Scholars who satisfactorily complete their undergraduate education and who comply with Section 1801.31 shall be eligible for continued Foundation support for an approved program of graduate study.

**§ 1801.21 Approval of graduate programs by the Foundation.**

(a) Early in their senior year, Truman Scholars desiring Foundation support for graduate study must submit a proposed program of graduate study to the Foundation for approval. The proposed program may subsequently be changed with the approval of the Foundation.

(b) Foundation approval of the Scholar's proposal is required before financial support is granted for graduate work.

(c) Scholars must include in their submission to the Foundation a statement of interest in a career in government that specifies in some detail how their graduate program and their overall educational plans will prepare them for their chosen career goal.

(d) Scholars may offer relevant and appropriate fields of study that will help prepare them for a career in government.

**§ 1801.32 Eligible colleges and degree programs.**

(a) Truman Scholars at the graduate level may study at any accredited college or university that offers graduate study.

(b) They may enroll in any relevant graduate program, including masters of arts, masters of public administration, masters of business administration, law or doctoral study.

(c) Foundation support for graduate study is restricted to two full-time years of study.

**§ 1801.33 The work-experience program.**

(a) The Foundation encourages all Truman Scholars without substantial previous government experience to participate in a voluntary program of work experience in the public service. This would typically occur after the completion of the baccalaureate degree.

(b) These apprenticeships are intensive periods of practical work ranging up to a year in length in a Federal, State, or local government office arranged with the approval of the Foundation.

(c) Although the Foundation is not authorized to provide financial support during this period, it will attempt to assist Scholars to make appropriate work experience arrangements.

**Subpart E—Amount of Payments to Students**

**§ 1801.40 Travel expenses of semi-finalists.**

(a) Each semi-finalist may receive reimbursement for the actual and necessary expenses of round trip transportation to the location of the regional Review Panel.

(b) The Foundation uses the Federal Travel Regulations (referenced in 41 CFR 101-7.003) as a guide to determine the amount of the reimbursement.

(c) The Foundation informs semi-finalists of the procedures for obtaining this reimbursement.

**§ 1801.41 Scholarship awards.**

Each Truman Scholar receives annually \$5000 or the cost of tuition, fees, books, and room and board, whichever is less.

**§ 1801.42 Definition of "fee".**

As used in this part, "fee" means a typical and usual non-refundable charge by the institution of higher education for a service, a privilege, or the use of property.

**§ 1801.43 Allowance for books.**

The cost allowed for a student's books is \$180 per year.

**§ 1801.44 Allowance for room and board.**

The cost allowed for a student's room and board is the amount the in-

stitution of higher education reports to the College Scholarship Service as the average cost of room and board for the student's institution, given the type of housing the student occupies.

**§ 1801.45 Deduction for benefits from other sources.**

(a) The cost allowed for a student's tuition, fees, books, and room and board must be reduced to the extent that the cost is paid for by another organization.

(b) This section does not apply to benefits the student receives from the Veterans' Administration.

**Subpart F—Payment Conditions and Procedures**

**§ 1801.50 Acceptance of the scholarship.**

To receive any payment, a Truman Scholar must sign an acceptance of the scholarship and submit it to the Foundation.

**§ 1801.51 Report at the beginning of each term.**

The Truman Scholar must submit the following material to the Foundation at the beginning of each term:

(a) A statement of the student's costs for tuition, fees, books, and room and board.

(b) A Certification by an authorized official of the institution that the statement of those costs is accurate.

(c) A certification of the amounts of those costs that are paid for by another organization.

(d) A certification by an authorized official of the institution that the Truman Scholar:

(1) Is a full-time student and is taking a course of study, training, or other educational activities to prepare for a career in public service; and

(2) Is not engaged in gainful employment that interferes with the Scholar's studies.

(e) A certification by an authorized official of the institution of whether the Truman Scholar is in academic good standing.

(f) A certification by an authorized official of the institution that the institution makes continuing efforts to encourage the Truman Scholar to enter public service after completing his or her educational program.

**§ 1801.52 Definition of "term".**

As used in this part, "term" means the period which the institution of higher education uses to divide its academic year: Semester, trimester, or quarter.

**§ 1801.53 Payment schedule.**

The Foundation will pay the Truman Scholar a portion of the award after each report submitted under § 1801.51.

§ 1801.54 Postponement of payment.

(a) A Truman Scholar may request the Foundation to postpone one or more payments because of sickness or other circumstances.

(b) If the Foundation grants a postponement, it may impose such conditions as it decides are necessary.

**Subpart G—Duration of Scholarship**

§ 1801.60 Renewal of scholarship.

It is the intent of the Foundation to renew scholarship awards for a period not to exceed a total of four academic years (consisting of the junior year,

the senior year, and up to two academic years of graduate study), only in accordance with the regulations established by its board of Trustees, and subject to an annual review for compliance with the requirements of this part.

§ 1801.61 Termination of scholarship.

(a) The Foundation may terminate a scholarship under the following specific conditions:

- (1) If the Truman Scholar does not meet the criteria in § 1801.51(e) for two consecutive terms, or
- (2) If the Truman Scholar does not

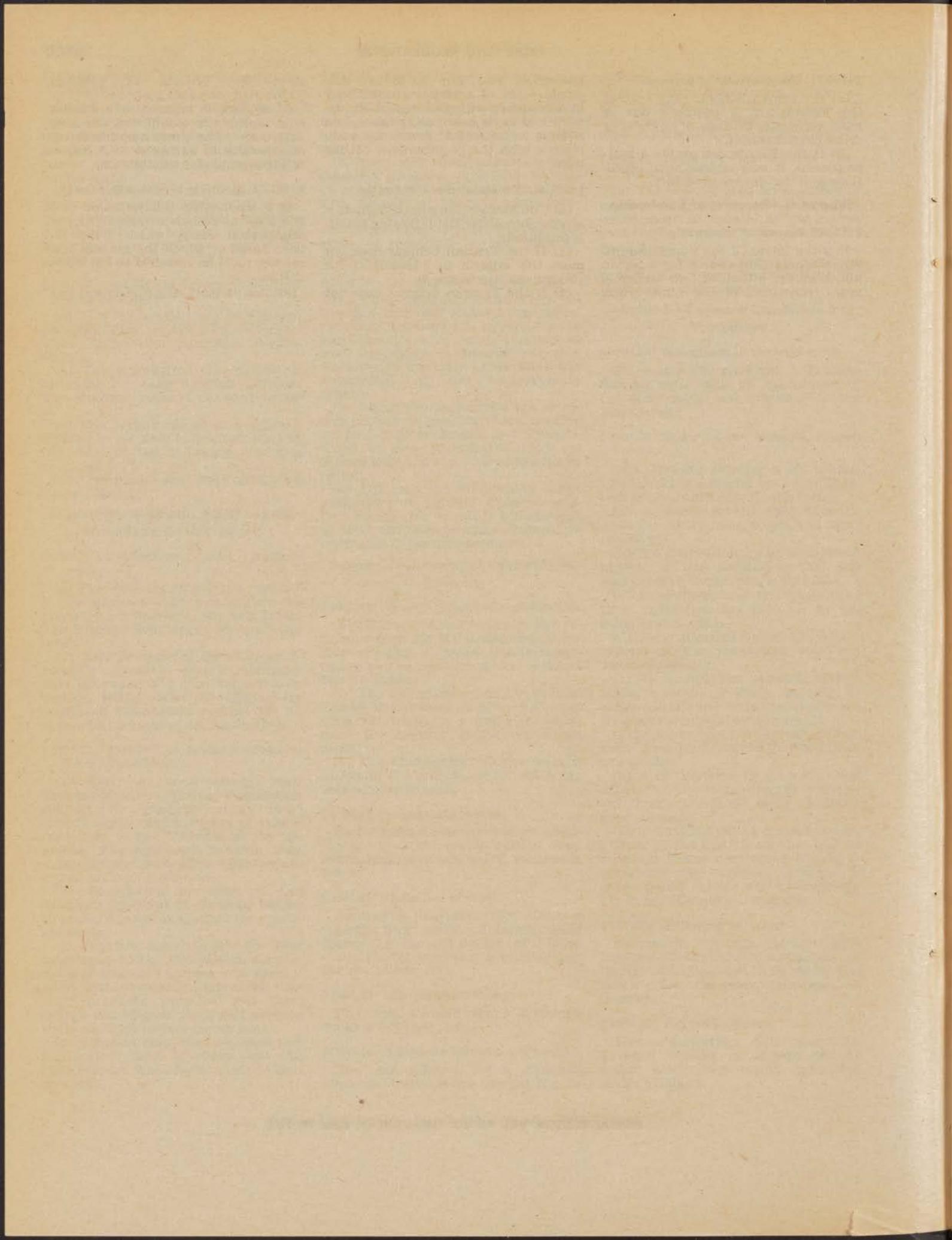
meet the criteria in § 1801.31, § 1801.51(d) or § 1801.3(e).

(b) Before it terminates a scholarship under these conditions the foundation gives the student notice and an opportunity to be heard with respect to the grounds for termination.

§ 1801.62 Recovery of scholarship funds.

If a scholarship is terminated or if the student resigns a scholarship, all scholarship funds which have not been spent or which the student may recover must be returned to the Foundation.

[FR Doc. 78-16817 Filed 6-16-78; 8:45 am]



**Register  
Federal Order**

**MONDAY, JUNE 19, 1978  
PART III**



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**ENVIRONMENTAL  
PROTECTION  
AGENCY**

■

**NATIONAL EMISSION  
STANDARDS FOR  
HAZARDOUS AIR  
POLLUTANTS**

**Asbestos Standard;  
Amendments**

[6560-01]

**Title 40—Protection of the  
Environment**

**CHAPTER I—ENVIRONMENTAL  
PROTECTION AGENCY**

[FRL 869-7]

**PART 61—NATIONAL EMISSION  
STANDARDS FOR HAZARDOUS AIR  
POLLUTANTS**

**Amendments to Asbestos Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** This rule amends the national emission standard for asbestos by extending the requirements of the provisions which apply to the spraying of asbestos-containing materials and to demolition and renovation operations. These amendments are a result of a determination that the standard did not require control of asbestos emissions during spray application of asbestos-containing materials other than fireproofing and insulation or during the demolition and renovation of structures where friable asbestos materials other than fireproofing and insulation are present.

**EFFECTIVE DATE:** June 19, 1978.

**ADDRESS:** A summary of the public comments on the proposed amendments and EPA's responses is contained in the Standards Support Document which may be obtained upon written request from the EPA Library (MD-35), Research Triangle Park, N.C. 27711 (specify *Standards Support Document: Promulgated Amendments to National Emission Standard for Asbestos*, EPA 450/2-77-030, January, 1978). The Standards Support Document is also available for public inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

**FOR FURTHER INFORMATION  
CONTACT:**

Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone number 919-541-5271.

**SUPPLEMENTARY INFORMATION:** On March 2, 1977 (42 FR 12121), amendments to the national emission standard for asbestos were proposed under section 112 of the Clean Air Act. Interested persons participated in the rulemaking by submitting comments to EPA. The comments have been considered and, where determined by the Administrator to be appropriate, changes reflecting these comments

have been incorporated into the promulgated amendments.

Under section 112(e) of the Clean Air Act, as amended in 1977, the Administrator may promulgate a "design, equipment, work practice, or operational standard, or combination thereof" for control of a hazardous air pollutant if it is infeasible to prescribe an emission standard under section 112(b) for the pollutant. Such infeasibility occurs, for example, when "a hazardous pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such a pollutant" or when "the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations." The spraying of friable asbestos materials and demolition or renovation of buildings containing such materials are sources of asbestos emissions for which EPA believes it is not feasible to prescribe a numerical emission standard. This is because asbestos cannot be emitted through a conveyance which readily captures emissions for measurement and because such measurement, in any event, would be technologically and economically impractical. Therefore, work practice standards rather than emission standards are being promulgated.

This promulgation is not affected by the Supreme Court decision in *Adamo Wrecking Co. v. U.S.* (No. 76-911, decided January 10, 1978). That case arose in the narrow context of a criminal enforcement proceeding and was decided on an interpretation of section 112 prior to its amendment in 1977. The court held that the pre-1977 version of section 112 did not authorize a portion of the national emission standard for asbestos (prescribing certain work practices for demolition and renovation activities) because it consisted of requirements other than numerical limitations on emissions. The 1977 amendments to section 112 now clearly authorize the Administrator to promulgate work practice or other nonnumerical standards in order to control emissions of hazardous air pollutants. Another important 1977 amendment to the Clean Air Act explicitly authorizes citizens and States, under section 304, to enforce work practice and other nonnumerical standards promulgated under section 112.

**SUMMARY OF AMENDMENTS**

The national emission standard for asbestos currently regulates demolition and renovation operations involving asbestos-containing insulation and fireproofing materials and prohibits the spray application of these materials if they contain more than 1 percent asbestos. The promulgated amendments extend coverage of the demolition and renovation provisions

(40 CFR 61.22(d)) to all friable asbestos materials and extend the coverage of the asbestos spraying provisions (40 CFR 61.22(e)) to all materials which contain more than 1 percent asbestos. Materials in which the asbestos fibers are encapsulated with a bituminous or resinous binder and which are not friable after drying are exempt from the spraying provisions.

**SUMMARY OF ENVIRONMENTAL AND  
ECONOMIC IMPACTS**

The promulgated amendments to the asbestos standard will have a significant beneficial environmental impact by reducing emissions of asbestos to the atmosphere. There will be minimal solid waste and water pollution impacts from the increased amount of friable asbestos materials which must be removed and disposed of in conjunction with demolition or renovation. No impact on national energy consumption is anticipated.

The amendments to the demolition and renovation provisions may increase the cost of demolition or renovation because of the increased amount of friable asbestos-containing materials which will be covered by these regulations. Comments from representatives of the demolition industry, however, did not address this point. Therefore, this impact is not expected to be significant.

Spray-on asbestos-containing decorative coatings are the primary products prohibited by the amendments to the spraying restrictions. Since substitutes are available for these products, no significant adverse economic impacts are expected to result from prohibiting their use.

**SIGNIFICANT COMMENTS**

During the public comment period, EPA received 24 letters commenting on the proposed amendments. These included 16 from industry, 3 from other governmental agencies, and 5 from other interested parties. As a result of these comments, there has been only one significant change made to the amendments since proposal. This change involves the spraying restriction in § 61.22(e). The proposed amendments would have prohibited the spraying of all materials containing more than 1 percent asbestos by weight.

Several commenters, however, requested that EPA exempt from the spraying restrictions certain bituminous- and resinous-based asbestos-containing coatings. These coatings are typically used as roofing compounds, waterproofing of insulation exposed to the weather, automobile undercoatings, and industrial maintenance coatings.

Based on information supplied by the commenters, there are no acceptable substitutes available for these

uses of asbestos. Among the most likely substitutes which have been investigated are glass, cotton, wood, cellulose, mineral wool, hemp, and other types of inorganic and organic fibers; gelling and thickening agents; clay thickeners, including attapulgite; ground cork; styrofoam; ground rubber; vermiculite; feldspar; polyethylene fibrous powders; and ceramic fibers. Generally, these substitutes have been found to be unacceptable because of unsatisfactory durability; insufficient bulk; unsatisfactory qualities related to fibrous reinforcing, homogeneity, and adhesiveness; agglomeration during spraying; and settlement in the container over time. Furthermore, if asbestos fibers are released during application of the coatings, during their service life, or during demolition or renovation, the fibers will not remain airborne because they are encapsulated by droplets of the binder and are too heavy to remain suspended.

Because there do not appear to be acceptable substitutes available and any beneficial environmental impact resulting from the prohibition of this use of asbestos would be negligible, the spraying of materials in which the asbestos fibers are encapsulated by a bituminous or resinous binder and which are not friable after drying is exempt from the provisions of § 61.22(e) of the promulgated amendments.

There were several other significant comments which did not result in changes to the amendments. To aid enforcement of the proposed spraying restrictions in § 61.22(e), commenters suggested that products should be labeled as to their asbestos content if they contain in excess of 1 percent asbestos by dry weight and have the potential for spray-on application. Requiring labeling would constitute a significant change in the amendments and would require reproposal. Rather than reproposing, the need for this provision will be assessed during enforcement of the amendments and, if appropriate, labeling requirements will be proposed.

One commenter suggested that the regulation be extended to require removal of existing asbestos-containing sprayed materials which present significant risks to human health due to deterioration, particularly in buildings accessible to the public. The proposed amendments would have only prohibited the future application of asbestos-containing spray material.

This problem is being addressed through the preparation of a guidance document which will assist governmental agencies and private individuals who must decide on proper action to take when sprayed asbestos materials are found in existing buildings. The first volume of this document dis-

cusses criteria for determining whether asbestos material in a building is a problem; the current knowledge of hazards from spray-on asbestos in buildings; and alternative corrective actions that may be taken, including acceptable removal procedures and the use of sealants for the coating of material. The second volume of the document, which is expected to be available in late 1978, will present the results of studies which will be done on sealants to determine their effectiveness and acceptability for coating asbestos materials. Copies of the first volume of this document may be obtained upon written request from the Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711 (specify *Sprayed Asbestos-Containing Materials in Buildings: A Guidance Document*).

The lack of EPA reference methods for making various asbestos measurements was of concern to some commenters. Specifically, they suggested that EPA publish a method for determining the percentage of asbestos in spray materials and reference OSHA-NIOSH procedures for measuring airborne asbestos particulate matter from spraying operations.

A number of methods for the analysis of asbestos-containing samples are now in use and the variability of results obtained by these methods is extremely wide. In an attempt to standardize procedures and reduce this variability, an EPA provisional electron microscope procedure for measuring the concentration of asbestos in air samples has been developed. This method can also be used for analysis of material samples. It will be further evaluated and refined for use in actual field studies and it found acceptable, may eventually serve as the basis for an EPA reference method. The procedure is available in a publication entitled *Electron Microscope Measurement of Airborne Asbestos Concentrations: A Provisional Methodology Manual*, EPA 600/2-77-178, August 1977. Copies of this document may be obtained upon written request from the Environmental Sciences Research Laboratory (MD-49), EPA, Research Triangle Park, N.C. 27711.

The OSHA-NIOSH method measures airborne asbestos fiber concentrations by phase contrast microscopy. It measures only those fibers which are longer than 5 microns and does not differentiate between asbestos and other fibers. While such a method may be sufficient for enforcing the OSHA workplace asbestos standard, it is not sufficient as an indicator of total asbestos concentration in the ambient air. Many asbestos fibers are smaller than the smallest measured by the OSHA-NIOSH method and these fibers can contribute significantly to

the amount of asbestos which may be present in the ambient air. The provisional electron microscope method described above is useful for estimating airborne asbestos fiber concentrations with greater precision.

Some commenters suggested that since asbestos is a carcinogen and no threshold level for health effects has been established, the 1 percent allowable asbestos content for spray-on materials permits too much environmental contamination and should be lowered considerably, if not completely eliminated. The 1 percent allowable asbestos content was selected primarily to allow the spray application of materials which contain trace amounts of asbestos which occur in numerous natural substances and which could not be reduced or eliminated without effectively banning the use of these materials.

MISCELLANEOUS

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major action requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: June 13, 1978.

BARBARA BLUM,  
Acting Administrator.

In Part 61 of Chapter I, Title 40, of the Code of Federal Regulations, §§ 61.21 and 61.22 are amended as follows:

**Subpart B—National Emission Standard for Asbestos**

1. Section 61.21 is amended by revising paragraphs (m), (q), and (r) to read as follows:

§ 61.21 Definitions.

(m) "Renovation" means the removing or stripping of friable asbestos materials used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member. Operations in which load-supporting structural members are wrecked or taken out are excluded.

(q) "Removing" means taking out friable asbestos materials used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member from any building, structure, facility, or installation.

(r) "Stripping" means taking off friable asbestos materials from any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member.

2. Section 61.22 is amended by revising paragraphs (d), (d)(1)(i), (d)(1)(ii),

(d)(2)(iii), (d)(4)(i), (d)(4)(ii), (d)(4)(iii), (d)(4)(iv), (e), and (e)(2); and adding paragraph (e)(3) to read as follows:

§ 61.22 Emission standard.

\* \* \* \* \*

(d) *Demolition and renovation.* The requirements of this paragraph shall apply to any owner or operator of a demolition or renovation operation who intends to demolish any institutional, commercial, or industrial building (including apartment buildings having more than four dwelling units), structure, facility, installation, or portion thereof which contains any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member that is covered or coated with friable asbestos materials, except as provided in paragraph (d)(1) of this section; or who intends to renovate any institutional, commercial, or industrial building, structure, facility, installation, or portion thereof where more than 80 meters (ca. 260 feet) of pipe covered or coated with friable asbestos materials are stripped or removed, or more than 15 square meters, (ca. 160 square feet) of friable asbestos materials used to cover or coat any duct, boiler, tank, reactor, turbine, furnace, or structural member are stripped or removed.

(1) (i) The owner or operator of a demolition operation is exempted from the requirements of this paragraph: *Provided*, (A) The amount of friable asbestos materials in the building or portion thereof to be demolished is less than 80 meters (ca. 260 feet) used on pipes, and less than 15 square meters (ca. 160 square feet) used on any duct, boiler, tank, reactor, turbine, furnace, or structural member, and (B) the notification requirements of paragraph (d)(1)(ii) are met.

(ii) Written notification shall be postmarked or delivered to the Administrator at least 20 days prior to commencement of demolition and shall include the information required by paragraph (d)(2) of this section, with the exception of the information required by paragraphs (d)(2) (iii), (vi), (vii), (viii), and (ix) of this section, and shall state the measured or estimated amount of friable asbestos materials

which is present. Techniques of estimation shall be explained.

(2) \* \* \*

(iii) Description of the building, structure, facility, or installation to be demolished or renovated, including the size, age, and prior use of the structure, and the approximate amount of friable asbestos materials present.

\* \* \* \* \*

(4) \* \* \*

(i) Friable asbestos materials, used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member, shall be removed from any building, structure, facility or installation subject to this paragraph. Such removal shall occur before wrecking or dismantling of any portion of such building, structure, facility, or installation that would break up the friable asbestos materials and before wrecking or dismantling of any other portion of such building, structure, facility, or installation, that would preclude access to such materials for subsequent removal. Removal of friable asbestos materials used on any pipe, duct, or structural member which are encased in concrete or other similar structural material is not required prior to demolition, but such materials shall be adequately wetted whenever exposed during demolition.

(ii) Friable asbestos materials used on pipes, ducts, boilers, tanks, reactors, turbines, furnaces, or structural members shall be adequately wetted during stripping, except as provided in paragraphs (d)(4)(iv), (d)(4)(vi), or (d)(vii) of this section.

(iii) Pipes, ducts, boilers, tanks, reactors, turbines, furnaces, or structural members that are covered or coated with friable asbestos materials may be taken out of any building, structure, facility, or installation subject to this paragraph as units or in sections provided the friable asbestos materials exposed during cutting or disjoining are adequately wetted during the cutting or disjoining operation. Such units shall not be dropped or thrown to the ground, but shall be carefully lowered to ground level.

(iv) The stripping of friable asbestos materials used on any pipe, duct,

boiler, tank, reactor, turbine, furnace, or structural member that has been removed as a unit or in sections as provided in paragraph (d)(4)(iii) of this section shall be performed in accordance with paragraph (d)(4)(ii) of this section. Rather than comply with the wetting requirement, a local exhaust ventilation and collection system may be used to prevent emissions to the outside air. Such local exhaust ventilation systems shall be designed and operated to capture the asbestos particulate matter produced by the stripping of friable asbestos materials. There shall be no visible emissions to the outside air from such local exhaust ventilation and collection systems except as provided in paragraph (f) of this section.

\* \* \* \* \*

(e) *Spraying.* There shall be no visible emissions to the outside air from the spray-on application of materials containing more than 1 percent asbestos, on a dry weight basis, used on equipment and machinery, except as provided in paragraph (f) of this section. Materials sprayed on buildings, structures, structural members, pipes, and conduits shall contain less than 1 percent asbestos on a dry weight basis.

\* \* \* \* \*

(2) Any owner or operator who intends to spray asbestos materials which contain more than 1 percent asbestos on a dry weight basis on equipment and machinery shall report such intention to the Administrator at least 20 days prior to the commencement of the spraying operation. Such report shall include the following information: \* \* \*

(3) The spray-on application of materials in which the asbestos fibers are encapsulated with a bituminous or resinous binder during spraying and which are not friable after drying is exempted from the requirements of paragraphs (e) and (e)(2) of this section.

\* \* \* \* \*

(Secs. 112 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7412, 7601(a).))

[FR Doc. 78-16891 Filed 6-16-78; 8:45 am]

Register  
Federal Order

MONDAY, JUNE 19, 1978

PART IV



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DEPARTMENT OF  
HEALTH,  
EDUCATION, AND  
WELFARE

Office of Human  
Development Services

■

COOPERATIVE  
RESEARCH OR  
DEMONSTRATION  
PROJECTS PROGRAM

Announcement of Availability  
of Grant Funds

[4110-92]

**DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE**

Office of Human Development Services

[Program Announcement No. 13647-781]

**COOPERATIVE RESEARCH OR  
DEMONSTRATION PROJECTS**

Announcement of Availability of Grant Funds

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of availability of grant funds for the cooperative research and the demonstration projects program.

SUMMARY: The Administration for Public Services (APS) announces that competing applications will be accepted for new research and demonstration grants authorized by sections 1110 and 1115 in title XI of the Social Security Act, as amended.

DATES: Closing dates for receipt of applications are: July 28, 1978 (for priority projects); August 4, 1978 (for nonpriority projects).

**SCOPE OF THIS ANNOUNCEMENT**

This program announcement for cooperative research and demonstration projects under the Administration for Public Services auspices covers the grant program for fiscal year 1978.

There have been, or will be, additional program announcements in fiscal year 1978 authorized under sections 1110 and 1115 of the Social Security Act by the following HEW agencies: Office of Human Development Services, Office of Planning, Research, and Evaluation; Health Care Financing Administration; and the Social Security Administration.

**PROGRAM PURPOSE**

Grants funded by APS under sections 1110 and 1115 of the Social Security Act are for domestic research or demonstration projects which will add to existing knowledge and improvement of new methods and techniques for the planning, evaluation, management, and coordination of social services programs.

**PROGRAM GOAL AND OBJECTIVES**

The cooperative research and demonstration projects program is intended to support the APS goal of improvement of State and local governments and nonprofit organizations' capability to furnish services directed at:

- Achieving self-support and preventing, reducing, and eliminating dependency.
- Achieving/maintaining self-sufficiency.
- Preventing/remediating neglect, abuse, or exploitation and preserving/rehabilitating/reuniting families.

- Reducing inappropriate institutionalization.

- Securing appropriate institutionalization.

APS has the following program objectives which reflect this goal:

- To assess the impact of conflicting eligibility requirements and fragmentation of services and seek to remove such barriers.

- To improve case management, coordination of services, and interagency relationship, at the local level.

- To determine the feasibility of a policy on population coverage/universality for social services.

- To assess current laws, regulations, and practices to identify barriers to service access.

Applications for project grants should indicate that the proposed project will achieve or is capable of achieving one or more of these program objectives. APS has identified certain priority projects for which it is particularly interested in receiving applications. These projects are identified below. Please note that the priority projects are identified by a number in parenthesis after each project. Supplemental project descriptive information for the priority projects will be included in the application kits. However, prospective grantees are requested to use the unique identifier for each project in which they are interested. (For further information see section entitled "The Application Process.")

Applicants may also submit a proposal for a project not identified in this program announcement but which is relevant to an APS goal or objective. These applications will be designated as non-priority but will also be subject to the panel review process.

Priority projects are being solicited in the following four areas:

- Making social services accessible to rural residents by means of satellite diagnostic social service centers (78-023-01D) (for this project, States that apply under section 1115 will be given preference).

- Identifying and assessing the impact of administrative, community resource, legal, legislative, attitudinal barriers at the State and local level to the development of community based facilities to meet the long term care needs of the elderly and the handicapped (78-123-03Ra).

- Developing a methodology for identifying "high risk" families at an early stage; developing and providing intensive services to "families at risk" to improve the functioning and parenting practice thus preventing the need for placement of the child(ren) in foster care and improving the quality of care in their own homes (78-023-05D).

- Establish a Social Welfare Research Institute to conduct programmatic research in one or more speci-

fied areas of major concern to the Administration for Public Services (78-123-07R).

**ELIGIBLE APPLICANTS**

**SECTION 1110 GRANTS**

Any State, public, or other nonprofit organization or agency may apply for a section 1110 grant under this announcement.

**SECTION 1115 GRANTS**

Under section 1115, applications for grants may be made only by a State agency designated as the single State agency for a Social Security Act program, e.g., the State Title XX agency.

Applications jointly developed by State and local community multiprogram human service agencies, foundations, and universities are encouraged to promote a comprehensive approach to complex issues involved in developing and administering human service programs.

**AVAILABLE FUNDS**

The Administration for Public Services expects to award approximately \$770,000 in fiscal year 1978 for new grants funded under section 1110 and section 1115 of the Social Security Act. A new grant is the initial grant made in support of a project for this program.

It is expected that five grants will be awarded pursuant to this announcement. The range of grant awards is expected to be between \$90,000 and \$150,000, with the average award expected to be \$100,000. Projects will be supported for periods of 1 to 3 years. The funds provided in the initial grant will sustain the Federal share of the budget for the first year of the project. Support for any additional time remaining in the project period depends on funds available, and the grantee's satisfactory performance of the project for which the grant was awarded.

In fiscal year 1977, approximately 120 applications for cooperative research and demonstration projects for the Administration for Public Services grants were accepted for review and evaluation. About \$1,385,000 was awarded to 22 grantees for new R. & D. projects.

**GRANTEE SHARE OF THE PROJECT**

**SECTION 1110**

Grantees receiving financial assistance to conduct projects are expected to contribute some portion of the project costs for each year for which funding is requested. Generally, five (5) percent is considered acceptable. No section 1110 grant will cover 100 percent of project costs. The grantee share may be cash or in-kind, and the project related and allowable under

the Department's applicable cost principles published in 45 CFR Part 74 (see 38 FR 26274, September 19, 1973).

#### SECTION 1115

Special Federal project grant funds received under section 1115 are available to be used as the single State agency's matching funds to obtain regular Federal share funds in order that the entire cost of the demonstration project may be covered by Federal funds. It should be noted that except for training components of a project the regular Federal share funds under title XX of the Social Security Act must come from the State agency's title XX allotment.

#### THE APPLICATION PROCESS

##### AVAILABILITY OF APPLICATION FORMS

Application kits which contain the prescribed application forms and supplemental descriptive project information are available from:

Division of Research, Demonstration, and Evaluation, Administration for Public Services/OHDS/HEW, Room 2120, Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201, attention: 13647-781, telephone 202-245-0877.

##### APPLICATION SUBMISSION

In order to be considered for a section 1115 grant, all applications must be submitted on standard forms provided for this purpose by APS/OHDS. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award. One signed application and two copies including all cover letters and attachments, are required.

As part of the project title (application form 4240101, item 7) the applicant must clearly indicate whether the application submitted is in response to a priority project identified in this announcement, and must reference the unique project identifier (e.g., 78-023-01D, 78-123-03Ra, etc.) for which the application is to complete. Applications lacking such a designation will be considered as nonpriority and will compete accordingly.

##### A-95 AND NATIONAL WELFARE RIGHTS ORGANIZATION NOTIFICATION PROCESS

The cooperative research or demonstration program (1110) and the demonstration projects program (1115) are not covered by OMB Circular A-95. All section 1115 project applications are forwarded by HEW to the National Welfare Rights Organization (NWRO) for their review and comments. There is a 30-day period allowed for this review process.

##### APPLICATION CONSIDERATION

The Commissioner for the Administration for Public Services determines

the final action to be taken with respect to each grant application. Applications which do not conform to this announcement or are not complete will not be accepted and applicants will be notified accordingly. Applications for priority projects which are received after the closing date will be considered as nonpriority applications and will compete accordingly. Non-priority project applications may be submitted at any time and those received after the closing date will be held for the next competitive review. Otherwise, all accepted applications will be considered for funding.

All accepted grant applications are subjected to a competitive review and evaluation conducted by a panel of qualified persons independent of the Administration for Public Services. The results of the competitive review supplement and assist the Commissioner in the consideration of the competing applications. The Commissioner's assessment also takes into account comments of the HEW Regional Offices, and the Headquarters APS staff. Comments on the applications may also be requested from appropriate specialists and consultants inside and outside of the Government.

After the Commissioner has reached a decision either to disapprove or not to fund a competitive grant application, unsuccessful applicants are notified in writing of this decision. Successful applicants are notified through the issuance of a notice of grant awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, the total grantee participation, if any, and the total period for which project support is contemplated.

##### CRITERIA FOR REVIEW AND EVALUATION OF APPLICATIONS

Competing grant applications will be reviewed and evaluated, against the following criteria:

1. The project objectives are related to specific APS/OHDS goals and priorities defined in this program announcement. Project objectives are explicitly described and measurable. Impacted APS/OHDS target groups are individually identified and quantitatively estimated.

2. The concept to be researched/demonstrated is reflected in a clear statement of purpose. A literature review indicated the concept is innovative and not duplicative of other efforts.

3. A well-defined and carefully worked out methodology (hypotheses to be tested, research design, identification of variables, analytical methodologies, evaluation methods) is included. The knowledge, methods, or technology developed is such that an impact can be expected on human services programs and target groups.

4. Tasks and milestones are clearly described and scheduled. The proposed time schedule is reasonable considering the nature of the project. In cases where a specific staff is not proposed in the project, sufficient start-up time has been allowed to recruit staff.

5. The knowledge, methods, or technology developed in experimental, developmental, or other demonstration projects will be replicable in whole or in part and potentially applicable in areas other than the test sites.

6. A brief and focused record of the applicant organization in conducting related activities is provided. The project lists qualifications of the (existing and anticipated) project personnel and identifies how those qualifications enable those people to perform their assigned tasks in the project in a competent manner. The applicant organization has adequate facilities and resources to carry out the project.

7. The budget is given in detail with justifications and explanations. Estimated costs are reasonable considering anticipated results.

8. The project has an evaluation component which described data collection and analysis procedures geared to assessment of the degree to which intended objectives are achieved using quantitative measures to the maximum extent feasible. The evaluation is clearly distinguished from activities designed primarily for giving project staff feedback on their progress toward meeting project objectives.

9. Plans for utilization of a research or a demonstration project's results and appropriate dissemination procedures are included.

10. The contribution of any collaborative agencies or organizations are assured in writing and included with the application.

##### CLOSING DATES FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications for the priority projects identified in this program announcement is July 28, 1978 (priority project Nos. 78-023-01D; 78-023-05D; 78-123-03Ra; and 78-123-07R).

The closing date for receipt of applications for nonpriority projects is August 4, 1978.

Applications may be mailed or hand delivered to:

Division of Grants and Contracts Management, Office of Human Development Services/HEW, Room 1427, Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201, attention: 13647-781.

Applications must be received at the above address by the respective closing dates. Hand delivered applications are accepted during normal working hours of 9 a.m. to 5 p.m., Monday through Friday. An application will be considered to be received on time if:

## NOTICES

a. The application was sent by registered or certified mail not later than the respective closing date, as evidenced by the U.S. Postal Service postmark, or on the original receipt from the U.S. Postal Service; or

(b) The application is received on or before the respective closing date by the Department of Health, Education, and Welfare in Washington, D.C. (In establishing the date of receipt, consideration will be given to the time date stamp of the mailroom or other documentary evidence of receipt maintained by HEW.)

(Catalog of Federal Domestic Assistance No. 13647, Social Services Research.)

Dated: June 6, 1978.

ERNEST L. OSBORNE,  
*Acting Commissioner,*  
*Administration for Public Services.*

Approved: June 14, 1978.

ARABELLA MARTINEZ,  
*Assistant Secretary for*  
*Human Development Services.*

[FR Doc. 78-16831 Filed 6-16-78; 8:45 am]

Registered  
Federal Order

MONDAY, JUNE 19, 1978  
PART V



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**ENVIRONMENTAL  
PROTECTION  
AGENCY**



**1977 CLEAN AIR ACT;  
PREVENTION OF  
SIGNIFICANT AIR  
QUALITY  
DETERIORATION**

**State Implementation Plans;  
Requirements**

[6560-01]

## Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL  
PROTECTION AGENCY

## Subchapter C—Air Programs

[FRL 904-3]

PART 51—REQUIREMENTS FOR PREP-  
ARATION, ADOPTION, AND SUB-  
MITTAL OF IMPLEMENTATION  
PLANSPrevention of Significant Air Quality  
DeteriorationAGENCY: Environmental Protection  
Agency.

ACTION: Final rule.

SUMMARY: The Clean Air Act Amendments of 1977 (Pub. L. 95-95) include comprehensive new requirements for the prevention of significant air quality deterioration (PSD). EPA is today publishing final guidance to assist States in preparing State implementation plan (SIP) revisions meeting the new requirements. Each State is to submit such a revision to EPA for approval within nine months of today.

DATES: State implementation plan revisions due within nine months after this publication date (March 19, 1979).

FOR FURTHER INFORMATION  
CONTACT:

Darryl Tyler, Chief, Standards Implementation Branch (MD-15), Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, 919-541-5425.

## SUPPLEMENTARY INFORMATION:

## PRE-1977 Amendments

On December 5, 1974, EPA published regulations under the 1970 version of the Clean Air Act (Pub. L. 91-604) for the prevention of significant air quality deterioration (PSD). These regulations, codified at 40 CFR 52.21, established a program for protecting areas with air quality cleaner than the national ambient air quality standards (NAAQS).

Under EPA's regulatory program, clean areas of the Nation could be designated under any of three "Classes." Specified numerical "increments" of air pollution were permitted under each class up to a level considered to be "significant" for that area. Class I increments permitted only minor air quality deterioration; class II increments, moderate deterioration; class III increments, deterioration up to the secondary NAAQS.

EPA initially designated all clean areas of the Nation as class II. States, Indian Governing Bodies, and officials having control over Federal lands

(Federal land managers) were given authority to redesignate their lands under specified procedures. The area classification system was administered and enforced through a preconstruction permit program for nineteen specified types of stationary air pollution sources. This preconstruction review in addition to limiting future air quality deterioration required that any source subject to the requirements would apply best available control technology (BACT).

## 1977 AMENDMENTS

On August 7, 1977, the Clean Air Act Amendments of 1977 became law. The 1977 amendments changed the 1970 act and EPA's regulations in many respects, particularly with regard to PSD. (See Clean Air Act sections 160-169, 42 U.S.C. 7470-79 (Clean Air Act Amendments of 1977, Pub. L. 95-95, 127(a), 91 Stat. 731), as amended, Pub. L. 95-190, section 14(a) (40)-(54), 91 Stat. 1401-02 (November 16, 1977) (technical and conforming amendments).) In addition to mandating certain immediately effective changes to EPA's PSD regulations, the new Clean Air Act, in sections 160-169, contains comprehensive new PSD requirements. These new requirements are to be incorporated by States into their implementation plans (under section 110 of the act). By virtue of section 406(d) of the amendments, such State implementation plan revisions are due nine months after EPA issues these regulations published today which provide the States with guidance on submitting approvable provisions. In the interim, implementation of the PSD program under 40 CFR 52.21 will continue but as amended today.

In a rulemaking action appearing elsewhere in today's FEDERAL REGISTER, EPA amends its own PSD regulations (40 CFR 52.21) to incorporate all of the new requirements of sections 160-169. The two rulemaking actions promulgated today are essentially identical, with the difference in reviewing agency, EPA as opposed to a State, being the major distinction. The issues discussed below as supplementary information to this rulemaking focus on concerns inherent to State PSD implementation. Other topics of concern to States choosing to develop their own PSD programs are discussed in the rulemaking affecting EPA's current implementation of the PSD program (40 CFR 52.21). Thus, the two rules should be read together.

## PROTECTION OF INCREMENTS

New section 163(b) of the act sets forth immediately effective ambient air increments for particulate matter and sulfur dioxide in class I, class II, and class III areas. EPA specifically solicited public comments as to whether the PSD "increments" were to be

protected only through the preconstruction review process of section 165 of the act. Section 161 of the act requires that each implementation plan "contain emission limits and such other measures as may be necessary \* \* \* to prevent significant deterioration \* \* \*." Section 163 requires plans to "contain measures assuring protection of ambient increments and ceilings."

State agencies and major industries that addressed the question uniformly felt that preconstruction review alone was the mechanism considered by Congress to protect increment consumption. Environmental groups felt that the increments should be treated in basically the same regulatory manner as the ambient air quality standards established under Section 109. A careful review of the legislative history indicates that the latter approach is the approach intended by Congress. The legislative history is particularly clear in the conference report on the bill that was finally adopted by Congress and signed into law. (H.R. Rep. No. 95-564, at 149 (1977).) The conference report describes the approach taken in the House bill regarding increment protection: "If increments are exceeded, the State must revise the State implementation plan to insure that the increment is not exceeded. Sources receiving new emission limitations would be eligible for compliance date extensions under the compliance date extension section of the bill." (Id.) This approach differs considerably from the approach in the Senate bill which was specifically limited to the review of major sources. Since Congress had a clear choice to make and as the language in the final act is that of the House bill, States are required to secure appropriate emissions reductions where the increment has been exceeded.

Any SIP relaxations submitted after today that would affect a PSD area must include a demonstration that the applicable increment will not be exceeded. Increment consumption due to a plan relaxation would be typically determined through modeling the difference between the allowable emissions resulting from the new relaxed SIP limit and the emissions of the applicable sources which would be included in the baseline. SIP relaxations received by EPA after August 7, 1977, but before today's FEDERAL REGISTER will consume increment. However, EPA believes that such revisions require special consideration due to the uncertainty of how the new Act would apply to such SIP relaxations. To review these proposed revisions as to the degree of anticipated increment consumption without advance notice would have caused considerable delay and economic disruption. Therefore,

the Administrator feels that these SIP relaxations need not be individually assessed to determine the precise amount of consumed increment before such relaxations may be approved. The periodic assessment requirement to verify that the applicable increments have not been exceeded is thought to be sufficient protection.

The State must include a program to assess periodically whether emissions from exempted or unreviewed sources are endangering an applicable increment. Such periodic reviews must be subject to the opportunity for public hearing. If a periodic review or the ambient impact review of a major source shows an area to be in violation of an increment, then the plan must be revised within 60 days or such time as determined by the Administrator. The SIP revision should be designed to roll back emissions to a level such that the increment is no longer exceeded. This may induce the use of economic incentives such as emissions charges or the development of offset markets. SIP revisions are more thoroughly discussed in the supplementary information to EPA's PSD regulation published elsewhere in today's FEDERAL REGISTER.

The comments raised a number of other issues related to consumption of increments. The Administrator wishes to clarify first that States can expand the available PSD increment(s) by requiring emission reductions from existing sources. Similarly, the procurement of acceptable emission offsets (i.e., additional control of existing sources) may be used by a source, if a State so permits, in order to allow its construction where the increment would not otherwise allow approval. For further discussion of increment consumption, see the preamble to EPA's PSD regulations published elsewhere in today's FEDERAL REGISTER.

State implementation plan revisions to implement the new PSD requirements are required to specify the measures both to protect the increments and allocate their use. States under today's 40 CFR part 51 regulations are encouraged to examine alternative approaches to the allocation of available increments in order to provide for their individual growth objectives and planning concerns. To support this effort, the Agency is initiating studies to assess the merits and feasibility of various allocation programs. The Agency will evaluate approaches in which economic incentives serve as a supplement to, or a replacement for, an administrative permitting procedure and variations on first-come, first-served permitting. The economic incentive based approaches to be considered include marketable permits, emissions fees, and emissions density zoning.

A marketable permit program would allow, among other things, a permitted

source to sell portions of its permit to other sources. An ordinary permit specifies certain conditions on the maximum emissions from the source but provides no incentive to reduce emissions below the level specified in the permit. A marketable permit allows the source to sell a portion of its permit proportional to the degree to which it reduces emissions below the level specified in the original permit through the application of improved control technology. Thus, a source would have an incentive to reduce emissions since it could sell the emission reduction to another source. A source would purchase this offsetting reduction if it were cheaper than its own cost of reduction. Thus, a marketable permit program could lead to the same emission reduction as a standard permit program but at a lower total cost. Sources with higher marginal costs of compliance would control less and sources with lower marginal costs would control more.

Under another approach, emission fees would be charged to a source according to the quantity of pollutants it emits. These would serve as an incentive to minimize pollution since reducing pollution will lower costs to the source. Emissions fees might be used as a supplement to or replacement for ordinary permits.

Emission density zoning classifies each land area according to the quantity of pollutants that could be emitted into the air over that land. This might be based on some allowable ambient pollutant concentration. Thus, each acre of land translates to a fixed quantity of emissions allowed. Sources would then purchase the "air rights" to enough land to cover their emissions. If these rights are expensive, sources will control more than if these air rights were cheap. In general, these air rights will be more expensive in areas where there is high demand from many sources than in areas where there are fewer sources of comparable size. More expensive air rights would lead to higher levels of control, since more costly equipment would be justified in order to buy the remaining air rights.

EPA in the past has implemented the PSD program on a first-come, first-served basis. However, it does not appear that this approach alone may be adequate to achieve the purposes of the act on a long-term basis. While EPA is administering the PSD permit program, the Administrator will solicit and give careful consideration during the permit review process to the views of State and local officials regarding the impact of proposed permit decisions on an area's potential for economic development. For further discussion, see the preamble to EPA's PSD regulations published elsewhere in today's FEDERAL REGISTER.

#### PERMIT REVIEW PROCESS

Virtually every comment spoke to the issue of subjecting sources to PSD review on the basis of their uncontrolled emissions as EPA proposed. Many State and local agencies expressed a deep concern that to make sources subject to the full PSD requirements on this basis would result in an unmanageable number of detailed and resource intensive reviews. The rulemaking allows States generally to exempt from air quality reviews those sources with minimal emissions. Only those sources which would have allowable emissions equal to or greater than 50 tons per year, 1,000 pounds per day, or 100 pounds per hour (50/1,000/100), or would impact a class I area or an area where the increment is known to be violated, must receive an ambient review. In addition only these sources must undergo case-by-case review for BACT and then only as to those pollutants regulated under the act for which the source would be major.

The rulemaking also allows States to exempt sources with allowable emissions of less than 50 tons per year from a case-by-case BACT review where the State feels such an exemption is appropriate. It should be noted that this approach is based on analysis which indicates that, on a national basis, such sources are a very small part of emissions growth. In some States such sources may be a more significant portion of the emissions inventory and thus BACT review of smaller sources may be appropriate. States should examine this issue carefully in preparing their implementation plan. EPA will also consider this issue in evaluating plan revisions submitted by States.

State implementation plans must include procedures for expeditiously informing a PSD permit applicant of the completeness of the application. The permitting authority must specify a time period within which the completeness of a permit application would be determined. For example, EPA specifies 30 days when implementing the PSD program under 40 CFR 52.21.

#### BACT

The November 3, 1977, proposal solicited comment on the use of a de minimis level of 100 tons per year potential emissions for each pollutant for triggering the BACT requirement. The Agency stated the issue:

For example, if a source is subject to PSD review either because it is one of the named sources or because it has potential emissions of 250 tons per year of a given pollutant, BACT would be required only for those pollutants whose potential emissions exceed 100 tons per year.

Comments received indicated that if a source is subject to PSD on the basis

of the 250 tons per year criterion, then the BACT de minimis level should be made consistent for such sources (i.e., BACT should be required only for those pollutants for which the potential emissions exceed 250 tons). The Administrator agrees with this argument and appropriate changes are made in the regulations set forth below.

#### MONITORING AND MODELING

Extensive public comment was received on the proposed requirements for monitoring and modeling. These issues are extensively discussed in the Part 52 rulemaking published elsewhere in today's FEDERAL REGISTER. As noted, EPA intends that monitoring should generally focus on obtaining data necessary for required review against NAAQS. Although the incremental consumption must of necessity be tracked through the use of modeling, EPA does not intend that there be no "real world" checks on the accuracy of modeling. If a source or other party believes that the recommended models have either overpredicted or underpredicted the air quality impact of a source, the State may accept the submission of data which will more precisely define the impact of the source.

#### REDESIGNATION

In response to comments, a number of changes have been made regarding redesignations of areas. The analysis and public hearing requirement have been modified to conform to the language in the 1977 Amendments. The requirement for public availability of information relating to sources which may be permitted only if an area is redesignated has been limited to sources for which an ambient impact analysis must be done. Finally, this rulemaking removes the provision requiring that final action on a permit be delayed if the source would impact upon an area where a proposed redesignation to a more stringent class was pending. The original intent of this provision was to protect potential class I areas during startup of the new PSD program. All areas were then class II. Now Congress has specifically designated Federal class I areas and States have had considerable opportunity to designate any others. States may establish such a requirement at their own discretion.

Several other issues are discussed in the "Supplementary Information" to the part 52 PSD rulemaking also published today. That discussion should be considered in conjunction with this one.

#### FINAL ACTION

The following regulatory amendments are nationally applicable, and this action is based upon determina-

tions of nationwide scope and effect. Therefore, under section 307(b)(1) of the Act, judicial review may be sought only in the U.S. Court of Appeals for the District of Columbia. Petitions for judicial review must be filed on or before August 18, 1978.

(Secs. 101(b)(1), 110, 114, 123, 125(e), 160-169, 301(a) of the Clean Air Act, as amended (42 U.S.C. 7401(b)(1), 7410, 7414, 7423, 7425(e), 7470-7479, 7601(a).))

Dated: June 9, 1978.

DOUGLAS M. COSTLE,  
Administrator.

Title 40, Part 51 of the Code of Federal Regulations is amended by adding § 51.24 as follows:

#### § 51.24 Prevention of significant deterioration of air quality.

(a) (1) *Plan requirements.* In accordance with the policy of section 101(b)(1) of the act and the purposes of section 160 of the Act, each applicable State implementation plan shall contain emission limitations and such other measures as may be necessary to prevent significant deterioration of air quality.

(2) *Plan revisions.* If a State implementation plan revision would result in increased air quality deterioration over any baseline concentration, the plan revision shall include a demonstration that it will not cause or contribute to a violation of the applicable increment.

(3) *Required plan revision.* If the State or the Administrator determines that a plan is substantially inadequate to prevent significant deterioration or that an applicable increment is being violated, the plan shall be revised to correct the inadequacy or the violation. The plan shall be revised within 60 days of such a finding by a State or within 60 days following notification by the Administrator, or by such later date as prescribed by the Administrator after consultation with the State.

(4) *Plan assessment.* The State shall review the adequacy of a plan on a periodic basis and within 60 days of such time as information becomes available that an applicable increment is being violated.

(5) *Public participation.* Any State action taken under this paragraph shall be subject to the opportunity for public hearing in accordance with procedures equivalent to those established in § 51.4.

(b) *Definitions.* For the purposes of this section:

(1) "Major stationary source" means:

(i) Any of the following stationary sources of air pollutants which emit, or have the potential to emit, 100 tons per year or more of any air pollutant regulated under the Clean Air Act (the "Act"); Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input,

coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants; and

(ii) Notwithstanding the source sizes specified in paragraph (b)(1)(i) of this section, any source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant regulated under the Act.

(2) "Major modification" means any physical change in, change in the method of operation of, or addition to a stationary source which increases the potential emission rate of any air pollutant regulated under the Act (including any not previously emitted and taking into account all accumulated increases in potential emissions occurring at the source since regulations were approved under this section, or since the time of the last construction approval issued for the source pursuant to such regulations approved under this section, whichever time is more recent, regardless of any emission reductions achieved elsewhere in the source) by either 100 tons per year or more for any source category identified in paragraph (b)(1)(i) of this section, or by 250 tons per year or more for any stationary source.

(i) A physical change shall not include routine maintenance, repair and replacement.

(ii) A change in the method of operation, unless previously limited by enforceable permit conditions, shall not include:

(a) An increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(b) An increase in the hours of operation;

(c) Use of an alternative fuel or raw material by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

(d) Use of an alternative fuel or raw material, if prior to January 6, 1975, the source was capable of accommodating such fuel or material; or

(e) Use of an alternative fuel by reason of an order or rule under section 125 of the Act.

(f) Change in ownership of the source.

(3) "Potential to emit" means the capability at maximum capacity to emit a pollutant in the absence of air pollution control equipment. "Air pollution control equipment" includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential emission rate of a source.

(4) "Source" means any structure, building, facility, equipment, installation or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control).

(5) "Facility" means an identifiable piece of process equipment. A stationary source is composed of one or more pollutant-emitting facilities.

(6) "Fugitive dust" means particulate matter composed of soil which is uncontaminated by pollutants resulting from industrial activity. Fugitive dust may include emissions from haul roads, wind erosion of exposed soil surfaces and soil storage piles, and other activities in which soil is either removed, stored, transported, or redistributed.

(7) "Construction" means fabrication, erection, installation, or modification of a source.

(8) "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals and either has:

(i) Begun, or caused to begin, a continuous program of physical on-site construction of the source to be completed within a reasonable time; or

(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

(9) "Necessary preconstruction approvals or permits" means those permits or approvals required under Federal air quality control laws and regu-

lations and those air quality control laws and regulations which are part of the applicable State implementation plan.

(10) "Best available control technology" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under the act which would be emitted from any proposed major stationary source or major modification which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of the best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. If the reviewing agency determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to require the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results.

(11) "Baseline concentration" means that ambient concentration level reflecting actual air quality as of August 7, 1977, minus any contribution from major stationary sources and major modifications on which construction commenced on or after January 6, 1975. The baseline concentration shall include contributions from:

(i) The actual emissions of other sources in existence on August 7, 1977, except that contributions from facilities within such existing sources for which a plan revision proposing less restrictive requirements was submitted on or before August 7, 1977, and was pending action by the Administrator on that date shall be determined from the allowable emissions of such facilities under the plan as revised; and

(ii) The allowable emissions of major stationary sources and major modifications which commenced construction before January 6, 1975, but were not in operation by August 7, 1977.

(12) "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the de-

partment with authority over such lands.

(13) "High terrain" means any area having an elevation of 900 feet or more above the base of the stack of a facility.

(14) "Low terrain" means any area other than high terrain.

(15) "Indian Reservation" means any federally-recognized reservation established by treaty, agreement, Executive order, or act of Congress.

(16) "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(17) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both) and the most stringent of the following:

(i) Applicable standards as set forth in 40 CFR Part 60 and Part 61,

(ii) The applicable State implementation plan emission limitation, or

(iii) The emission rate specified as a permit condition.

(18) "Reconstruction" will be presumed to have taken place where the fixed capital cost of the new components exceed 50 percent of the fixed capital cost of a comparable entirely new facility or source. However, any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(f)(1)-(3). A reconstructed source will be treated as a new source for purposes of this section, except that use of an alternative fuel or raw material by reason of an order in effect under Sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, or by reason of an order or rule under Section 125 of the Act, shall not be considered reconstruction. In determining best available control technology for a reconstructed source, the provisions of 40 CFR 60.15(f)(4) shall be taken into account in assessing whether a standard of performance under 40 CFR Part 60 is applicable to such source.

(19) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(c) *Ambient air increments.* The plan shall contain emission limitations and such other measures as may be necessary to assure that in areas designated as Class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

Pollutant	CLASS I	CLASS II	CLASS III
<i>Maximum allowable increase (micrograms per cubic meter)</i>			
Particulate matter:			
Annual geometric mean .....	5	19	37
24-hr maximum .....	10	37	75
Sulfur dioxide:			
Annual arithmetic mean .....	2	20	40
24-hr maximum .....	5	91	182
3-hr maximum .....	25	512	700

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

(d) *Ambient air ceilings.* The plan shall provide that no concentration of a pollutant shall exceed:

(1) The concentration permitted under the national secondary ambient air quality standard, or

(2) The concentration permitted under the national primary ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

(e) *Restrictions on area classifications.* The plan shall provide that—

(1) All of the following areas which were in existence on August 7, 1977, shall be Class I areas and may not be redesignated:

- (i) International parks,
- (ii) National wilderness areas which exceed 5,000 acres in size,
- (iii) National memorial parks which exceed 5,000 acres in size, and
- (iv) National parks which exceed 6,000 acres in size.

(2) Areas which were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in this section.

(3) Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in this section.

(4) The following areas may be redesignated only as Class I or II:

(i) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and

(ii) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

(f) *Exclusions from increment consumption.* (1) The plan may provide that the following concentrations shall be excluded in determining compliance with a maximum allowable increase:

(i) Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under Sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order;

(ii) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;

(iii) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities; and

(iv) The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration.

(2) If the plan provides that the concentrations to which paragraph (f)(1) refers shall be excluded, it shall also provide that—

(i) No exclusion of such concentrations shall apply more than five years after the effective date of the order to which paragraph (f)(1)(i) refers or the plan to which paragraph (f)(1)(ii) refers, whichever is applicable.

(ii) If both such order and plan are applicable, no such exclusion shall apply more than five years after the later of such effective dates.

(g) *Redesignation.* (1) The plan shall provide that all areas of the State (except as otherwise provided under paragraph (e) of this section) shall be designated either Class I, Class II, or Class III. Any designation other than Class II shall be subject to the redesignation procedures of this paragraph. Redesignation (except as otherwise precluded by paragraph (e) of this section) may be proposed by the respective States or Indian Governing Bodies, as provided below, subject to approval by the Administrator as a revision to the applicable State implementation plan.

(2) The plan may provide that the State may submit to the Administrator a proposal to redesignate areas of

the State Class I or Class II: *Provided, That:*

(i) At least one public hearing has been held in accordance with procedures established in § 51.4.

(ii) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;

(iii) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

(iv) Prior to the issuance of notice respecting the redesignation of an area that includes any Federal lands, the State has provided written notice to the appropriate Federal Land Manager and afforded adequate opportunity (not in excess of 60 days) to confer with the State respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land Manager had submitted written comments and recommendations, the State shall have published a list of any inconsistency between such redesignation and such comments and recommendations (together with the reasons for making such redesignation against the recommendation of the Federal Land Manager); and

(v) The State has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(3) The plan may provide that any area other than an area to which paragraph (e) of this section refers may be redesignated as Class III if—

(i) The redesignation would meet the requirements of provisions established in accordance with paragraph (g)(2) of this section;

(ii) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the Governor of the State, after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session (unless State law provides that such redesignation must be specifically approved by State legislation) and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation (including resolutions where appropriate) concurring in the redesignation;

(iii) The redesignation would not cause, or contribute to, a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any national ambient air quality standard; and

(iv) Any permit application for any major stationary source or major modification subject to provisions established in accordance with paragraph (l) of this section which could receive a permit only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available, insofar as was practicable, for public inspection prior to any public hearing on redesignation of any area as Class III.

(4) The plan shall provide that lands within the exterior boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body. The appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III: *Provided, That:*

(i) The Indian Governing Body has followed procedures equivalent to those required of a State under paragraphs (g)(2), (g)(3)(iii), and (g)(3)(iv) of this section; and

(ii) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located and which border the Indian Reservation.

(5) The Administrator shall disapprove, within 90 days of submission, a proposed redesignation of any area only if he finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements of this section or is inconsistent with paragraph (e) of this section. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the redesignation which was disapproved.

(6) If the Administrator disapproves any proposed area designation, the State or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator.

(h) *Stack heights.* The plan shall provide, as a minimum, that the degree of emission limitation required for control of any air pollutant under the plan shall not be affected in any manner by—

(1) So much of a stack height, in existence before December 31, 1970, as exceeds good engineering practice, or

(2) Any other dispersion technique implemented before then.

(i) *Review of major stationary sources and major modifications—Source applicability and general exemptions.* (1) The plan shall provide that no major stationary source or

major modification shall be constructed unless, as a minimum, requirements equivalent to those contained in the subparagraphs of paragraphs (j), (l), (n), (p), and (r) of this section, have been met. The plan may provide that such requirements shall apply to a proposed source or modification only with respect to those pollutants for which the proposed construction would be a major stationary source or major modification.

(2) The plan may provide, as a minimum, that requirements equivalent to those contained in the subparagraphs of paragraphs (j), (l), (n), and (p) of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that—

(i) As to that pollutant, the source or modification is subject to the emission offset ruling (41 FR 55524) as it may be amended or to regulations approved or promulgated pursuant to Section 173 of the Act, and

(ii) The source or modification would impact no area attaining the national ambient air quality standards (either internal or external to areas designated as nonattainment under Section 107 of the Act).

(3) The plan may provide that requirements equivalent to those contained in the subparagraphs of paragraphs (j), (l), (n), (p), and (r) shall not apply to nonprofit health or education institutions.

(4) The plan may provide that a portable facility which has received construction approval under requirements equivalent to those contained in the subparagraphs of paragraphs (j), (l), (n), (p), (q), and (r) may relocate without being subject to such requirements if—

(i) Emissions from the facility would not exceed allowable emissions; and

(ii) Such relocation would impact no Class I area and no area where an applicable increment is known to be violated; and

(iii) Notice is given to the reviewing authority at least 30 days prior to such relocation identifying the proposed new location and the probable duration of operation at such location.

(j) *Control technology review.* The plan shall provide that—

(1) A major stationary source or major modification shall meet all applicable emission limitations under the State implementation plan and all applicable emission standards and standards of performance under 40 CFR Part 60 and Part 61.

(2) A major stationary source or major modification shall apply best available control technology for each applicable pollutant, unless the increase in allowable emissions of that pollutant from the source would be less than 50 tons per year, 1,000

pounds per day, or 100 pounds per hour, whichever is most restrictive.

(i) The preceding hourly or daily rates shall apply only with respect to a pollutant for which an increment, or national ambient air quality standards, for a period less than 24 hours or a period of 24 hours, as appropriate, has been established.

(ii) In determining whether and to what extent a modification would increase allowable emissions, there shall be taken into account no emission reductions achieved elsewhere at the source at which the modification would occur.

(3) In the case of a modification, the requirement for best available control technology shall apply only to each new or modified facility which would increase the allowable emissions of an applicable pollutant.

(4) Where a facility within a source would be modified but not reconstructed, the requirement for best available control technology, notwithstanding paragraph (j)(2) of this section, shall not apply if no net increase in emissions of an applicable pollutant would occur at the source, taking into account all emission increases and decreases at the source which would accompany the modification, and no adverse air quality impact would occur.

(5) For phased construction projects the determination of best available control technology shall be reviewed, and modified as appropriate, at the latest reasonable time prior to commencement of construction of each independent phase of the proposed source or modification.

(6) In the case of a major stationary source or major modification which the owner or operator proposes to construct in a Class III area, emissions from which would cause or contribute to air quality exceeding the maximum allowable increase that would be applicable if the area were a Class II area and where no standard under 40 CFR Part 60 has been promulgated for the source category, the Administrator shall approve the determination of best available control technology.

(k) *Exemptions from impact analysis.* (1) The plan may provide that with respect to a particular pollutant the requirements of provisions established in accordance with paragraphs (l), (n), and (p) of this section shall not apply to a proposed major stationary source or major modification, if—

(i) The increase in allowable emissions of that pollutant from the source or modification would impact no Class I area and no area where an applicable increment is known to be violated; and

(ii) The increase in allowable emissions of that pollutant from the source or modification would be less than 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is most restrictive; or

(iii) The emissions of the pollutant are of a temporary nature including but not limited to those from a pilot plant, a portable facility, construction, or exploration; or

(iv) A source is modified, but no increase in the net amount of emissions for any pollutant subject to a national ambient air quality standard and no adverse air quality impact would occur.

(2) The hourly or daily rates set in paragraph (k)(1)(ii) of this section shall apply only with respect to a pollutant for which an increment, or national ambient air quality standard, for a period of less than 24 hours or for a period of 24 hours, as appropriate, has been established.

(3) The plan shall provide that, in determining for the purpose of provisions established in accordance with paragraph (k)(1)(ii) of this section whether and to what extent a modification would increase allowable emissions, there shall be taken into account no emission reductions achieved elsewhere at the source at which the modification would occur.

(4) The plan shall provide that, in determining for the purpose of provisions established in accordance with paragraph (k)(1)(iv) of this section whether and to what extent there would be an increase in the net amount of emissions of any pollutant subject to a national ambient air quality standard from the source which is modified, there shall be taken into account all emission increases and decreases occurring at the source since August 7, 1977.

(5) The plan may provide that the requirements of provisions established in accordance with paragraphs (l), (n), and (p) of this section shall not apply to a major stationary source or major modification with respect to emissions from it which the owner or operator has shown to be fugitive dust.

(l) *Air quality review.* (1) The plan shall provide that the owner or operator of the proposed source or modification must demonstrate that allowable emissions increases from the source or modification, in conjunction with all other applicable emissions increases or reductions, will not cause or contribute to air pollution in violation of—

(i) Any national ambient air quality standard in any air quality control region; or

(ii) Any applicable maximum allowable increase over the baseline concentration in any area.

(m) *Air quality models.* (1) The plan shall provide for procedures which specify that—

(i) All estimates of ambient concentrations required under paragraph (l) shall be based on the applicable air quality models, data bases, and other requirements specified in the *Guidelines on Air Quality Models* (OAQPS

1.2-080, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, April 1978).

(ii) Where an air quality impact model specified in the *Guideline on Air Quality Models* is inappropriate, the model may be modified or another model substituted.

(iii) A substitution or modification of a model shall be subject to public comment procedures developed in accordance with paragraph (r) of this section.

(iv) Written approval of the Administrator must be obtained for any modification or substitution.

(v) Methods like those outlined in the *Workbook for the Comparison of Air Quality Models* (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, April 1977) should be used to determine the comparability of air quality models.

(2) The *Guideline on Air Quality Models* is incorporated by reference. On April 27, 1978, the Office of the Federal Register approved this document for incorporation by reference. A copy of the guideline is on file in the Federal Register library.

(3) The documents referenced in this paragraph are available for public inspection at EPA's Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460, and at the libraries of each of the ten EPA Regional Offices. Copies are available as supplies permit from the Library Service Office (MD-35), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711. Also, copies may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161.

(n) *Monitoring.* The plan shall provide that—

(1) The owner or operator of a proposed source or modification shall, after construction of the source or modification, conduct such ambient air quality monitoring as the reviewing authority determines may be necessary to establish the effect which emissions from the source or modification of a pollutant for which a national ambient air quality standard exists (other than non-methane hydrocarbons) may have, or is having, on air quality in any area which such emissions would affect.

(2) As necessary to determine whether emissions from the proposed source or modification would cause or contribute to a violation of a national ambient air quality standard, any permit application submitted after August 7, 1978, shall include an analysis of continuous air quality monitoring data for any pollutant emitted by the source or modification for which a national am-

bient air quality standard exists, except non-methane hydrocarbons. Such data shall relate to, and shall have been gathered over, the year preceding receipt of the complete application, unless the owner or operator demonstrates to the Administrator's satisfaction that such data gathered over a portion or portions of that year or another representative year would be adequate to determine that the source or modification would not cause or contribute to a violation of a national ambient air quality standard.

(o) *Source information.* (1) The plan shall provide that the owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under procedures established in accordance with this section.

(2) The plan may provide that such information shall include:

(i) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

(ii) A detailed schedule for construction of the source or modification;

(iii) A detailed description as to what system of continuous emission reduction is planned by the source or modification, emission estimates, and any other information as necessary to determine that best available control technology as applicable would be applied;

(3) The plan shall provide that upon request of the State, the owner or operator shall also provide information on:

(i) The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

(ii) The air quality impacts and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.

(p) *Additional impact analyses.* The plan shall provide that—

(1) The owner or operator shall provide an analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(2) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

(q) *Sources impacting Federal Class I areas—additional requirements—*

(1) *Notice to EPA.* The plan shall provide that the reviewing authority shall transmit to the Administrator a copy of each permit application relating to a major stationary source or major modification and provide notice to the Administrator of every action related to the consideration of such permit.

(2) *Federal Land Manager.* The Federal Land Manager and the Federal official charged with direct responsibility for management of Class I lands have an affirmative responsibility to protect the air quality related values (including visibility) of any such lands and to consider, in consultation with the Administrator, whether a proposed source or modification would have an adverse impact on such values.

(3) *Denial—impact on air quality related values.* The plan shall provide a mechanism whereby a Federal Land Manager of any such lands may present to the State, after the reviewing authority's preliminary determination required under procedures developed in accordance with paragraph (r) of this section, a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the State concurs with such demonstration, the reviewing authority shall not issue the permit.

(4) *Class I Variances.* The plan may provide that the owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source would have no adverse impact on the air quality related values of such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and so certifies to the State, the reviewing authority may: *Provided*, That applicable requirements are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide and particulate matter would not exceed the following maximum allowable in-

creases over baseline concentration for such pollutants:

	<i>Maximum allowable increase (micrograms per cubic meter)</i>
Particulate matter:	
Annual geometric mean .....	19
24-hr. maximum.....	37
Sulfur dioxide:	
Annual arithmetic mean .....	20
24-hr. maximum.....	91
3-hr. maximum.....	325

(5) *Sulfur Dioxide Variance by Governor with Federal Land Manager's Concurrence.* The plan may provide that—

(i) The owner or operator of a proposed source or modification which cannot be approved under procedures developed pursuant to paragraph (q)(4) of this section may demonstrate to the Governor that the source or modification cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for periods of twenty-four hours or less applicable to any Class I area and, in the case of Federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility);

(ii) The Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may grant, after notice and an opportunity for a public hearing, a variance from such maximum allowable increase; and

(iii) If such variance is granted, the reviewing authority may issue a permit to such source or modification in accordance with provisions developed pursuant to paragraph (q)(7) of this section: *Provided*, That the applicable requirements of the plan are otherwise met.

(6) *Variance by the Governor with the President's concurrence.* The plan may provide that—

(i) The recommendations of the Governor and the Federal Land Manager shall be transferred to the President in any case where the Governor recommends a variance in which the Federal Land Manager does not concur;

(ii) The President may approve the Governor's recommendation if he finds that such variance is in the national interest; and

(iii) If such a variance is approved, the reviewing authority may issue a permit in accordance with provisions developed pursuant to the requirements of paragraph (q)(7) of this section: *Provided*, That the applicable requirements of the plan are otherwise met.

(7) *Emission Limitations for Presidential or Gubernatorial Variance.* The plan shall provide that in the case of a permit issued under procedures

developed pursuant to paragraph (q) (5) or (6) of this section, the source or modification shall comply with emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

*Maximum Allowable Increase*  
[Micrograms per cubic meter]

Period of exposure	Terrain areas	
	Low	High
24-hr maximum .....	36	62
3-hr maximum .....	130	221

(r) *Public participation.* The plan shall provide that—

(1) The reviewing authority shall notify all applicants within a specified time period as to the completeness of the application or any deficiency in the application or information submitted. In the event of such a deficiency, the date of receipt of the application shall be the date on which the reviewing authority received all required information.

(2) Within one year after receipt of a complete application, the reviewing authority shall:

(i) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

(ii) Make available in at least one location in each region in which the proposed source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

(iii) Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for comment at a public hearing as well as written public comment.

(iv) Send a copy of the notice of public comment to the applicant, the Administrator and to officials and agencies having cognizance over the location where the proposed construc-

tion would occur as follows: any other State or local air pollution control agencies, the chief executives of the city and county where the source would be located; any comprehensive regional land use planning agency, and any State, Federal Land Manager, or Indian Governing body whose lands may be affected by emissions from the source or modification.

(v) Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations.

(vi) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. The reviewing authority shall make all comments available for public inspection in the same locations where the reviewing authority made available preconstruction information relating to the proposed source or modification.

(vii) Make a final determination whether construction should be approved, approved with conditions, or disapproved.

(viii) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the reviewing authority made available preconstruction information and public comments relating to the source.

(s) *Source obligation.* The plan shall include legally enforceable procedures to provide that approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the plan and any other requirements under local, State or Federal law.

NOTE.—Incorporation by reference provisions approved by the Director of the Federal Register April 27, 1978.

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[6560-01]

[FRL 904-3A]

## PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

### 1977 Clean Air Act Amendments to Prevent Significant Deterioration

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By these final regulations, EPA amends its regulations relating to prevention of significant air

quality deterioration (PSD) in order to implement the new PSD requirements of the Clean Air Act Amendments of 1977 (Pub. L. 95-95). As amended, the PSD regulations are now more comprehensive and stringent than they were. States may substitute comparable requirements through implementation plan revisions pursuant to regulations also being published today.

DATES: See § 52.21(i) of the regulations.

FOR FURTHER INFORMATION CONTACT:

Darryl Tyler, Chief, Standards Implementation Branch, Control Programs Development Division, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711.

SUPPLEMENTARY INFORMATION:

#### INTRODUCTION

In 1974, EPA promulgated regulations under Section 101(b)(1) of the Clean Air Act (Act) to prevent emissions of sulfur dioxide (SO<sub>2</sub>) and particulate matter (PM) from significantly deteriorating air quality in areas where concentrations of those pollutants were lower than the applicable national ambient air quality standards (NAAQS). 39 FR 42510 (codified at 40 CFR 52.21). EPA incorporated those regulations into the implementation plan (SIP) of each State. The regulations, as amended before August 7, 1977, prohibited construction of any stationary source in any of nineteen specified categories, unless EPA or a delegate State had issued a permit evidencing that the source would apply "best available control technology" (BACT) for SO<sub>2</sub> and PM and that emissions of those pollutants from the source would not cause significant deterioration of air quality in any area. For determining what levels of deterioration were significant, the regulations set out an area classification system. Under it, clean air areas could be classified as Class I, II, or III. In Class I areas, small increases of SO<sub>2</sub> and PM would be significant; in Class II areas, moderate increases; and in Class III areas, increases up to a NAAQS. The regulations classified all clean areas as Class II, but gave States, Indian Governing Bodies and Federal Land Managers the opportunity to reclassify their lands under specified requirements.

On August 7, 1977, the President signed into law new PSD requirements as part of the Clean Air Act Amendments of 1977 (1977 Amendments). These requirements follow the outline of the pre-existing regulations, but are in general more comprehensive and stringent. The permit requirements and classification system remain; but, among other things, many more

sources are covered, Class II increments are different and sometimes more restrictive, Class III increments are now specifically defined, ambient ceiling requirements apply, BACT applies to all pollutants regulated under the Act, certain lands are permanently Class I, the procedures for reclassifying to Class III are more rigorous, the scope of the ambient impact analysis is much broader, and the opportunity for public comment on a proposed permit must include an opportunity for a public hearing. See Clean Air Act Sections 160-169 42 U.S.C. §§ 7470-79 (Clean Air Act Amendments of 1977, Pub. L. 95-95, § 127(a), 91 Stat. 731), as amended, Pub. L. 95-190, Sections 14(a)(40)-(54), 91 Stat. 1401-02 (November 16, 1977) (technical and conforming amendments).

On November 3, 1977, EPA announced in the FEDERAL REGISTER several specific actions. The first was a final decision not to implement the new PSD requirements of Section 165 of the Act as of August 7, 1977, 42 FR 57459. The second, which embodied the first, was the promulgation of amendments to the pre-existing PSD regulations conforming them, not to Section 165, but primarily to Sections 162(a), 163(b) and 164(a) of the Act in accordance with Section 168(b). Id. Section 162(a) sets forth the new mandatory Class I areas; Section 163(b) identifies the new Class II and Class III increments and the ambient ceilings requirement; and Section 164(a) lists those areas which may not be reclassified as Class III and outlines the new Class III reclassification procedures. The third action EPA announced was the proposal of regulations giving guidance for the preparation of SIP revisions which would meet the new PSD requirements. Id. at 57471. The fourth action was the proposal of further, comprehensive amendments to the pre-existing PSD regulations. Id. at 57479. In announcing the proposals, EPA said that it intended to promulgate final regulations no later than March 1, 1978. Id. at 57459, 57471, 57479. Because Section 406(d)(2) of the 1977 Amendments directs the States to submit required SIP revisions within nine months of the promulgation of regulations giving guidance for their preparation, EPA also said that SIP revisions incorporating the new PSD requirements would be due no later than December 1, 1978. Id. at 57471, 57479.

On December 8, 1977, EPA published a supplement to the November 3 proposals. In the supplement, EPA clarified what sources the proposed amendments would exempt from the new PSD requirements, solicited comments on two additional issues, notified the public that technical and conforming amendments to the 1977 Amendments had been enacted on No-

ember 16, 1977, and stated that it would hold public hearings on January 9, 1978. 42 FR 52020.

On December 23, 1978, EPA extended, from January 3, 1978, to January 31, 1978, the deadline for submitting written comments on the November 3 proposals and on the Air Quality Modeling Conference held on December 14-15, 1978. 42 FR 64378. The conference was announced at 42 FR 58542 and 58561 (November 10, 1977). EPA noted in the December 23, 1977 notice that it might not be able to promulgate the new PSD regulations by March 1, 1978, and that it nevertheless intended to maintain "the previously-announced 'permit deadline' of March 1, 1978, for determining whether sources will be subject to the new PSD rules \* \* \*."

On January 9, 1978, public hearings on the proposals took place in Washington, Chicago and Denver and are included as part of the written record. Transcripts have been made of the oral comments. On January 31, the comment period ended. EPA received more than 250 written comments on the proposals. EPA has considered in preparing the final regulations not only the oral and written comments on the proposals, but also the comments submitted in connection with the modeling conference. EPA has also had occasion to measure the proposals against concrete problems arising during and after the comment period.

The discussion which follows focuses on the important issues raised by the proposed amendments to the pre-existing regulation, summarizes the comments relating to each issue, and presents EPA's resolution. Elsewhere in today's FEDERAL REGISTER, EPA is announcing the promulgation of the necessary requirements for the preparation, adoption and submittal of State PSD programs. Since those regulations parallel these, both preambles should be read together. States should submit their SIP revisions no later than nine months from today.

#### HIGHLIGHTS

The regulations made final today apply to any source in any of 28 categories with a potential emissions increase of 100 tons per year or more of any pollutant regulated under the Act and to any source with a potential emissions increase of 250 tons per year or more of any pollutant regulated under the Act, including a source which would have been in one of the 28 categories if it were not under the applicable size cutoff. Potential emissions mean uncontrolled emissions.

Not all covered sources will receive full PSD review. Only those which would have allowable emissions equal to or greater than 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, or would impact a Class I

area or an area where the increment is known to be violated, will receive such review. However, the combined impact of sources not receiving full review will be determined periodically.

In general, only those sources with allowable emissions of 50 tons per year, 1,000 pounds per day, or 100 pounds per hour or more will undergo case-by-case review for BACT, and then only as to those pollutants regulated under the Act for which the source would be major.

To avoid duplicating State new source review, EPA will in general review a source which has allowable emissions under an enforceable SIP permit of less than 50 tons per year, 1,000 pounds per day or 100 pounds per hour, and which would impact no Class I area or area where an increment is known to be violated, only to the extent of ensuring that it would meet any applicable emission limitation and has undergone adequate public scrutiny.

Where PSD and nonattainment reviews both apply, the State must act first before EPA can issue final construction approval under PSD.

PSD applies irrespective of where a source would locate, except that it does not apply to any source which with respect to a particular pollutant is subject to the nonattainment requirements and would impact no clean air area.

The PSD increments must be protected through both preconstruction review and the SIP review process. If an increment is exceeded, the applicable plan must be revised. SIP relaxations submitted after today that would cause significant deterioration cannot be approved.

A Governor can upon written request exempt certain emission increases from consuming an applicable increment while EPA implements the PSD program. The State must submit an approvable PSD SIP revision incorporating the exemption within 9 months to retain the exemption.

Additional guidance is provided on what constitutes commencement of construction, particularly for sources constructing in several distinct phases.

PSD sources submitting applications after August 7, 1978, may have to provide extensive air quality monitoring data.

#### SOURCE APPLICABILITY

##### A. TRANSITION

In passing the 1977 Amendments, Congress left standing contradictory indications as to when it intended the new PSD requirements to be effective. On the one hand, Section 168 of the Act provides that the pre-existing PSD regulations, with amendments conforming them only to Section 162(a), 163(b) and 164(a), are to remain in

effect as to a particular area until the applicable SIP is revised to include the rest of the new requirements. Section 406(b) of the 1977 Amendments reinforces Section 168. It provides in pertinent part:

All \* \* \* regulations \* \* \* duly issued \* \* \* pursuant to the Clean Air Act as in effect immediately prior to the date of enactment of this Act \* \* \* shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Clean Air Act as amended by this Act.

See also 1977 Amendments section 406(c). In effect, Section 168, and Section 406(b), say that, until EPA or the States revise the SIP's to include the new requirements, construction may commence after August 7, 1977, so long as it meets the requirements of the pre-existing regulations, as amended.

On the other hand, Section 165(a) can be read as prohibiting, until its requirements were met, most of the post-enactment construction that Section 168 would permit. It provides in pertinent part that "[n]o major emitting facility on which construction is commenced after the date of the enactment of this part, may be constructed in any area to which this part applies, unless" all of the new permit requirements are met. Also, Section 165(a) would have imposed a lengthy moratorium on new construction, since Sections 165(a)(2) and (e) require an analysis in accordance with regulations that as of August 7, 1977, had not even been proposed. Section 168 would not have imposed such a moratorium.

Because of the contradiction between Section 165 and 168, EPA had no choice but to fashion a reasonable program for the transition from the old to the new requirements. Accordingly, on November 3, 1977, it announced its final decision not to implement the requirements of Section 165 as of August 7, 1977, and its promulgation of the Section 168 amendments to the pre-existing regulations. Then, in the subsequent November 3 proposal and the December 8 supplement, it proposed to apply the requirements of Section 165 as of March 1, 1978. Under the proposal, the requirements would apply to construction of a major stationary source or major modification occurring on or after March 1, 1978, unless the source or modification had received certain permits before March 1 and construction commenced before December 1, 1978. The permit that a source subject to the pre-existing regulations would have to get was a permit under those regulations. A source not subject to the pre-existing regulations would have to get the permit or permits required under the applicable SIP.

In their comments on this proposal, industries asserted that EPA was with-

out legal justification to implement any regulations prior to the submittal of SIP revisions. At the other extreme, some environmental groups contended that EPA was acting improperly in not making Section 165 effective as of August 7, 1977. State agencies generally indicated approval of the proposal.

Today, EPA is announcing that it has promulgated the proposed program with only a minor change. For the December 1, 1978 date, it has substituted a date nine months from today.

Three major considerations have shaped this transition program. One is that the rate of consumption of the increments should be minimized. A paramount goal of both the House and the Senate was to give the States a full opportunity to revise and implement their own PSD programs. The value and significance of this opportunity diminishes as the increments are consumed during the period from August 7, 1977, to the time EPA has approved any PSD revisions to the SIP. Hence, during that period, the rate of consumption of the increments should be minimized. The other two major considerations are that economic disruption should be minimized and that orderly administration of the new requirements should be maximized.

The first of the relevant considerations pulls sharply in the direction of implementing the new requirements as of August 7, 1977. The more sources that must apply BACT, the slower the rate of consumption of the increments. The new PSD requirements might subject up to twenty-four times<sup>1</sup> as many sources to a more restrictive control technology review as did the old requirements. In doing so, the new requirements will capture approximately 230,000 tons of PM, and 570,000 tons of SO<sub>2</sub>, per year, beyond what the old requirements would have captured.<sup>2</sup> While such capture is clear-

<sup>1</sup>The pre-existing regulations applied to sources belonging to any of nineteen specified categories, or approximately 165 per year. The new requirements apply to any source in any of 28 specified categories which has the potential to emit 100 tons per year or more of any pollutant regulated under the Act and to any other source which has the potential to emit 250 tons per year or more of any such pollutant. Defining "potential to emit" as maximum capacity in the absence of control equipment, as do these regulations, the annual number of covered sources is estimated to be about 4,000 with approximately 1,600 sources being subject to a detailed BACT and ambient air quality review.

<sup>2</sup>Under the old requirements, annual emissions from all new and modified sources, whether covered or not, totalled approximately 770,000 tons of PM and 1,220,000 tons of SO<sub>2</sub>. EPA estimates that for these same sources under the new requirements annual emissions will be reduced to 540,000 tons for PM and 650,000 tons for SO<sub>2</sub>.

ly significant to increment consumption on a national basis, it could be even more significant to individual localities where more than one of the affected sources might construct and consume a large portion of the available increment. Hence, the sooner EPA implements the new requirements, the slower will be the rate of increment consumption. Other less compelling considerations pull in that direction, too. Until the new requirements are implemented, mandatory Class I areas will not have the protection Section 165(d) affords nor will variances to the Class I increments be available. In addition, until then, Federal Land Managers will continue to have the power to reclassify Federal lands, and EPA will continue to be able to disapprove reclassifications on other than procedural grounds.

The other two major considerations, however, suggest the opposite conclusion. Immediate implementation of the new requirements would have resulted in severe economic disruption. As stated above, Section 165(a) would have imposed, because of Sections 165(a)(2) and (e), a moratorium on new construction equal to the length of time required to promulgate the necessary regulations.<sup>3</sup> Even if Sections 165(a)(2) and (e) were ignored, undue economic disruption would have resulted from sudden imposition of the new requirements. Applicants had designed major construction projects to meet the old PSD requirements and the State new source review requirements as applicable. Many of them had not commenced construction by August 7, 1977, but had either obtained a permit or were about to obtain one. Reevaluation under the new requirements would have meant that construction could not have commenced until long after the time originally planned. The applicant would often have had to repropose control technology and provide analyses of the direct and indirect total environmental effects of the source. EPA would then have had to redetermine the necessary control equipment and open any redeterminations to public comment, including a public hearing.

Immediate implementation also would have promoted disorderly administration, since it would have precluded normal notice and comment and the attending opportunity to better understand the statute, anticipate its effects and establish generic ground rules. Each issue would have been reargued with each new application. In the absence of generic rules, inconsistency and confusion in the

<sup>3</sup>The legislative history contains strong indications that Congress intended not to impose a moratorium on development. See H.R. Rep. No. 95-294, at 171 (1977); Congressional Record—House, August 4, 1977.

treatment of applications throughout the country might well have occurred.

The transition program promulgated today is reasonable. It has equitably accommodated these competing considerations. It has allowed informed development of generic rules and minimized economic disruption by avoiding entirely a lengthy moratorium on new growth and amply forewarning the public of the time when the new requirements would have to be met. At the same time, the program has minimized the period of time during which the new requirements were not working to slow consumption of the increments. It has also minimized the time during which mandatory Class I areas lacked the protection of Section 165(d), Class I increment variances were unavailable, Federal Land Managers were able to reclassify Federal lands, and EPA was able to disapprove reclassifications on other than procedural grounds.

Four aspects of the program require further explanation. First, why is EPA implementing the new requirements as of March 1, 1978, rather than the date of promulgation? In effect, EPA has suspended the issuance of PSD permits from March 1 to the date of promulgation. The consequence of implementing them as of promulgation would have been that sources would have consumed the increments to a much greater extent than they have. In addition, the public has received early and ample warning of the March 1 deadline and therefore an adequate opportunity to plan for this short-term impact on construction schedules. Finally, in accordance with a directive dated February 22, 1978, from the Assistant Administrator for Air and Waste Management and the Assistant Administrator for Enforcement, EPA has upon request reviewed certain applications as to their approvability under the proposed regulations.

Second, why exempt from the new requirements those sources which have received a PSD permit before March 1, 1978, even though construction on the source may not have commenced by then? Arguably, to exempt only those sources on which construction had commenced before this date would have paralleled the approach in Section 165, better served the policy of slowing increment consumption and not disserved the policy of ensuring an adequate opportunity for public comment. It would not, however, have minimized economic disruption. In October of 1977, many sources for which PSD applications had been completed and were pending could not have both received a permit and commenced construction before March 1, 1978. Their potential consumption of the increment beyond what they would have consumed under the new requirements was not so great as to warrant denying

them an opportunity for exemption. Hence, EPA proposed, and has decided, to exempt sources for which a PSD permit had been obtained before March 1, 1978, so long as construction commences by the time SIP revisions are due.

Third, EPA as previously proposed has also decided to exempt sources not subject to the pre-existing regulations if they have received before March 1, 1978, all permits required under the applicable SIP, even though construction may not have commenced by then. Not to exempt these sources, arguably, would have better served the policy of slowing increment consumption. Nevertheless, there were many such sources in circumstances not significantly different from those of sources with PSD permits pending in October of 1977. Hence, out of fairness, EPA has decided to exempt such sources, so long as construction commences by the time SIP revisions are due.

Finally, in establishing a deadline for commencement of construction, why is EPA using a date nine months from today, instead of December 1, 1978, as proposed? EPA originally set the deadline nine months from March 1, not because March 1 was the date of implementation, but rather because it was the anticipated date of promulgation. EPA selected the nine month period after promulgation because it provided ample opportunity to commence construction and it is the period within which Section 406(d) in effect requires States to submit their SIP revisions. Consequently, the Administration has revised the December 1, 1978, date to coincide with a date nine months from promulgation of these regulations.

#### B. EDF V. COSTLE

On February 17, 1978, the Environmental Defense Fund, Inc. (EDF) brought an action in the District Court for the District of Columbia challenging EPA's November 3, 1977 decision not to implement the new PSD requirements as of August 7, 1977. On February 24, 1978, the Court issued an order which governed the further processing of pending applications to EPA for PSD permits under the pre-existing regulations and will affect the application of the March 1, 1978, and commence construction deadlines. The order expired on March 28, 1978. It provided in pertinent part:

2. EPA shall process all applications for PSD permits that do not comply with the requirements of Section 165 according to its existing procedures *except that*, in the case of any permit which EPA concludes it would issue (but for the existence of this order), EPA shall, on the date on which EPA so concluded, mark every such permit:

This permit would issue this date (date), but for the order entered in *Environmental De-*

*fense Fund v. Douglas M. Costle*, No. 78-281 (D.D.C.) (Entered on February 24, 1978).

EPA shall give prompt notice of the above action to the permittee and all appropriate State and local authorities. The above action shall not constitute permission to commence construction, nor shall it constitute final action for purposes of judicial review.

3. If and when any permit marked as described in paragraph 2 is issued, such permit shall be effective and considered to have been issued as of the date on which it was so marked and shall be subject to the relevant regulations applicable on such date.

4. In addition, any deadline which determines the applicability of EPA regulations under the Clean Air Act to any facilities receiving such permits shall be extended by a period of time equal to the number of days between the time EPA marks the permit as described in Paragraph 2 and the date when EPA releases the permit as described in Paragraph 7.

In accordance with paragraph 3 of the order, EPA will treat any permit marked pursuant to paragraph 2 and released after the order expired as having been issued as of the date it was marked for the purpose of determining whether the source is exempt from the new PSD requirements under the March 1, 1978, program. Also, in accordance with paragraph 4, construction on a source which has received or will receive a marked permit need commence, not within nine months from today, but rather within a period equal to nine months from today plus the number of days between the time the permit was marked and the time it was released.

#### C. SPECIAL EXEMPTIONS

In the March 8, 1978, FEDERAL REGISTER (42 FR 9529), EPA announced a final decision, made on February 28, 1978, to exempt from the new PSD requirements any source the evaluation of which EPA would have completed before March 1, 1978, but for an extension of the public comment period pursuant to a meritorious request for such an extension. The Administrator communicated this final decision to each of the Regional Administrators. His statement to them, which appeared in the FEDERAL REGISTER on March 8, 1978, follows:

As some of you are aware, significant public comment has been generated in the case of certain sources that have submitted applications for PSD permits. In some of these cases, interested persons have requested additional time to comment on the propriety of granting the permit. While I do not believe that the situations are many, I am concerned about the completion of any PSD review of any case where an extension of the comment period has been requested on meritorious grounds. Accordingly, by this notification I am announcing a policy change regarding the March 1 PSD deadline. This policy change will be applicable only to those situations where the normal public comment period has ended and EPA review of a permit would have been com-

pleted by March 1, were it not for a request for additional comment time requested by interested parties.

In the case of any such situation, described above, the comment period involved may be extended as provided by EPA's current PSD regulations. Where such an extension is granted, the March 1 date now designated as the effective date of the new PSD requirements will not apply to that permit application. Instead, the permit application may continue to be processed (and granted or denied) under EPA's current PSD regulations.

I intend to put a notice in the FEDERAL REGISTER to the above effect. I wish to reemphasize that the policy set forth above only applies to those situations where review would have been completed by March 1 absent our action granting a request for additional comment time.

#### D. POTENTIAL EMISSIONS

Section 165 of the Act requires that each new or modified "major emitting facility" undergo preconstruction or premodification review for PSD. Section 169(1) defines "major emitting facility" in terms of a source's "potential to emit." On November 3, 1977, EPA proposed to define "potential emissions" as "those emissions expected to occur without control equipment \* \* \* 42 FR 57479, 57483.

Virtually every comment spoke to the issue of subjecting sources to PSD review on the basis of their uncontrolled emissions. Industry and State pollution control agency comments noted that the Agency's interpretation would needlessly force through PSD review several sources whose allowable emissions would be relatively insignificant. Allowable emissions are those that would occur after the application of the controls required under any air pollution control laws and regulations or more stringent controls under an enforceable permit. Many State and local agencies expressed a deep concern that subjecting sources to the PSD requirements solely on the basis of uncontrolled emissions would result in an unmanageable number of detailed and costly reviews. The organization representing State air pollution control agencies, State and Territorial Air Pollution Program Administrators (STAPPA), urged the Agency to consider both uncontrolled emissions and allowable emissions in determining which sources would be subject to review. It suggested that EPA assess the air quality impact of only those sources whose allowable emissions would be significant. Industry comments uniformly urged the Agency to interpret "potential to emit" as referring to allowable emissions.

The Agency has decided to apply PSD solely on the basis of what a source might emit without control. The final regulations published today define "potential to emit" as the "capability at maximum capacity to emit a pollutant in the absence of air pollu-

tion control equipment." See § 52.21(b)(3).

The Agency has concluded that Congress intended "potential to emit" to refer to uncontrolled, not allowable, emissions. If Congress had intended PSD to apply on the basis of allowable emissions, it would not have included Section 165(b) in the Act. Section 165(b) provides that an applicant for a PSD permit for a modification to certain major emitting facilities need not show that the modification will not cause or contribute to a violation of a Class II increment, if the "allowable emissions" of SO<sub>2</sub> and PM from the modification would after the application of BACT "be less than fifty tons per year" and would not cause or contribute to a violation of the applicable NAAQS. Section 169(1) defines "major emitting facility" as a source with the "potential to emit" either, depending on its type, 100 or 250 tons per year or more. If Section 169(1) were read to subject to PSD only those modifications with allowable emissions equal to or greater than 100 or 250 tons per year before the application of BACT, no owner or operator whose modification would emit less than 50 tons per year after BACT would need the relief Section 165(b) provides. This is because, if BACT or some less stringent control could reduce the emissions of the modification to less than 50 tons per year, the owner or operator would apply it in order to reduce the emissions of the modification to below the applicable 100 or 250 ton cutoff and thereby avoid PSD altogether. Congress, however, did include Section 165(b). Hence, it appears that Congress did not intend PSD to apply on the basis of allowable emissions. See also Sen. Rep. No. 95-127, at 33 (1977) (last paragraph). Since the only other concept to which Congress could have been referring is that of uncontrolled emissions, it must have intended PSD to apply on the basis of such emissions.

There is another similar reason for reaching that conclusion: if Congress had intended PSD to apply on the basis of emissions after controls, it would not have used the phrase "potential to emit" in Section 169(1).<sup>4</sup> First, Congress would not have used two different phrases to refer to the same concept, and it had already used "allowable emissions" in Section 165(b). Second, Congress knew that EPA had already established in its offset policy for nonattainment areas (41 FR 55524 (December 21, 1976)) the phrase "allowable emissions" as denot-

ing emissions after controls. Pub. L. 95-95, section 129(a)(1), 91 Stat. 745 (1977). Indeed, Congress has been careful to distinguish "allowable emissions" from at least one other concept. Prior to the enactment on November 16, 1977, of technical and conforming amendments to the 1977 Amendments, Section 165(b) contained the phrase "actual allowable emissions." *Id.* section 127(a), at 736. The November 16 amendments deleted the word "actual" in order to "eliminate an apparent inconsistency." 123 Cong. Rec. H11955, H11957 (November 1, 1977). Finally, the legislative history indicates that Congress knew that in the air pollution field the phrase "potential emissions" has traditionally been understood to denote uncontrolled emissions. See e.g. Sen. Rep. No. 95-127, at 45, 96-97 (1977).

The Agency has decided to apply PSD on the basis of uncontrolled emissions also for an important practical reason. In enforcement programs, reporting systems have been and must be based on uncontrolled emissions. Otherwise a source with controls to capture 90 percent of the potential emissions might well be below the cutoff for reporting, but could virtually turn off the control equipment, emit 10 times the allowed level and not be tracked.

In its November 3 definition of "potential emissions," EPA indicated that, in determining the potential emissions of a source, it would not take into account emissions that "necessary" or "integral" control equipment would capture. Equipment was "necessary" or "integral" if business or production consequences would follow, independently of applicable air pollution laws and regulations, from removing or not using the equipment. Several comments pointed out that such a general credit could not realistically be implemented, since the permitting authority would be faced frequently with having to make difficult case-by-case factual determinations. Considerable time would be lost by both the applicant and the permitting authority in making such case-by-case decisions.

In view of these comments, the Agency will interpret the phrase "air pollution control equipment" in the definition of "potential to emit" as referring to control equipment which is not, aside from air pollution control requirements, vital to production of the normal product of the source or to its normal operation. The Agency will consider equipment vital if the source could not produce its normal product or operate without it.

#### E. TWO-TIERED REVIEW

By the proposed regulations, EPA indicated its intention to subject each new major stationary source and major modification to full PSD review.

Full review would have consisted of (1) a case-by-case BACT determination as to each pollutant regulated under the act for which the source or modification would be considered major, (2) ambient impact analyses of whether the source or modification would cause or contribute to a violation of the applicable increments and NAAQS, (3) an assessment of the direct and indirect effects of the source or modification on visibility, soils, and vegetation, and (4) public comment, including an opportunity for a public hearing, on each material determination. Full review might also have entailed an analysis of the effects of the source or modification on air quality related values in a class I area. Finally, full review might have required the applicant to submit extensive air quality monitoring data and to commit to post-construction monitoring.

As noted above, STAPPA predicted that the States would find PSD applications too numerous, and their review too costly, to manage. STAPPA and others asserted that full PSD review would contribute unduly to the construction costs experienced by small, otherwise well-controlled sources.

In response to these comments, EPA attempted to quantify the effects of full PSD review under the proposal. It estimated that the new requirements would cover approximately 4,000 sources and modifications per year. The old PSD regulations, by contrast, covered only 165 sources per year. EPA also projected that permitting authorities would have to devote approximately 279 more man-years of new source review effort to conduct full PSD review of these new sources (or an additional 65 percent of their present effort on new source review), and that applicants would have to spend up to \$6 million on modeling and \$24 million on monitoring (or \$30 million in total) to obtain PSD permits for these sources.

Applicants would also have to spend additional time and money meeting the requirements of a detailed PSD review. Considerable delay costs are expected from the increased planning and construction costs as well as the foregone return on investment from delaying start-up for a new source. Although it is not possible to accurately quantify the amount of these costs due to their site-specific nature, such costs could be greater than the monitoring and modeling costs of \$30 million. In addition the changeover from reviewing 165 sources to 4,000 sources per year would probably lead to delays in the start-up of new sources.

Section 165(b) of the act shows that Congress shared the concern of STAPPA and the other commentators. As noted above, section 165(b) exempts certain modifications with allowable emissions of less than 50 tons

<sup>4</sup>Part D of the Act parallels Part C in its usage of the phrases "allowable emissions" and "potential to emit." Section 173(1)(A) refers to "allowable emissions," whereas the section defining those sources to which Part D applies, Section 320(j), uses the phrase "potential to emit."

per year after the application of BACT from demonstrating that they would not cause or contribute to a violation of any applicable class II increment, and thus from substantial expenditures on modeling and monitoring. The Senate Committee explained:

Section [165(b)] exempts smaller, well-controlled sources which are expansions of existing facilities from having to demonstrate compliance with the class II increments. Many such sources which are *small and relatively insignificant with respect to air quality* would otherwise be brought under the requirements of [Part C] by the "major emitting facility" definition of 100 tons per year potential emissions of any pollutant.

Sen. Rep. No. 95-127, at 33 (1977) (emphasis added).

Following Congress lead, EPA attempted to quantify the effects of expanding the exemption in section 165(b) to all new sources and modifications with less than 50 tons per year allowable emissions. Analysis revealed that under such an exemption only 1,600 of the 4,000 sources per year are likely to undergo full PSD review, that permitting authorities would need to devote only an additional 112 man-years to the effort of reviewing those 1,600 sources fully if the remaining 2,400 are first reviewed under the State new source review program, and that applicants might now have to spend only about \$2 million on modeling and \$7 million on monitoring (or \$9 million in total).

Delay costs would also be reduced significantly. The sources exempted from the full PSD review would typically be small. The average size of the investment for these sources is thought to be about \$1 million. If delays of two months occur for each of these 2,400 sources, this could lead to delay costs from foregone returns on investment of about \$16 million. (This is based on an estimated four percent difference between the rate of return for a new source and the investor's next best alternative, an average two-month delay and an average new source investment of \$1 million.) Delay costs would be higher in those cases where the delay leads to increased construction and planning costs.

Subsequent analysis indicated that the costs of making a case-by-case BACT determination each year for each of the 2,400 sources with allowable emissions under an enforceable SIP construction permit of less than 50 tons per year far outweighed the benefits of such a determination. EPA estimated that the applicable SIP would in many cases impose its own BACT requirement. To conduct a PSD BACT review of those sources would be pointless. In the other cases, applicants would incur the expense of preparing a BACT proposal and the asso-

ciated delay for review and approval by the permitting authority. Permitting authorities would have to expend the necessary time and effort to make the BACT determination. For EPA, this determination would in general require it to duplicate much of the effort that the State permitting authority had already expended in becoming knowledgeable about the source. The benefits, in contrast, are relatively insignificant. EPA estimates that BACT applied by virtue of PSD review to the 2,400 50-ton sources would capture annually only 300 tons more of SO<sub>2</sub> and 8,000 tons more of PM than what those controls that the source would install in order to meet the 50 tons per year cutoff would capture. 300 tons is less than 1 percent of the estimated total new emissions of SO<sub>2</sub> per year, while 8,000 tons is less than 2 percent of the estimated total new emissions of PM per year.

In light of section 165(b) and these findings, EPA has decided generally to exempt from full PSD review any new major stationary source or major modification (hereafter, a "major new source") which would have allowable emissions of less than 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is more restrictive (hereafter, a "50-ton source"). The 100 pounds per hour criterion, it should be noted, would apply only with respect to a pollutant for which an increment or standard for a period less than 24 hours had been established. For example, the criterion would apply to a source with respect to SO<sub>2</sub>, but not PM.

In accordance with the decision, under § 52.21(j), no 50-ton source need apply BACT in order to get a PSD permit. An applicant must demonstrate, however, that the source would meet all applicable emission limitations under the SIP and all applicable emission standards and standards of performance under 40 CFR part 60 and part 61. An applicant may demonstrate that the source would meet those limitations and standards by presenting an enforceable SIP permit under which the source would have to meet them. Any major new source with allowable emissions equal to or greater than 50 tons per year, 1,000 pounds per day, or 100 pounds per hour would be subject to the case-by-case BACT requirement.

Under § 52.21(k), no applicant for a PSD permit for a 50-ton source would have to demonstrate that the source would not cause or contribute to a violation of an applicable increment or NAAQS, to assess the direct and indirect effects of the source on visibility, soils and vegetation, and to provide monitoring data, unless the source would impact a class I area or an area where an applicable increment is known to be violated.

To ensure that air quality does not deteriorate beyond the level of any increment, EPA will periodically assess increment consumption in an area. For the same purpose, it has, in the part 51 regulations also published today, imposed on each State the same obligation as well as the obligation to revise its SIP to cure the violation of any increment. It should be noted, too, that the assessment of increment consumption must be subject to public comment and an opportunity for a public hearing.

Finally, under § 52.21(r), the issuance of a PSD permit to a 50-ton source would be subject to public scrutiny only if and to the extent that the underlying determinations had not been previously subject to public scrutiny. For example, if the State in granting a SIP permit provided an opportunity for only written comment on whether the source would meet the applicable emission limitations and standards, then EPA would require an opportunity for a public hearing on those questions and an opportunity for written comment and a public hearing on whether the source would impact a class I area or an area where the increment is known to be violated. The purpose of this public participation exemption is to avoid duplication of effort. Applicants should be prepared to prove to what extent the public had an opportunity to scrutinize the issuance of the SIP permit.

The general exemption for 50-ton sources is consistent with the relevant purposes of the new PSD requirements as set forth in sections 101(b)(1) and 160 of the act: to prevent significant deterioration of air quality, to "preserve, protect and enhance" air quality over class I areas, and to assure that any decision to permit increased air pollution is made only after careful evaluation and informed public participation. Nondeterioration is assured since increment consumption will be assessed periodically and SIPs revised to cure any violation. Class I areas are fully protected, since the exemption does not apply as to them. Finally, each material determination behind the issuance of a PSD permit will be subject to at least one round of public participation.

The exemption, moreover, is within the spirit of section 165(b). Each year it will avoid imposing an unnecessary expenditure of up to \$21 million on approximately 2,400 controlled sources of relatively insignificant air quality impact. It will, in addition, conserve substantial Federal and State resources for other, more important air pollution control tasks. Finally, the exemption will encourage improvements in control technology, since potential applicants will strive to reduce their emissions below 50 tons per year in order to be eligible for the streamlined review process.

EPA has included the short-term criteria of pounds per day or per hour to ensure that seasonal or intermittent operation of sources which have significant short-term emissions will be subject to review. Industries which commented uniformly felt that the Agency was without legal ability to implement the short-term criteria. The act does not, however, preclude the use of short-term criteria and, in fact, seems to require their use in those cases where short-term increments and NAAQS have been established. The short-term criteria would not apply under the regulations where no counterpart increment or standard had been established. State agency comments agreed that short-term criteria would be an important and necessary mechanism to assist in the protection of short-term increments and national ambient air quality standards.

#### F. OTHER EXEMPTIONS

The regulations promulgated today incorporate several other review exemptions. These exemptions will streamline the review process so that the review will focus on those sources of real air quality significance.

The exemptions are effective only when the public has been afforded an opportunity to comment on any material determinations. Also, protection of increment is assured by, first, not allowing a review exemption that might affect a class I area or an area where an applicable increment is known to be violated and, second, by EPA (or the State when implementing PSD) periodically reviewing the aggregate air quality impacts of unreviewed sources. Such periodic reviews of aggregate impacts, as mentioned above, shall be subject to public comment and an opportunity for public hearing. Additionally, the relevant impact of emissions of all previously unreviewed sources must be included in the review of any source subject to ambient air impact analysis.

Under the first exemption, any major source subject to nonattainment offset requirements for a particular pollutant which would impact no clean air area is not subject to PSD review for that pollutant. Review of such a source would be pointless. The nonattainment requirements would impose LAER, a limitation more stringent than BACT, and would ensure that the source would not contribute to a violation of any applicable NAAQS. Since the source would impact no clean air area, ambient review would be unnecessary to forestall any significant deterioration.

Temporary sources are also exempt from full PSD review, since their ambient air impacts are short-lived. Temporary emissions include, but are not limited to, those from a pilot plant, portable facility, construction or ex-

ploration. Emissions occurring for less than 2 years at one location would generally be considered temporary. Emissions for longer periods of time might also be considered to be temporary (such as the emissions related to the construction of power plants or other large sources), but should be dealt with on a case-by-case basis. Additionally, once a portable facility has received a PSD permit, it may relocate without undergoing PSD review: *Provided*, That the source notifies the reviewing agency of such relocation 30 days in advance, the proposed relocation would impact no class I area and no area where the increment is known to be violated, and emissions from the facility would not exceed allowable emissions.

The Agency's proposed PSD regulations stated that if an emitting unit within a source were modified so as to increase potential emissions by 250 tons per year (100 tons for certain listed source types), the unit be required to install best available control technology even if accompanying emission reductions within the source totally offset the new emissions. Industry roundly criticized this proposal as an unauthorized extension of the PSD program to situations where no threat of worsening air quality would exist. After a careful review of the meaning of "modification" in the PSD provisions of the act and consideration of the potential air quality effects of intrasource pollutant tradeoffs, the Agency has decided to adopt a regulatory scheme that in part accommodates industry's expressed concerns.

The regulations apply the definition of "modification" to the entire source (plant), with the result that if net emissions from the source do not increase when an existing unit is revamped, the source would not require full PSD review. This exemption would not be applicable as to BACT in situations where a major facility is added to or is reconstructed at a source, whether the addition is to replace previous production capacity or for growth.

The Agency believes that this approach is consistent with Congress' use of the term "modification" in section 169(2)(C). In adopting that section, one of the November 1977 "technical and conforming amendments" to the 1977 amendments, Congress said that it was honoring the conference agreement by conforming the terminology to its use in section 111, the provision on new source performance standards. At the time the conferees reached agreement and at the time the technical amendments were enacted, "modification" in section 111 had been interpreted by EPA regulation to allow source owners and operators to avoid the application of new source performance standards to

changed existing facilities whose emissions would increase, if that increase were totally offset elsewhere in the source. Although the EPA interpretation was overturned by a United States court of appeals in early 1978 (*ASARCO v. EPA*, 11 ERC 1129 (D.C. Cir.)), there is no reason to believe that the Congress in late 1977 did not regard the definition, which had existed as law since 1975, as being well-suited to its purposes in the PSD program.

Under the regulations, source owners or operators who claim to be undertaking a modification exempt from the PSD program because of intrasource tradeoffs will typically not be allowed to obtain credit for reducing emissions from stacks while increasing emissions from roof monitors or other low-level emission points. Stack and nonstack emissions generally have very different impacts on air quality in areas near a source. Since the PSD program is ultimately concerned with effects on air quality, EPA does not feel bound to apply mechanically the pre-*ASARCO* case definition of "modification" in section 111, a section directed toward technology, so as to frustrate the air quality protection purpose of PSD.

The effects of treating "modifications" as discussed above will be that modifications to existing facilities will not require installation of best available control technology determined on a case-by-case basis, if the owner or operator demonstrates that zero net emissions would attend the change. The delay and expense involved in those determinations will, therefore, be avoided. Any applicable new source performance standards will, however, apply to modified facilities in accordance with the *ASARCO* decision.

The Administrator intends to use the following criteria in determining whether a no net increase exemption for a modified facility from the BACT requirement would apply: (1) All emission reductions from sources included in the baseline will be credited in terms of actual emissions using reasonable assumptions for operating conditions, except in two cases. Where a SIP revision was pending as of August 7, 1977, the applicable SIP as later relaxed would represent the baseline for crediting emission reduction. Changes in allowable emissions will also be used to credit reductions from major construction which commenced before January 6, 1975, but was not yet operating by August 7, 1977. For emission reductions from major construction previously approved to consume portions of an increment, allowable emissions as expressed in the PSD permit will be the basis for determining reduction credit. (2) All reductions must be enforceable (e.g., contained in the permit) and proposed in conjunc-

tion with the source undergoing reconstruction review. Proposed reductions must occur or have occurred before construction is complete. In determining whether no net increase would occur, credit will be given only for emission reductions accomplished in conjunction with the proposed modification. (3) The reduction(s) must equal or exceed those allowable emissions approved for the proposed construction. This determination will generally be made on a pounds-per-hour basis when all facilities involved are operating at their maximum expected production rate. When reductions are proposed on a tons-per-year basis, actual annual operating hours for the previous 1- or 2-year period will be used, as appropriate. (4) All proposed emission reductions must not be otherwise needed to provide for additional growth already approved. Finally, (5) air quality need not improve at every location affected by the proposed construction but on balance the affected area should not be adversely impacted.

The Administrator further believes that all new or modified facilities within sources without a net emission increase should generally be exempt on a pollutant-specific basis from the detailed ambient review requirements. In most cases no useful purpose is served by requiring an air quality impact review of sources that would obviously not degrade air quality. This exemption is not intended to apply when the source would impact a class I area or an area where the increment is known to be violated. The Administrator generally intends to use the same criteria as mentioned above for BACT exemptions in determining if a zero emission increase exemption for ambient review would apply. However, in contrast to the analysis required in the case of modified facilities seeking exemption from BACT review, the no net emission increase analysis employed for purposes of exemption from the ambient review shall take into account all emission increases and decreases occurring at the source since August 7, 1977.

#### G. FUGITIVE DUST

Several comments from representatives of strip mine and other surface mining interests questioned whether Congress intended dust emissions from surface mines resulting from mobile source activity and the action of the wind on exposed surfaces to be taken into account in reviewing the mines for PSD. The commentators contended that Congress only intended PSD review to apply to "stationary" sources and that mobile source activity and the action of the wind were not stationary sources. While Congress apparently did intend PSD to apply to stationary sources only, surface mines

are stationary sources. Consequently, dust emanating from them should not be excluded from PSD review merely on the basis of what causes it to become airborne.

It was also argued that surface mines should receive some relief from strict consideration of ambient particulate concentrations associated with surface mining activities. A number of arguments were presented: that a large majority of the associated particulate matter is nonrespirable; that mining activity occurs in areas with limited population; that the particulate matter arises at ground level and falls out within very short distances; that visibility is not affected because the light scattering which hinders visibility is caused by smaller particles; and that even after the application of BACT, short-term particulate standards for NAAQS and PSD increments might not be met.

In view of these comments and other studies,<sup>5</sup> EPA has decided to exclude from any air quality impact assessment of a source or modification any fugitive dust that would emanate from it. "Fugitive dust", as defined in the regulations, consists of particles of native soil which is uncontaminated by pollutants resulting from industrial activity. Fugitive dust may come from haul roads or exposed surfaces through the action of man or the wind or both.

Additional support for this exclusion can be found in the legislative history. It points to the utilization of "administrative good sense" regarding fugitive dust (see S. Rep. No. 95-127, at 98 (1977)) and suggests that Congress did not intend PSD to prohibit surface mines of an economically viable size (see H. Rep. No. 95-294, at 165-66 (1977)). In addition, accurately assessing the short-term ambient impact of fugitive dust is often not possible. The Agency will continue its efforts to develop better short-term modeling techniques for fugitive dust.

Certain aspects of this exclusion for fugitive dust should be noted. First, the burden of showing to what extent emissions from the proposed source or modification would be made up of fugitive dust rests with the applicant. Second, the regulations do not exclude fugitive dust from the determination of potential emissions. Any source or modification which, taking into account emissions of fugitive dust, would have potential emissions equal to or greater than 250 tons per year would be subject to the applicable PSD re-

quirements, especially in many instances the BACT requirement. Finally, EPA will treat emissions of fugitive dust as not consuming increment for the purpose of evaluating other sources under PSD.

The Administrator would like to emphasize that EPA intends to implement the above policy of excluding the fugitive dust only on an interim basis. EPA will reassess the implications of the policy and any possible technical improvements in modeling fugitive dust, and will adjust the policy as appropriate.

#### H. COMMENCE CONSTRUCTION

It is important in many cases to determine whether a source has commenced construction by a certain date. If a source commenced construction before June 1, 1975, it would be exempt (or "grandfathered") from PSD review altogether. 40 CFR 52.21(d). If a source commenced construction before August 7, 1977, it would be exempt from the amendments that EPA promulgated on November 3, 1977. 42 FR 57459. Finally, certain major stationary sources or major modifications will be exempt from today's final regulations if they obtained all applicable air pollution permits by March 1, 1978, and commence construction before 9 months from today.

In determining whether construction has "commenced," as that term is defined in section 169(2) of the act, it is first necessary to determine whether the owner or operator has obtained and continues to hold all necessary preconstruction approvals or permits required by Federal, State, or local air pollution emissions and air quality laws or regulations under the applicable State implementation plan. If all such permits have not been obtained or maintained, the inquiry can stop; this requirement is a prerequisite for finding that construction has commenced.

Assuming that the permit requirement is satisfied, it is still necessary to determine whether the source meets one of two additional requirements. The first requirement is that a continuous, physical on-site construction program has begun by the date in question and will be completed within a reasonable time. The words "continuous" and "on-site" are key to this test. It will not suffice merely to have begun erection of auxiliary buildings or construction sheds unless there is clear evidence (through contracts or otherwise) that construction of the entire facility will definitely go forward in a continuous manner (no breaks greater than 18 months). Nor will it suffice that erection of certain components began off-site.

The second requirement is that by the date in question binding agree-

<sup>5</sup>NW Colorado Environmental Impact Statement, Department of Interior, 1976; Survey of Fugitive Dust from Coal Mines, EPA 908/1-78-003, February, 1978; Impact of Significant Deterioration Proposals Upon Western Surface Coal Mining Operations, Federal Energy Administration, May 5, 1976.

ments were established for construction of the facility to be completed within a reasonable time. From the legislative history, it is clear that boiler contracts, even those with penalty clauses, will typically not suffice. See S. Rep. No. 95-127, at 32-33 (1977). The source must enter into a site-specific commitment through contracts.

The act specifies that the agreements must be ones "which cannot be cancelled or modified without substantial loss". The word "substantial" is clearly key to this test. EPA proposed for public comment on November 3, 1977, a "10 percent" test. Under this test, if the amount the owner would have had to pay to cancel construction agreements as of the date in question would have totalled more than 10 percent of the total project cost, the loss would be deemed "substantial."

Several comments were received, particularly from industry, on the "10 percent" test. Many of the commentators thought that the 10 percent rule was arbitrary since they regarded even smaller percentage losses on a \$100,000,000 project as clearly being substantial. In response to these comments, EPA has abandoned the proposed 10 percent test as a firm rule. However, in order to help minimize administrative burdens and to provide some certainty, the Administrator will consider a loss as being substantial if it would be more than 10 percent of the total project cost. Whether a loss equal to or less than 10 percent is substantial will be determined on a case-by-case basis. The dominant consideration will be whether the "source has so committed itself, financially and otherwise, to the use of a particular site for a particular facility that relocation is not an option and delay or substantial modification would be severely disruptive." *Id.* at 32.

For a phased construction project for which a permit has been given for a number of phases (additional guidance below), EPA will apply the 10 percent guide to each phase of the project. Thus, if the loss for a phase would exceed 10 percent of the total cost of the phase, then EPA will treat the substantial loss criterion as having been met for that phase.

#### I. PHASED CONSTRUCTION PROJECTS

Multifacility sources approved for construction in distinct phases require special guidance. In general, if the phases of the major facilities involved are mutually dependent<sup>6</sup> and one of

<sup>6</sup>The dependence of facilities within a source will be determined on an individual basis. Two or more facilities will generally be considered dependent if the construction of one would necessitate the construction of the other facility(ies) at the same site in order to complete a given project or provide a given type (not level of) service. A kraft

the major facilities has, by an applicable grandfather date, commenced construction, then all other dependent facilities specifically approved for construction at the same time will also hold such status. Conversely, each independent facility must individually commence construction by the prescribed grandfather date(s). For example, if a power company commenced construction on the first boiler of a three-boiler project in 1977 and plans to commence construction on the second in 1980, and on the third in 1982, the fact that there may be a phased construction process at the same general site does not mean that the boilers to be constructed in 1980 and 1982 can escape the new PSD requirements promulgated today.

The Administrator is concerned about the issuance of permits for phased construction projects that would have the effect of "reserving" the increment for a single source, thereby limiting growth options in the area. The options are to not issue phased construction permits at all or to limit the conditions under which a phased construction may reserve an increment well into the future. The Administrator intends to implement the latter option when plans for a phased project are certain and well-defined. One mechanism to be used is to reassess the BACT determination for the later phases of the project prior to construction to ensure that the most up-to-date control technology will be used. The Administrator will specify at the time that the original permit is issued which BACT determinations will be reassessed. The Administrator may also adopt regulations in the future to deal with this issue more comprehensively.

Also, for phased construction projects, the Administrator does not generally intend to limit the time for construction of the project. However, the first phase must be commenced within 18 months after permit approval, and each construction phase thereafter must commence within 18 months of the date approved in the permit and must not have breaks exceeding 18 months. The Administrator will further evaluate the 18 month criteria as it applies to breaks in construction to determine if a shorter time period (e.g., 6 months) should be used.

#### J. MISCELLANEOUS SOURCE APPLICABILITY QUESTIONS

EPA also sought comments as to the applicability of PSD to proposed sources below the stated size cutoffs present on the list of 28 source types. The Administrator specifically asked

pulp mill is an example of a source with dependent facilities, whereas a three-boiler power plant is a typical example of a source with major independent facilities.

in the December 8, 1977 supplement to the November 3 proposal if fossil-fuel fired steam electric plants rated at or below 250 million British thermal units per hour heat input, municipal incinerators charging not more than 250 tons per day of refuse, fossil-fuel boilers rated at or below 250 million British thermal units per hour heat input, and petroleum storage and transfer units with a capacity of 300,000 barrels or less should be subject to PSD review under the general 250 tons per year potential emission applicability criterion.

EPA has decided that the 250 tons per year criterion should apply even though a source may be below a stated size cutoff. For example, a modification that increases capacity by more than 300,000 barrels for a petroleum storage unit would be subject to review if it has 100 tons per year potential emissions. Also, if a modification increases capacity by only 290,000 barrels but would have more than 250 tons per year potential emissions, then it, too must be reviewed. It should also be noted that the capacity size cutoff like the increased potential emission criteria for defining major modification is cumulative in nature. This approach prevents the "sized" sources from avoiding PSD review merely by limiting an increase to just below the size cutoff. It also ensures that all sources with potential emissions of 250 tons per year or more are treated equally.

In the November 3, 1977 proposal, EPA proposed not to treat a voluntary switch to an alternative fuel or raw material as a modification, if, prior to January 6, 1975, the source were capable of accommodating such fuel or material. Environmentalists opposed this treatment of voluntary fuel switches on the ground that Congress intended all such switches to be treated as modifications. EPA disagrees with this contention. Section 169(2)(C) of the Act by its reference to Section 111(a) in effect adopts the definition of "modification" under Section 111(a) for the purposes of PSD. In adding Section 169(2)(C) to the Act, Congress indicated that it intended to conform the meaning of "modification" to "usage in other parts of the Act." 123 Cong. Rec. H11955, 11957 (November 1, 1977). At the time, regulations promulgated under Section 111 had defined "modifications" to exclude voluntary fuel switches when the source, "prior to the date any standard under this part becomes applicable to that source type . . . [.] was designed to accommodate that alternative use." 40 CFR 60.14(e)(4) (1977). Apparently, Congress intended voluntary fuel switches to be treated similarly for PSD purposes. The PSD regulations first became applicable on January 6, 1975. Consequently, it would appear

that Congress did not intend voluntary fuel switches to be treated as modifications for PSD purposes, if the source could have accommodated the fuel prior to January 6, 1975. In any event, the proposed treatment of voluntary fuel switches has been an integral part of the PSD regulations since their original promulgation in 1974. See 39 FR 42510 (December 5, 1974) § 52.01(d)(2)(iii).

Since the proposed treatment of voluntary switches is consistent with Congressional intent and since that treatment was already a part of the pre-existing regulations, EPA has retained it in the revisions promulgated today. It should be noted, however, that although such switches will not be subject to PSD review, they will consume increment.

EPA also asked on November 3 whether it should treat a conversion to an alternative fuel by reason of an order under the Energy Supply and Environmental Coordination Act of 1974 or a natural gas curtailment plan pursuant to the Federal Power Act as a modification or not. Shortly thereafter, Congress answered this question. On November 16, it enacted technical and conforming amendments to the 1977 Amendments. Among those amendments was Section 169(2)(C). It in effect defined a modification as not including such conversions. See Clean Air Act Sections 111(a)(8) and 169(2)(C) (the latter added by Pub. L. 95-190, Sections 14(a)(54), 91 Stat. 1393, 1402 (November 16, 1977)).

In order to conform the final regulation to the Act and avoid confusion, EPA has further qualified the definition of "major modification" by adding the provision that a switch to an alternative fuel by reason of an order or rule under Section 125 of the Act is not a modification. See Clean Air Act Section 125(e).

#### BEST AVAILABLE CONTROL TECHNOLOGY

The November 3, 1977 proposal solicited comment on the use of a de minimis level of 100 tons per year potential emissions for each pollutant for triggering the BACT requirement. The Agency stated the issue:

For example, if a source is subject to PSD review either because it is one of the named sources or because it has potential emissions of 250 tons per year of a given pollutant, BACT would be required only for those pollutants whose potential emissions exceed 100 tons per year.

Comments received indicated that if a source were subject to PSD on the basis of the 250 tons per year criterion, then the BACT de minimis level should be made consistent for such sources (i.e., BACT would be required only for those pollutants for which the potential emissions exceed 250 tons per year). The Administrator agrees with this argument and appro-

priate changes are made in the regulations set forth below.<sup>7</sup>

Some questions have been raised regarding what "subject to regulation under this Act" means relative to BACT determinations. The Administrator believes that the proposed interpretation published on November 3, 1977, is correct and is today being made final. As mentioned in the proposal, "subject to regulation under the Act" means any pollutant regulated in Subchapter C of Title 40 of the Code of Federal Regulations for any source type. This then includes all criteria pollutants subject to NAAQS review, pollutants regulated under the Standards of Performance for new Stationary Sources (NSPS), pollutants regulated under the National Emission Standards for Hazardous Air Pollutants (NESHAP), and all pollutants regulated under Title II of the Act regarding emission standards for mobile sources.

BACT determinations are to be made on a case-by-case basis by the reviewing authority, taking into account several factors, including cost, energy, and technical feasibility. Efforts are now underway within EPA to assist States (and EPA itself in the interim) in making BACT determinations when they assume responsibility for implementing the PSD program. The Agency is preparing and will distribute a guidance document to assist reviewing authorities in implementing the BACT requirement. In addition, the Agency, in response to numerous comments, will establish a national clearinghouse for distributing BACT determinations. The Administrator intends that such a clearinghouse will serve to advise reviewing authorities of each other's determinations and thereby promote a consistent basis of experience. The clearinghouse is not, however, intended to substitute for a case-by-case analysis on the part of the reviewing authority to assess what control technology is required under BACT for the specific source undergoing review.

Other questions have arisen concerning the possibility for requiring control technology transfer for installing control technology to meet the BACT requirement. In general, the BACT requirement does not preclude consideration of technology used in other types of sources but not yet demonstrated for the specific source type undergoing review. However, due consideration of the other factors (economic costs, energy, etc.) must also be given before requiring such technology transfer in order to comply with the BACT requirement.

<sup>7</sup>It should be remembered that a 50-ton source is exempt from BACT review only as to the pollutant for which it is such a source.

In addition, some questions, predominantly from the industrial sector, were raised during the public comment period concerning EPA's ability to impose a design, equipment, work practice, or operational standard under the review for BACT. The Administrator continues to believe that using such a standard is well within the intent of Congress. Under Section 111 (Standards of Performance for New Stationary sources (NSPS)) such a standard, or a combination of such standards, can be promulgated by the Administrator if in his judgment such a standard is achievable and a conventional standard of performance is not feasible. Since an applicable NSPS forms the minimum BACT requirement, it follows that the Administrator should be able to prescribe a design, equipment, work practice, or operational standard for BACT. In addition, EPA's Interpretative Ruling of December 21, 1976 (41 FR 55524) to Section 110 governing new source review in nonattainment situations includes an opportunity for the Administrator to prescribe such a standard where emission limits are not feasible. The Administrator should also have this ability under PSD. It should be emphasized that the Administrator will prescribe a design, equipment, work practice, or operational standard only when technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible.

Finally, it has come to the Administrator's attention that it may be appropriate to make the innovative technology waiver for NSPS under Section 111(j) of the Act applicable to BACT determinations under the PSD program. Briefly, Section 111(j) allows additional time for a source to comply with an applicable NSPS if: (1) The source plans to use innovative technology which has a substantial likelihood of meeting the NSPS at lower cost in terms of energy, economic, or non-air quality environmental impacts; and (2) the source would not cause an unreasonable risk to public health or welfare in its operation or malfunction. The addition of similar provisions to the PSD regulations would seem consistent with Congressional intent under NSPS and perhaps necessary to avoid the BACT determinations from negating the provisions of Section 111(j). Comments are solicited on this issue.

#### GEOGRAPHIC APPLICABILITY

The regulations made final today require any major source that affects air quality in areas with air quality cleaner than NAAQS (both internal and external to areas designated as nonattainment under Section 107) to meet

the applicable preconstruction requirements of Section 165. In this respect, the Section 107 designations are not binding on source obligations. This reflects a continuation of EPA's policy of reviewing sources in nonattainment areas to prevent the transport of any emissions which would cause significant deterioration in an affected clean area. Conversely, any source which can make a specific demonstration, subject to public comment and opportunity for public hearing, that no impact will occur in a clean area (whether the area in question is designated as attainment or nonattainment) is exempt from PSD preconstruction review for the applicable pollutant.

Due to several comments received regarding the applicability of the PSD review in rural areas impacted by dust consisting of native soil, the Administrator wishes to reaffirm Agency policy that PSD preconstruction review generally applies to these areas. In general, a new major source to be located in a rural area with infrequent short-term violations of the total suspended particulate matter NAAQS should be allowed to construct after applying the required controls provided that the dust in question is uncontaminated by pollutants from industrial activity and the emissions of the source in conjunction with emissions from other sources in the vicinity (excluding such dust) would not cause a violation of the applicable increment(s) or the applicable NAAQS, assuming as to the NAAQS an appropriate "non-urban" background concentration.<sup>2</sup>

#### MODELING

In the regulations published today, EPA's assessment of the air quality impacts of new major sources and modifications will be based on EPA's "Guideline on Air Quality Models," OAQPS 1.2-080, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, April, 1978. This guideline is incorporated by reference into the regulations. Sources may request approval from the Administrator to use air quality dispersion models other than those noted in the "Guideline." If the Administrator determines that the model recommended in the "Guideline" and the model proposed by a source are comparable, the proposed model may be used. Methods outlined in EPA's "Workbook for the Comparison of Air Quality Models," U.S. EPA, Research Triangle Park, N.C. 27711, November 1977, may be used to determine comparability of models.

<sup>2</sup>Guideline on Air Quality Models, OAQPS 1.2-080, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, 1978.

The comments on the "Guideline" received in connection with the November 3 proposal and the Modeling Conference addressed three basic policy issues regarding implementation of the modeling guidelines. The first is whether a preliminary screening technique should be used to determine if full scale modeling would be necessary for preconstruction review. The second is whether the modeled estimate of source impact should be limited to a certain distance or a minimum numerical impact or both. Finally, the need to create an arbitration board to resolve modeling disputes was raised.

Industry and State agency comments on the first issue favored the use of some type of screening technique to alleviate resource burdens, i.e., the costs and time involved in sophisticated computer modeling of ambient air impacts. For screening purposes, conservative estimates of emission characteristics and ambient impacts would be modeled using relatively straightforward mathematical formula. However, industry comments stated that the specific screening techniques proposed on November 3, 1977, would be of little real value because of what they considered undue conservatism in the techniques. Environmental groups, however, felt screening techniques would improperly allow deterioration beyond increment allowances.

EPA intends to retain the screening procedures set forth in "Guidelines for Air Quality Maintenance Planning and Analysis, Vol. 10 (Revised), Procedures for Evaluating Air Quality Impact of New Stationary Sources," (October 1977, U.S. EPA, Office of Air

Quality Planning and Standards, Research Triangle Park, N.C. 27711). The purpose of such procedures is to reduce resource burdens where there is little or no threat to the PSD increments or NAAQS. However, as the threat to the increment increases, more sophisticated techniques would be used. If these procedures indicate that the ambient concentration increase would exceed one-half of the remaining ambient increment or ceiling allowance, then refined analytical techniques would be used. Thus, as the available increment becomes smaller, sources that can be quickly estimated as impacting less than half the remaining increment will necessarily be those with smaller and smaller impacts.

As a result of comments received on the second policy issue, the Administrator intends to limit generally the application of air quality models to a downwind distance of no more than 50 kilometers. This is because dispersion parameters commonly in use are based on experiments relatively close to sources, and extending these parameters to long downwind distances results in great uncertainty as to the accuracy of the model estimates at such distances. Also, since the air quality impact of many sources falls off rapidly to insignificant levels, EPA does not intend to analyze the impact of a source beyond the point where the concentrations from the source fall below certain levels (which are generally based on the Class I increments). These levels shown below are therefore interpreted by the Administrator as representing the minimum amount of ambient impact that is significant.

Pollutant	Annual	Averaging time			
		24-Hour	8-Hour	3-Hour	1-Hour
SO <sub>2</sub> .....	1 ug/m <sup>3</sup>	5 ug/m <sup>3</sup> .....		25 ug/m <sup>3</sup> .....	
TSP.....	1 ug/m <sup>3</sup>	5 ug/m <sup>3</sup> .....			
NO <sub>x</sub> .....	1 ug/m <sup>3</sup>				
CO.....			0.5 mg/m <sup>3</sup> .....		2 mg/m <sup>3</sup>

However, since the 1977 Amendments provide special concern for Class I areas, any reasonably expected impacts for these areas must be considered irrespective of the 50 kilometer limitation or the above significance levels.

Comments were also received urging the creation of an arbitration board to resolve disputes in situations where refined assessment techniques are not readily available and where significant professional judgment must be made on a case-by-case basis, such as those involving fugitive dust and complex

terrain problems, and long range transport. The Agency feels that such an approach would serve to unduly delay the decision making process. The Agency realizes that special concern will have to be addressed to these situations and that EPA Regional Office consistency will have to be assured. EPA intends to use the requirements under section 301(a)(2) of the Act as the mechanism for ensuring Regional consistency. Additionally, the Agency intends to establish an external advisory group to review periodically the modeling guidance and rec-

ommend proposed changes as necessary.

Many other comments of a technical nature were made regarding the Agency's modeling guidance. In many cases, solutions to the issues raised must rely on further scientific development. Some inherently must rely on case-by-case technical judgments by qualified scientists. EPA is actively working in the areas of model validation and improvement, turbulence characterization and the use of representative meteorological data and will provide additional guidance on these areas as it becomes available. Any proposed revisions to the currently issued "Guideline on Air Quality Models" will be subjected to review by the scientific community and interested and affected parties. Procedural mechanisms for effecting a thorough review are currently being investigated. It is anticipated that the "Guideline on Air Quality Models" will be reviewed and updated every 18-24 months. Notice of any proposed revisions will at a minimum be published in the FEDERAL REGISTER for review and comment prior to final issuance.

#### MONITORING REQUIREMENTS

Another issue frequently raised in the comments was that of the proposed monitoring requirements. Through sections 165 (a)(2) and (e) of the Act, Congress imposed on the owner or operator of a proposed major source who submits an application after August 7, 1978, the task of gathering and analyzing air quality monitoring data for inclusion in the application. Such data must be related to and gathered over the year preceding submittal of the complete application. In addition, through section 165(a)(7), the owner or operator may be required to conduct such post-construction monitoring as may be necessary to determine the effect the source or modification may have or is having on air quality in any area it might affect. It is apparent that Congress included the monitoring requirements as a means of checking the accuracy of the modeling results. However, in many cases, monitoring data may not provide an adequate "real world" check on the accuracy of modeling as it applies to increment consumption.

As proposed, EPA has decided generally not to require preconstruction or postconstruction ambient monitoring to determine how much of the increment has been used up. First, the year-to-year variability of air quality data limits the usefulness of certain data collected. Next, the increments are generally consumed by new or modified sources on the basis of allowable emissions, whereas ambient monitoring will measure air quality as it is affected by changes in actual emissions. Moreover, several emission

changes that would be detected by an ambient monitor may not consume increment. That is because certain emissions which do or will affect air quality levels do not count against the increments (e.g., emissions from any source commencing construction prior to January 6, 1975, but completed at some later date; emissions resulting from compliance with an order under section 125). In addition, the State may exempt certain emission changes which otherwise would consume a portion of the available PSD increment (e.g., Federally-ordered fuel switches, temporary emissions, and new sources outside the United States). Finally, the stack height provisions of section 123 of the Act require in any case where a source uses a stack the height of which exceeds good engineering practice that dispersion modeling efforts assume a good engineering practice stack height. In actual practice, assessment of the available increment will normally be accomplished through an accounting procedure whereby atmospheric modeling of individual sources will be used to keep track of changes in actual and allowable emissions as appropriate.

Although increment consumption must of necessity be tracked through modeling, EPA does not intend that there be no "real world" checks on the accuracy of modeling. If an applicant or other party believes that a model used by EPA has either overpredicted or underpredicted the air quality impact of a source, EPA welcomes the submission of data which will more precisely define the impact of the source. For isolated sources, air quality monitoring may be sufficient for this purpose. However, model validation using air quality monitoring is generally expensive, since a complex monitoring network is usually required to ensure that maximum concentrations are measured. Other model validation methods may be less expensive and more reliable (e.g., tracer studies and wind tunnel experiments), especially where more than one source may contribute to the increment consumption. In any case, where subsequent data demonstrate to EPA's satisfaction that the modeling is in error, EPA will make appropriate adjustments so as to provide more (or less) of the increment for future use.

Since PSD review now includes a review against the applicable NAAQS, EPA intends to focus the preconstruction and postconstruction monitoring requirements on obtaining the necessary data for this purpose. To that end existing air quality data will be used to the maximum extent practicable and preconstruction monitoring will only be required as necessary. Also, if preliminary modeling or other data indicate that the new source would not pose a threat to a NAAQS, EPA will

exempt the source from the preconstruction monitoring requirements altogether. For example, if an SO<sub>2</sub> source plans to construct in an area with no other SO<sub>2</sub> sources, no preconstruction monitoring for SO<sub>2</sub> would be required. On the other hand, because of the long range transport of oxidants, if a major source of volatile organic compounds intends to locate in an attainment or unclassified area for photochemical oxidant, EPA will routinely require that the source submit oxidant monitoring data. Finally, since certain sources with allowable emissions of less than 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, are exempt from an air quality impact analysis, air quality monitoring would not be required for such sources.

All air quality monitoring must adhere to EPA's monitoring procedures in effect at the time of the monitoring. Currently, these requirements include criteria for siting monitors and instrument probes, the specification of reference methods and equivalent methods, and a minimum quality assurance program. EPA will implement the monitoring requirements promulgated in this rulemaking primarily through guidance found in "Ambient Air Monitoring Guidelines for Prevention of Significant Deterioration," OAQPS 1.2-096, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, May 1978. EPA encourages permit applicants to consult with the reviewing authority regarding the need for and implementation of the monitoring requirements.

The number of monitors will be based on a case-by-case determination considering source emission characteristics, terrain and meteorology. In some cases, one instrument per pollutant may be adequate. The source will be permitted to use existing data where appropriate. Judgments on the representativeness of existing data taken near the source must be made on a case-by-case basis.

Twenty-four hour samples for SO<sub>2</sub> (bubbler method) will not be acceptable, since 3-hour values would not be available for comparison with the 3-hour secondary NAAQS standard and increment. Also, if bubblers were to be used, detailed quality assurance requirements would be required because of known temperature instability problems with the bubbler methods. In most situations, the cost of running a bubbler may not be significantly different from a continuous analyzer due to the more rigid quality assurance procedures and the need for laboratory support.

Existing 24-hour particulate samples on 6-day intervals will generally be acceptable. In many areas, such data have been collected for a period of

years. As to such areas, additional monitoring will generally be unnecessary. However, the Administrator may require sample collection more often than every sixth day.

#### BASELINE CONCENTRATION

The term "baseline concentration" is used in an abstract sense to establish the starting point for defining significant deterioration. This term is applicable for only sources of SO<sub>2</sub> and PM. Changes in the emission levels of these pollutants from sources contributing to the baseline concentration will in turn affect the amount of air quality increment that remains available to accommodate additional growth.

On November 3, 1977, EPA proposed a definition of baseline concentration that reflected a January 6, 1975, starting date for most sources. Additionally, this proposal contained specific guidance on how a baseline concentration might be established in a given area. Due to several implementation and legal concerns raised during the public comment period, the proposal of November 3 has been amended in three respects. The regulations promulgated today reflect an August 7, 1977, baseline date, place primary emphasis on tracking emission changes rather than on establishing a baseline concentration, and provide additional guidance as to what emission levels contribute to the baseline concentration.

Section 169(4) of the Act generally defines baseline in terms of the ambient concentration existing at the time of the first application for a permit in an area. However, major construction commencing after January 6, 1975, is specifically acknowledged to consume increment and cannot be considered as contributing to the baseline concentration. Both the November 3 proposal and the regulations promulgated today recognize the severe technical and administrative problems with implementing a definition of baseline concentration that relates to the date of first permit application in an area. The administrator believes that a strict interpretation of the Act's language would create thousands of different areas each with different baseline starting points. Moreover, these areas would eventually overlap as more and more sources applied for PSD permits. The final regulations and those proposed on November 3, 1977, resolve those problems by establishing a uniform starting date for defining the baseline concentration in all areas. The November 3 proposal, however, differs with the final regulations as to what the starting date should be.

The Administrator believes that an August 7, 1977, baseline date rather than one of January 6, 1975, better fulfills the requirements of the Act and is the earliest possible time that

could be used as a uniform starting date. This date coincides with the time that PSD review under some of the new Act provisions could have taken place and with the time that States were given affirmative responsibility to protect the applicable PSD increments in their plans. As required by the Act, major source construction commencing after January 6, 1975, is not included in the baseline. Such activities consume increments as discussed below.

The November 3, 1977, proposal also contained guidance for establishing a baseline concentration through the use of existing air quality data. That proposal also suggested an alternative means to construct a baseline concentration using air quality dispersion modeling when appropriate air quality data did not exist. The regulations promulgated today no longer suggest that the baseline concentration be formally established. The Administrator feels that increment consumption can be best tracked by tallying changes in the emission levels of sources contributing to the baseline concentration and increases in emissions due to new sources. Data to establish baseline air quality in an absolute sense would be needed only if increment consumption were to be tracked using ambient measurements. Thus, to implement the air quality increment approach set forth in the Act, the reviewing authority needs to verify that all changes from baseline emission rates (decreases or increases as appropriate) in conjunction with the increased emissions associated with approved new source construction will not violate an applicable increment or NAAQS. However, before this concept can be carried out, some additional guidance must be given regarding the type of emission changes that must be tracked.

EPA generally intends to use an actual emissions concept in implementing the above baseline approach. The concept of an actual emissions baseline has been used in implementing EPA's previous PSD regulations, and the Administrator believes that the Act intends for this concept to be continued. Section 169(4) defines baseline concentration in terms of existing air quality. In carrying out an actual emissions baseline, EPA will use reasonable assumptions for various factors affecting the level of source operation. 1977 values will generally be used for hours of operation, capacity utilization, and the types of materials combusted, processed and/or stored, unless another previous year would be more representative or such use would not be allowed under established permit conditions. Actual emissions also includes into the baseline any future increases in hours of operation or capacity utilization as they occur if such are allowed to the source as of

August 7, 1977, and if the source could have been reasonably expected to make these increases on this date. This policy is consistent with the intent of the Act to base increment consumption on all emission increases from new and modified sources, but to allow consumption of the increment to occur from only certain non-modification activities (e.g., some fuel-switches) of existing sources. Thus, with the exceptions mentioned below, the Administrator will implement an actual emissions baseline in the regulations promulgated today.

An actual emissions baseline would be inappropriate to address situations where a SIP relaxation had been submitted to EPA, and was still pending, on August 7, 1977. Application of an actual emissions baseline would penalize those States that required sources which the SIP relaxation would affect to comply with the allowable rates under the existing SIP while EPA was in the process of reviewing the proposed SIP revision. Such States should not be forced to lose substantial portions of the applicable increments when other States allowed their sources to emit at the relaxed SIP level in advance of formal EPA approval. Therefore, the regulations promulgated today require that contributions to the baseline concentration from existing sources affected by a SIP relaxation pending as of August 7, 1977, would be based on the allowable emissions under the SIP as revised.

In addition, the actual emissions concept does not apply to those sources on which construction commenced before January 6, 1975, but which were not in operation by August 7, 1977. In such cases, the allowable emissions as defined in the construction approval will be used to define the contribution of those sources to baseline.

#### INCREMENT CONSUMPTION

The comments raised a number of specific issues related to the consumption of PSD increments. The Administrator wishes to clarify first that increment consumption occurs in general as a result of new major stationary sources and major modifications commencing construction after January 6, 1975. The degree of such consumption is in general determined on the basis of approved allowable emissions. This procedure is consistent with the Act language of Part C to restrict increases in ambient concentration above baseline levels less than certain specified increments. Increases in the baseline emissions of sources contributing to the baseline concentration will also consume increment (see discussion on baseline concentration). Conversely, reductions in the baseline emissions of sources existing in 1977 generally expand the available PSD

increment(s). As indicated above, the degree of increment expansion that is creditable will generally be determined through air quality dispersion modeling of the source's emission clean-up beyond its 1977 actual emissions level. For a new source permitted under PSD before August 7, 1977, any renegotiated emission limits more restrictive than those previously permitted will count toward expanding the PSD increment available for other new source construction. States are free to choose the mechanisms for allocating the allowable increment to sources, including reversing any expansion of the increment achieved by control of existing sources for those sources which have installed additional controls.

In addition, offsets (i.e., additional control of existing sources) may be permitted in order to allow the construction of a new source in an area where the increment would not otherwise permit the construction of the source. Such offsets have always been acceptable under the Agency's PSD regulations, and the regulations promulgated below do not change this policy. To be acceptable, such reductions must be expressed in terms of actual emissions when the offsetting source has its emissions included in the baseline. An exception to this would be a major source commencing construction prior to January 6, 1975, but not yet operating by August 7, 1977. For such sources and for situations involving reductions from major construction projects commencing construction after January 6, 1975, offsets are to be transacted on the basis of allowable emissions.

In an area where the PSD increments are known to be exceeded, then the plan must be revised to correct any such violation. Applicable SIP revisions may include the use of economic incentives such as emission charges or the development of offset markets. In such areas major construction cannot continue to be approved unless all increment violations significantly impacted by the proposed emission increase are corrected prior to operation of the proposed source. Accordingly, if acceptable offsets are secured by the proposed source, then such source can be approved for construction. Alternatively, the SIP can be revised by the State to restore an increment and thus accommodate the new construction. Where a proposed major construction project would cause a new violation of the applicable increment, offsetting reductions must be obtained that are sufficient to avoid causing the violation.

The Administrator intends that any increment analysis as appropriate include the effects of growth and reduction in emissions of other sources in the area affected by the proposed

source occurring since the date of the effective baseline. Sources will be generally required to obtain such information, but the information will be available from the State air pollution control agency.

Questions have also arisen regarding how SIP relaxations are to be taken into account in terms of consuming available PSD increments. As stated above, increments are consumed as allowable emissions are increased, and this is true whether those increases are a result of new source growth or SIP relaxations. The regulations promulgated elsewhere in today's FEDERAL REGISTER require that any SIP relaxation that would affect a PSD area must include a determination that the applicable increment will not be exceeded. Whether a plan relaxation would consume the available increment would be typically determined through modeling the difference between the allowable emissions resulting from the new relaxed SIP limit and the emissions of the applicable source(s) which were included in the baseline.

SIP relaxations received by EPA after August 7, 1977, but before today's FEDERAL REGISTER do consume increment. However, EPA believes that such revisions require special consideration due to the uncertainty of how the new Act would apply to such SIP relaxations. To review these proposed revisions as to the degree of anticipated increment consumption without advance notice would have caused considerable delay and economic disruption. Therefore, the Administrator feels that these SIP relaxations need not be individually assessed to determine the precise amount of consumed increment before such relaxations may be approved. The periodic assessment requirement to verify that the applicable increments have not been exceeded is thought to be sufficient protection. This assessment would result in revisions to the SIP if an increment were found to have been violated. All SIP relaxations received after today will be individually reviewed against the available PSD increments. If deterioration beyond that allowed under the available increments would occur under a SIP relaxation, then such a SIP revision would be disapproved to the extent that it would cause significant deterioration.

The Administrator is concerned that while States are developing their own PSD regulations and EPA is implementing the PSD program, EPA should not make decisions which would have a significant impact upon future growth options of the States. In the interim, EPA generally will allocate use of the increments on a first-come, first-served basis as has been done under the previous PSD regulations. The Administrator recognizes

that this approach may not be adequate on a long-term basis to achieve the purposes of the Act. Other options are available and should be pursued by the States in the development of their plans for PSD. Under 40 CFR 51.24, published today, States are required to develop a program for increment allocation and a number of program options are suggested for their consideration. EPA will be assessing the merits and feasibility of several allocation options (including first-come, first-served) and thereafter issue guidance for the submission of revised State implementation plans. This evaluation will consider alternatives in which carefully designed economic incentives serve as an adjunct to or a replacement for an administrative permitting procedure. The economic incentive programs to be considered include marketable permits, emission fees, and emissions density zoning.

While EPA is administering the PSD permit program, the Administrator will solicit and give careful consideration during the permit process to the views of State and local officials regarding the impact of proposed permit decisions on an area's potential for economic development. Additionally, where a source is expected to consume the entire remaining increment, the Administrator will notify the Governor of this proposed action.

In response to comments from the Department of Energy, EPA while implementing the PSD program will exclude, if so requested by a Governor, certain concentrations in calculating increment usage as provided in section 163(c) of the Act. These concentrations include ambient impacts from federally ordered fuel switches, fuel switches caused by gas curtailment plans, temporary emissions and new sources outside the United States. The Administrator will assume that all fuel conversion operations consume portions of the available increment unless otherwise requested by the Governor.

The Governor's ability to effect exclusions under section 163(c) will not automatically extend beyond nine months from today. No exclusion beyond this time will occur unless the Governor has submitted a plan which meets all requirements of 40 CFR 51.24 (published elsewhere in today's FEDERAL REGISTER). The Administrator would also like to point out that exclusions under section 163(c) are not always of a permanent nature. Exclusions from increment consumption for stationary sources affected by a natural gas curtailment plan or by orders under the Energy Supply and Environmental Coordination Act of 1974 may occur no later than 5 years after the effective date of the applicable plan or order. A Governor should realize that full use of such exclusions may lead to plan revisions in the future in order to

preserve the PSD increment. The exclusions will allow more sources to be approved than could be otherwise in the interim. Consequently, when the exclusions expire, the excluded concentrations may well cause exceedences.

To allow the Governor to make use of section 163(c) prior to plan approval reflects a change from the Agency's preliminary position. In the November 3, 1977, proposal, the Agency stated that the Act does not appear to make such exclusions available as to a particular State until EPA has approved a PSD SIP revision for that State. Behind that position was the Agency's perception that Congress had conditioned the availability of the exclusions on approval of such revisions in order to give the States added incentive for submitting them. The Agency still believes that that was Congress' purpose. It has concluded, however, that making the exclusions unavailable nine months from today to States which have failed to submit an approvable PSD revision will serve that purpose as well as making them available at that time only to States which have submitted such a revision. A State will have as much reason to submit a plan revision under the present rule as it would have had under the old. In addition, making the exclusions available now will give the States more flexibility than they would have had for permitting growth.

Another issue related to increment consumption and EPA involvement concerns the review of major construction that would impact interstate areas. The Administrator is pursuing various mechanisms to allocate the amount of increment consumption to such sources when affected States are in disagreement. If an interstate dispute arises before more definitive guidance can be prepared, the Administrator intends to restrict increment consumption to equal amounts at the State line. In other words, when two States are involved in an interstate dispute over increment consumption, no source or series of sources in either State can be approved for construction if they would consume over one-half of the total applicable increment at the State line. Applicable increment here refers to that increment applying in the State where such construction would occur.

#### FEDERAL LANDS

A number of comments suggested that EPA prepare and publish guidance on determining the impacts a source may have on "air quality related values." Such general guidance is not currently available and, until such time as it is, determinations should be made on a case-by-case basis. Sources which may impact Federal Class I areas should consult with the EPA Re-

gional Offices on questions concerning the possibility of adverse impacts on air quality values and the type of analysis that must be included with the permit application.

Environmental groups pointed out that the proposed regulations did not specifically require Federal Land Managers to protect "affirmatively" air quality related values in Federal Class I areas. Federal Land Managers do have such a responsibility, and the regulations now say so explicitly. It was also suggested that a Federal Land Manager is obligated to withhold any other permits for which he or she is the issuing authority or over which he or she may have control, if EPA did not concur with the Federal Land Manager's determination that air quality related values would be adversely impacted. Part C of the Act and therefore the regulations promulgated today do not require this, but neither do they prohibit a Federal Land Manager from withholding a permit.

Section 165(d)(2)(C)(ii) of the Act would bar the issuance of a PSD permit "[i]n any case where the Federal Land Manager (of lands in a Class I area) demonstrates to the satisfaction of the State" that the proposed source or modification would adversely impact the air quality related values of such lands. Section 165(d)(2)(C)(iii), on the other hand, would allow the "State" to issue a permit if the Federal Land Manager were to certify that the source or modification would not adversely impact such values, even though it would cause or contribute to a violation of the applicable Class I increments. Both sections presuppose that the "State" would be the permitting authority. The final regulations published today contain provisions (§ 52.21(q) (3) and (4)) which for the most part parallel Sections 165(d)(2)(C) (ii) and (iii). The regulations, however, treat the "Administrator" as the permitting authority, not the "State". This is appropriate. Congress must have recognized that there would be instances in which EPA, and not a State, would be the permitting authority. Furthermore, Congress would have expected, in such instances, that the safeguard of Section 165(d)(2)(C)(ii) and the variance of Section 165(d)(2)(C)(iii) would be available.

#### NATIONAL AMBIENT AIR QUALITY STANDARDS

Under the regulations published today, no PSD permit for a source whose increased allowable emissions are equal to or greater than 50 tons per year, 1,000 pounds per day, or 100 pounds per hour may be granted without assurance that emissions from the source will not cause or contribute to a violation of a NAAQS. If an initial de-

termination shows that such a source may interfere with an applicable ambient standard, the owner or operator must reduce emissions or secure appropriate emission offsets from other nearby sources. While EPA is implementing the PSD program, it does not intend to be involved directly in approving emission offsets for a proposed source except where EPA is also implementing a State new source review program. Thus, the owner or operator would first have to obtain offsets through the State agency new source review program before EPA could approve the source under PSD. An EPA permit cannot be issued until the State permit is granted. Sources are encouraged to seek concurrent review from the State when applying for a PSD permit to minimize review delays. Such action will assist the source to commence construction on schedule as required under the PSD permit.

#### OTHER ISSUES

A number of other important concerns were raised by comments, including undue review delays, the effects of pending reclassifications on preconstruction reviews, guidance on other impact analyses, the definition of source and the high costs of required newspaper advertisements.

Several comments raised the concern that PSD review might be unduly long, especially for those sources which would have only minimal air quality impacts. The Administrator will take steps to expeditiously evaluate permit applications and will inform applicants as to the completeness of their submittals within 30 days or less of receiving the application. In addition, the exemption for 50-ton sources discussed above will greatly reduce the permit delays that were possible under the proposed regulation. The Administrator expects that such sources will satisfy most, if not all, their PSD requirements by going through the State new source review programs. Although such a source must still obtain a PSD permit the Administrator does not intend generally to duplicate the analyses and determinations made during the State new source review. In reviewing a 50-ton source, every effort will be made to complete the required analyses within 30 days after receiving a complete application and the public participation process to the extent necessary within 45 days thereafter. If a public comment period is necessary, it will run for 30 days from the first day of the 45-day period. On that day EPA will give due notice of the Agency's determinations and tentative decision. At this time, EPA will also solicit comment on the need to conduct a public hearing, if one is necessary. If no response to the latter is received by day

15, no public hearing will be held. If no supportable concerns are received during the scheduled 30-day public comment period (or the public hearing if one is held), the Administrator intends to issue final approval to construct within 15 days after the public comment period has ended. These are current estimates of the maximum time required for PSD review of smaller sources. Every effort will be made to shorten this review time.

In response to comments received, EPA has excluded from the final regulations the proposed provision requiring that final action on a permit be delayed if the source would impact upon an area where a proposed redesignation to a more stringent class was pending. The original intent of this provision was to protect potential class I areas during start-up of the new PSD program. Under the previous PSD regulations, all areas were initially class II. Now Congress has designated several mandatory class I areas. Moreover, States have had considerable opportunity to designate any others. Thus, this provision is no longer necessary. States may establish such a requirement as part of their own implementation plans.

The analysis related to a source's impact on soils, vegetation, and visibility should focus primarily on such impacts in class I areas, since final approval may turn on the effects of the source on air quality related values in class I areas. Where there would be no class I impacts, impacts elsewhere may affect the BACT determination, but would typically not have a significant bearing on the final approval decision. The impact assessment should generally be qualitative in nature and designed to inform the general public of the relative impact of the source on those values. It should be noted, too, that the Administrator intends to base approval or disapproval of a major source regarding its ambient air quality impact on both the direct emissions of that source and those secondary emissions that can be accurately quantified.<sup>9</sup> All secondary emissions that cannot be accurately estimated during the preconstruction review will consume the applicable increment(s) as they occur.

<sup>9</sup>Where a new source will result in specific and well defined secondary emissions which can be accurately quantified, the reviewing authority should consider such secondary emissions in determining whether the source would cause or contribute to a violation of an ambient ceiling or increment. However, since EPA's authority to perform or require indirect source review relating to mobile sources regulated under Title II of the Act (motor vehicles and aircraft), has been restricted by statute, consideration of the indirect impacts of motor vehicles and aircraft traffic is not required under this Ruling.

Pursuant to comments on the November 3, 1977, proposal, the Administrator is revising the definition of source to mean any structure, building, facility, equipment, installation, or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and owned or operated by the same person or persons under common control. This precludes a large plant from being separated into individual production lines for purposes of determining applicability of the PSD requirements. This in turn resolves the issue raised in the proposal regarding PSD applicability to a facility which is constructed at the site of, but is different than, a source listed in the 28 categories. Such a facility would be part of the source under the above definition, and thus would be subject to PSD review as a modification to it.

A number of State agencies commented that the cost of "prominent newspaper advertisement" of the opportunity for public comment at a hearing could become prohibitively expensive, especially if the number of PSD reviews under the act increases as expected. Therefore, the regulations have been changed to remove the requirement for "prominent" newspaper advertisement. Nevertheless, whatever notice is given must provide a meaningful opportunity for public comment.

#### FINAL ACTION

The following regulatory amendments are nationally applicable, and this action is based upon determinations of nationwide scope and effect. Therefore, under section 307(b)(1) of the act, judicial review may be sought only in the United States Court of Appeals for the District of Columbia. Petitions for judicial review must be filed on or before August 18, 1978.

(Sec. 101(b)(1), 110, 114, 123, 125(e), 160-169, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7401(b)(1), 7410, 7414, 7423, 7425(e), 7470-7479, 7601(a).))

Dated June 9, 1978.

DOUGLAS M. COSTLE,  
Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

1. Section 52.21 is revised as follows:

§ 52.21 Prevention of significant deterioration of air quality.

(a) *Plan disapproval.* The provisions of this section are applicable to any State implementation plan which has been disapproved with respect to prevention of significant deterioration of air quality in any portion of any State where the existing air quality is better than the national ambient air quality standards. Specific disapprovals are listed where applicable, in subparts B

through DDD of this part. The provisions of this section have been incorporated by reference into the applicable implementation plans for various States, as provided in subparts B through DDD of this part. Where this section is so incorporated, the provisions shall also be applicable to all lands owned by the Federal Government and Indian Reservations located in such State. No disapproval with respect to a State's failure to prevent significant deterioration of air quality shall invalidate or otherwise affect the obligations of States, emission sources, or other persons with respect to all portions of plans approved or promulgated under this part.

(b) *Definitions.* For the purposes of this section:

(1) "Major stationary source" means—

(i) Any of the following stationary sources of air pollutants which emit, or have the potential to emit, 100 tons per year or more of any air pollutant regulated under the Clean Air Act (the "Act"): Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300 thousand barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants; and

(ii) Notwithstanding the source sizes specified in paragraph (b)(1)(i) of this section, any source which emits, or has the potential to emit, 250 tons per year or more of any pollutant regulated under the Act.

(2) "Major modification" means any physical change in, change in the method of operation of, or addition to a stationary source which increases the potential emission rate of any air pollutant regulated under the act (including any not previously emitted and taking into account all accumulated increases in potential emissions occurring at the source since August 7, 1977, or since the time of the last construction approval issued for the source pursuant to this section, which-

ever time is more recent, regardless of any emission reductions achieved elsewhere in the source) by either 100 tons per year or more for any source category identified in paragraph (b)(1)(i) of this section, or by 250 tons per year or more for any stationary source.

(i) A physical change shall not include routine maintenance, repair and replacement.

(ii) A change in the method of operation, unless previously limited by enforceable permit conditions, shall not include:

(a) An increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(b) An increase in the hours of operation;

(c) Use of an alternative fuel or raw material by reason of an order in effect under Sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

(d) Use of an alternative fuel or raw material, if prior to January 6, 1975, the source was capable of accommodating such fuel or material; or

(e) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act;

(f) Change in ownership of the source.

(3) "Potential to emit" means the capability at maximum capacity to emit a pollutant in the absence of air pollution control equipment. "Air pollution control equipment" includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential emission rate of a source.

(4) "Source" means any structure, building, facility, equipment, installation, or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control).

(5) "Facility" means an identifiable piece of process equipment. A source is composed of one or more pollutant-emitting facilities.

(6) "Fugitive dust" means particulate matter composed of soil which is uncontained by pollutants resulting from industrial activity. Fugitive

dust may include emissions from haul roads, wind erosion of exposed soil surfaces and soil storage piles and other activities in which soil is either removed, stored, transported, or redistributed.

(7) "Construction" means fabrication, erection, installation, or modification of a source.

(8) "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(i) Begun, or caused to begin, a continuous program of physical on-site construction of the source, to be completed within a reasonable time; or

(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

(9) "Necessary preconstruction approvals or permits" means those permits or approvals required under Federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State implementation plan.

(10) "Best available control technology" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under the act which would be emitted from any proposed major stationary source or major modification which the Administrator, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR part 60 and part 61. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, a design, equipment, work practice or operational standard, or combination thereof, may be prescribed instead to require the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for com-

pliance by means which achieve equivalent results.

(11) "Baseline concentration" means that ambient concentration level reflecting actual air quality as of August 7, 1977, minus any contribution from major stationary sources and major modifications on which construction commenced on or after January 6, 1975. The baseline concentration shall include contributions from:

(i) The actual emissions of other sources in existence on August 7, 1977, except that contributions from facilities within such existing sources for which a plan revision proposing less restrictive requirements was submitted on or before August 7, 1977, and was pending action by the Administrator on that date shall be determined from the allowable emissions of such facilities under the plan as revised; and

(ii) The allowable emissions of major stationary sources and major modifications which commenced construction before January 6, 1975, but were not in operation by August 7, 1977.

(12) "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(13) "High terrain" means any area having an elevation 900 feet or more above the base of the stack of a facility.

(14) "Low terrain" means any area other than high terrain.

(15) "Indian Reservation" means any Federally-recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(16) "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(17) "Reconstruction" will be presumed to have taken place where the fixed capital cost of the new components exceed 50 percent of the fixed capital cost of a comparable entirely new facility or source. However, any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(f)(1)-(3). A reconstructed source will be treated as a new source for purposes of this section, except that use of an alternative fuel or raw material by reason of an order in effect under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, or by reason of an order or rule under section 125 of the act, shall not be considered reconstruction. In determining best available control technology for a reconstructed source, the provisions of

40 CFR 60.15(f)(4) shall be taken into account in assessing whether a standard of performance under 40 CFR part 60 is applicable to such source.

(18) "Fixed capital cost" means the capital needed to provide all of the depreciable components.

(19) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate, or hours of operation, or both) and the most stringent of the following:

(i) Applicable standards as set forth in 40 CFR part 60 and part 61,

(ii) The applicable State implementation plan emission limitation, or

(iii) The emission rate specified as a permit condition.

(c) *Ambient air increments.* In areas designated as class I, II or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

Maximum allowable increase

[Micrograms per cubic meter]

Class I	
<i>Pollutant</i>	
Particulate matter:	
Annual geometric mean.....	5
24-h maximum.....	10
Sulfur dioxide:	
Annual arithmetic mean.....	2
24-h maximum.....	5
3-h maximum.....	25
CLASS II	
Particulate matter:	
Annual geometric mean.....	19
24-h maximum.....	37
Sulfur dioxide:	
Annual arithmetic.....	20
24-h maximum.....	91
3-h maximum.....	512
CLASS III	
Particulate matter:	
Annual geometric mean.....	37
24-h maximum.....	75
Sulfur dioxide:	
Annual arithmetic mean.....	40
24-h maximum.....	182
3-h maximum.....	700

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

(d) *Ambient air ceilings.* No concentration of a pollutant shall exceed:

(1) The concentration permitted under the national secondary ambient air quality standard, or

(2) The concentration permitted under the national primary ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

(e) *Restrictions on area classifications.* (1) All of the following areas which were in existence on August 7, 1977, shall be Class I areas and may not be redesignated:

- (i) International parks,
- (ii) National wilderness areas which exceed 5,000 acres in size,

(iii) National memorial parks which exceed 5,000 acres in size, and

(iv) National parks which exceed 6,000 acres in size.

(2) Areas which were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in this section.

(3) Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in this section.

(4) The following areas may be redesignated only as Class I or II:

(i) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and

(ii) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

(f) *Exclusions from increment consumption.* (1) Upon written request of the Governor, made after notice and opportunity for at least one public hearing to be held in accordance with procedures established in 51.4 of this chapter, the Administrator shall exclude the following concentrations in determining compliance with a maximum allowable increase:

(i) Concentrations attributable to the increase in emissions from sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under Sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such order;

(ii) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;

(iii) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary activities; and

(iv) The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration.

(2) No exclusion under paragraph (f)(1) (i) or (ii) of this section shall apply more than five years after the effective date of the order to which paragraph (f)(1)(i) refers or the plan to which paragraph (f)(1)(ii) refers, whichever is applicable. If both such

order and plan are applicable, no such exclusion shall apply more than five years after the later of such effective dates.

(3) No exclusion under paragraph (f) of this section shall occur after March 19, 1979, if a State implementation plan revision meeting the requirements of 40 CFR 51.24 has not been submitted to the Administrator by that time.

(g) *Redesignation.* (1) All areas (except as otherwise provided under paragraph (e) of this section) are designated Class II as of December 5, 1974. Redesignation (except as otherwise precluded by paragraph (e) of this section) may be proposed by the respective States or Indian Governing Bodies, as provided below, subject to approval by the Administrator as a revision to the applicable State implementation plan.

(2) The State may submit to the Administrator a proposal to redesignate areas of the State Class I or Class II provided that:

(i) At least one public hearing has been held in accordance with procedures established in § 51.4 of this chapter;

(ii) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;

(iii) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

(iv) Prior to the issuance of notice respecting the redesignation of an area that includes any Federal lands, the State has provided written notice to the appropriate Federal Land Manager and afforded adequate opportunity (not in excess of 60 days) to confer with the State respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land Manager had submitted written comments and recommendations, the State shall have published a list of any inconsistency between such redesignation and such comments and recommendations (together with the reasons for making such redesignation against the recommendation of the Federal Land Manager); and

(v) The State has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(3) Any area other than an area to which paragraph (e) of this section refers may be redesignated as Class III if—

(i) The redesignation would meet the requirements of paragraph (g)(2) of this section;

(ii) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the Governor of the State, after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session (unless State law provides that the redesignation must be specifically approved by State legislation) and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation;

(iii) The redesignation would not cause, or contribute to, a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any national ambient air quality standard; and

(iv) Any permit application for any major stationary source or major modification, subject to review under paragraph (l) of this section, which could receive a permit under this section only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

(4) Lands within the exterior boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body. The appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III: *Provided, That:*

(i) The Indian Governing Body has followed procedures equivalent to those required of a State under paragraphs (g)(2), (g)(3)(iii), and (g)(3)(iv) of this section; and

(ii) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located and which border the Indian Reservation.

(5) The Administrator shall disapprove, within 90 days of submission, a proposed redesignation of any area only if he finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements of this paragraph or is inconsistent with paragraph (e) of this section. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the redesignation which was disapproved.

(6) If the Administrator disapproves any proposed redesignation, the State

or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator.

(h) *Stack heights.* (1) The degree of emission limitation required for control of any air pollutant under this section shall not be affected in any manner by—

(i) So much of the stack height of any source as exceeds good engineering practice, or

(ii) Any other dispersion technique.

(2) Paragraph (h)(1) of this section shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

(i) *Review of major stationary sources and major modifications—Source applicability and general exemptions.* (1) No major stationary source or major modification shall be constructed unless the requirements of paragraphs (j) through (r) of this section, as applicable, have been met. The requirements of paragraphs (j) through (r) shall apply to a proposed source or modification only with respect to those pollutants for which it would be a major stationary source or major modification.

(2) The requirements of paragraphs (j) through (r) of this section shall not apply to a major stationary source or major modification that was subject to the review requirements of 40 CFR 52.21(d)(1) for the prevention of significant deterioration as in effect before March 1, 1978, if the owner or operator—

(i) Obtained under 40 CFR 52.21 a final approval effective before March 1, 1978;

(ii) Commenced construction before March 19, 1979; and

(iii) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(3) The requirements of paragraphs (j) through (r) of this section shall not apply to a major stationary source or major modification that was not subject to 40 CFR 52.21 as in effect before March 1, 1978, if the owner or operator—

(i) Obtained all final Federal, State and local preconstruction permits necessary under the applicable State implementation plan before March 1, 1978;

(ii) Commenced construction before March 19, 1979; and

(iii) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(4) The requirements of paragraphs (j) through (r) of this section shall not apply to a major stationary source or major modification that was subject to 40 CFR 52.21 as in effect before March 1, 1978, if review of an applica-

tion for approval for the source or modification under 40 CFR 52.21 would have been completed by March 1, 1978, but for an extension of the public comment period pursuant to a request for such an extension. In such a case, the application shall continue to be processed, and granted or denied, under 40 CFR 52.21 as in effect prior to March 1, 1978.

(5) The requirements of paragraphs (j), (l), (n) and (p) of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that—

(i) As to that pollutant, the source or modification is subject to the emission offset ruling (41 FR 55524), as it may be amended, or to regulations approved or promulgated pursuant to Section 173 of the Act; and

(ii) The source or modification would impact no area attaining the national ambient air quality standards (either internal or external to areas designated as nonattainment under Section 107 of the Act).

(6) The requirements of paragraphs (j) through (r) of this section shall not apply, upon written request of the Governor of a State, to a nonprofit health or education institution to be located in that State.

(7) A portable facility which has previously received construction approval under the requirements of this section as applicable may relocate without again being subject to those requirements if—

(i) Emissions from the facility would not exceed allowable emissions;

(ii) Emissions from the facility would impact no Class I area and no area where an applicable increment is known to be violated; and

(iii) Notice is given to the Administrator at least 30 days prior to such relocation identifying the proposed new location and the probable duration of operation at such location.

(j) *Control technology review.* (1) A major stationary source or major modification shall meet all applicable emission limitations under the State implementation plan and all applicable emission standards and standards of performance under 40 CFR Part 60 and Part 61.

(2) A major stationary source or major modification shall apply best available control technology for each applicable pollutant, unless the increase in allowable emissions of that pollutant from the source or modification would be less than 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is most restrictive.

(i) The preceding hourly and daily rates shall apply only with respect to a pollutant for which an increment, or national ambient air quality standard, for a period less than 24 hours or for a

24 hour period, as appropriate, has been established.

(ii) In determining whether and to what extent a modification would increase allowable emissions, there shall be taken into account no emission reductions achieved elsewhere at the source at which the modification would occur.

(3) In the case of a modification, the requirement for best available control technology shall apply only to each new or modified facility which would increase the allowable emissions of an applicable pollutant.

(4) Where a facility within a source would be modified but not reconstructed, the requirements for best available control technology, notwithstanding paragraph (j)(2) of this section, shall not apply to such facility if no net increase in emissions of an applicable pollutant would occur at the source, taking into account all emission increases and decreases at the source which would accompany the modification, and no adverse air quality impact would occur.

(5) For phased construction projects the determination of best available control technology shall be reviewed, and modified as appropriate, at the latest reasonable time prior to commencement of construction of each independent phase of the proposed source or modification.

(k) *Exemptions from impact analyses.* (1) The requirements of paragraphs (l), (n), and (p) shall not apply to a major stationary source or major modification with respect to a particular pollutant, if—

(i) The increase in allowable emissions of that pollutant from the source or modification would impact no Class I area and no area where an applicable increment is known to be violated; and

(ii) The increase in allowable emissions of that pollutant from the source or modification would be less than 50 tons per year, 1000 pounds per day, or 100 pounds per hour, whichever is more restrictive; or

(iii) The emissions of the pollutant are of a temporary nature including but not limited to those from a pilot plant, a portable facility, construction, or exploration; or

(iv) A source is modified, but no increase in the net amount of emissions for any pollutant subject to a national ambient air quality standard and no adverse air quality impact would occur.

(2) The hourly and daily rates set in paragraph (k)(1)(ii) of this section shall apply only with respect to a pollutant for which an increment, or national ambient air quality standard, for a period of less than 24 hours or for a 24 hour period, as appropriate, has been established.

(3) In determining for the purpose of paragraph (k)(1)(ii) of this section

whether and to what extent the modification would increase allowable emissions, there shall be taken into account no emission reduction achieved elsewhere at the source at which the modification would occur.

(4) In determining for the purpose of paragraph (k)(1)(iv) of this section whether and to what extent there would be an increase in the net amount of emissions for any pollutant subject to a national ambient air quality standard from the source which is modified, there shall be taken into account all emission increases and decreases occurring at the source since August 7, 1977.

(5) The requirements of paragraphs (l), (n) and (p) of this section shall not apply to a major stationary source or to a major modification with respect to emissions from it which the owner or operator has shown to be fugitive dust.

(l) *Air quality review.* The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions, would not cause or contribute to air pollution in violation of:

(1) Any national ambient air quality standard in any air quality control region; or

(2) Any applicable maximum allowable increase over the baseline concentration in any area.

(m) *Air quality models.* (1) All estimates of ambient concentrations required under this section shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models" (OAQPS 1.2-080, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, April 1978). This document is incorporated by reference. On April 27, 1978, the Office of the Federal Register approved this document for incorporation by reference. A copy of the guideline is on file in the Federal Register library.

(2) Where an air quality impact model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted. Such a change must be subject to notice and opportunity for public comment under paragraph (r) of this section. Written approval of the Administrator must be obtained for any modification or substitution. Methods like those outlined in the "Workbook for the Comparison of Air Quality Models" (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, May, 1978) should be used to determine the comparability of air quality models.

(3) The documents referenced in this paragraph are available for public inspection at EPA's Public Information Reference Unit and at the libraries of each of the ten EPA Regional Offices. Copies are available as supplies permit from the Library Service Office (MD-35), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711. Also, copies may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161.

(n) *Monitoring.* (1) The owner or operator of a proposed source or modification shall, after construction of the source or modification, conduct such ambient air quality monitoring as the Administrator determines may be necessary to establish the effect which emissions from the source or modification of a pollutant for which a national ambient air quality standard exists (other than non-methane hydrocarbons) may have, or is having, on air quality in any area which such emissions would affect.

(2) As necessary to determine whether emissions from the proposed source or modification would cause or contribute to a violation of a national ambient air quality standard, any permit application submitted after August 7, 1978, shall include an analysis of continuous air quality monitoring data for any pollutant emitted by the source or modification for which a national ambient air quality standard exists, except non-methane hydrocarbons. Such data shall relate to, and shall have been gathered over, the year preceding receipt of the complete application, unless the owner or operator demonstrates to the Administrator's satisfaction that such data gathered over a portion or portions of that year or another representative year would be adequate to determine that the source or modification would not cause or contribute to a violation of a national ambient air quality standard.

(o) *Source information.* The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under this section.

(1) With respect to a source or modification to which paragraphs (j), (l), (n) and (p) of this section apply, such information shall include:

(i) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

(ii) A detailed schedule for construction of the source or modification;

(iii) A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to deter-

mine that best available control technology would be applied.

(2) Upon request of the Administrator, the owner or operator shall also provide information on:

(i) The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

(ii) The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.

(p) *Additional impact analyses.* (1) The owner or operator shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(2) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

(q) *Sources impacting Federal Class I areas—additional requirements.*—(1) *Notice to Federal Land Managers.* The Administrator shall provide notice of any permit application for a proposed major stationary source or major modification the emissions from which would affect a Class I area to the Federal Land Manager, and the Federal official charged with direct responsibility for management, of any lands within any such area. The Administrator shall provide such notice promptly after receiving the application. The Administrator shall also provide the Federal Land Manager and such Federal officials with a copy of the preliminary determination required under paragraph (r) of this section, and shall make available to them any materials used in making that determination, promptly after the Administrator makes it.

(2) *Federal Land Manager.* The Federal Land Manager and the Federal official charged with direct responsibility for management of such lands have an affirmative responsibility to protect the air quality related values (including visibility) of such lands and to consider, in consultation with the Administrator, whether a proposed source or modification will have an adverse impact on such values.

(3) *Denial—impact on air quality related values.* The Federal Land Manager of any such lands may demonstrate to the Administrator that the emissions from a proposed source or modification would have an adverse impact on the air quality-related

values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Administrator concurs with such demonstration, then he shall not issue the permit.

(4) *Class I variances.* The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and he so certifies, the State may authorize the Administrator: *Provided*, That the applicable requirements of this section are otherwise met, to issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide and particulate matter would not exceed the following maximum allowable increases over baseline concentration for such pollutants:

	<i>Maximum allowable increase (micrograms per cubic meter)</i>
<i>Particulate matter:</i>	
Annual geometric mean .....	19
24-hr maximum .....	37
<i>Sulfur dioxide:</i>	
Annual arithmetic mean .....	20
24-hr maximum .....	61
3-hr maximum .....	325

(5) *Sulfur dioxide variance by Governor with Federal Land Manager's concurrence.* The owner or operator of a proposed source or modification which cannot be approved under paragraph (q)(4) of this section may demonstrate to the Governor that the source cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of twenty-four hours or less applicable to any Class I area and, in the case of Federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the Administrator shall issue a permit to such source or modification pursuant to the requirements of paragraph (q)(7) of this section: *Provided*, That

the applicable requirements of this section are otherwise met.

(6) *Variance by the Governor with the President's concurrence.* In any case where the Governor recommends a variance in which the Federal Land Manager does not concur, the recommendations of the Governor and the Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if he finds that the variance is in the national interest. If the variance is approved, the Administrator shall issue a permit pursuant to the requirements of paragraph (q)(7) of this section: *Provided*, That the applicable requirements of this section are otherwise met.

(7) *Emission limitations for Presidential or gubernatorial variance.* In the case of a permit issued pursuant to paragraph (q) (5) or (6) of this section the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

<i>Period of exposure</i>	<i>Maximum Allowable Increase (Micrograms per cubic meter)</i>	
	<i>Terrain areas</i>	
	<i>Low</i>	<i>High</i>
24-hr maximum .....	36	62
3-hr maximum .....	130	221

(r) *Public participation.* (1) Within 30 days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this section, the date on which the Administrator received all required information.

(2) Within 1 year after receipt of a complete application, the Administrator shall make a final determination on the application. This involves performing the following actions in a timely manner:

(i) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

(ii) Make available in at least one location in each region in which the proposed source or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.

(iii) Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source or modification would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment.

(iv) Send a copy of the notice of public comment to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: State and local air pollution control agencies, the chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification.

(v) Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.

(vi) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making a final decision. The Administrator shall make all comments available for public inspection in the same locations where the Administrator made available preconstruction information relating to the proposed source or modification.

(vii) Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section.

(viii) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Administrator made available preconstruction information and public comments relating to the source or modification.

(3) The requirements of paragraph (r) of this section shall not apply to any major stationary source or major modification which paragraph (k) would exempt from the requirements of paragraphs (l), (n), and (p), but only to the extent that, with respect to each of the criteria for construction approval under the applicable State implementation plan and for exemption under paragraph (k), requirements providing the public with at least as much participation in each material determination as those of paragraph (r) have been met in the granting of such construction approval.

(s) *Source obligation.* (1) Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this section or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this section who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

(2) Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Administrator may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

(3) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State implementation plan and any other requirements under local, State, or Federal law.

(t) *Environmental impact statements.* Whenever any proposed source or modification is subject to action by a Federal Agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the Administrator conducted pursuant to this section shall be coordinated with the broad environmental reviews under that Act and under Section 309 of the Clean Air Act to the maximum extent feasible and reasonable.

(u) *Disputed permits or redesignations.* If any State affected by the redesignation of an area by an Indian Governing Body, or any Indian Governing Body of a tribe affected by the redesignation of an area by a State,

disagrees with such redesignation, or if a permit is proposed to be issued for any major stationary source or major modification proposed for construction in any State which the Governor of an affected State or Indian Governing Body of an affected tribe determines will cause or contribute to a cumulative change in air quality in excess of that allowed in this part within the affected State or Indian Reservation, the Governor or Indian Governing Body may request the Administrator to enter into negotiations with the parties involved to resolve such dispute. If requested by any State or Indian Governing Body involved, the Administrator shall make a recommendation to resolve the dispute and protect the air quality related values of the lands involved. If the parties involved do not reach agreement, the Administrator shall resolve the dispute and his determination, or the results of agreements reached through other means, shall become part of the applicable State implementation plan and shall be enforceable as part of such plan. In resolving such disputes relating to area redesignation, the Administrator shall consider the extent to which the lands involved are of sufficient size to allow effective air quality management or have air quality related values of such an area.

(v) *Delegation of authority.* (1) The Administrator shall have the authority to delegate his responsibility for conducting source review pursuant to this section, in accordance with paragraphs (v) (2) and (3) of this section.

(2) Where the Administrator delegates the responsibility for conducting source review under this section to any agency other than a Regional Office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the delegate agency is not an air pollution control agency, it shall consult with the appropriate State and local air pollution control agency prior to making any determination under this section. Similarly, where the delegate agency does not have continuing responsibility for managing land use, it shall consult with the appropriate State and local agency primarily responsible for managing land use prior to making any determination under this section.

(ii) The delegate agency shall send a copy of any public comment notice required under paragraph (r) of this section to the Administrator through the appropriate Regional Office.

(3) The Administrator's authority for reviewing a source or modification located on an Indian Reservation shall not be redelegated other than to a Regional Office of the Environmental Protection Agency, except where the State has assumed jurisdiction over such land under other laws. Where the

State has assumed such jurisdiction, the Administrator may delegate his authority to the States in accordance with paragraph (v)(2) of this section.

(4) In the case of a source or modification which proposes to construct in a class III area, emissions from which would cause or contribute to air quality exceeding the maximum allowable increase applicable if the area were designated a class II area, and where no standard under section 111 of the act has been promulgated for such source category, the Administrator must approve the determination of best available control technology as set forth in the permit.

§ 52.01 [Amended]

2. In § 52.01, paragraph (f), which defines "best available control technology," is deleted and reserved.

3. In §§ 52.60 (AL), 52.96 (AK), 52.144 (AZ), 52.181 (AR), 52.270 (CA), 52.343 (CO), 52.382 (CT), 52.432 (DE), 52.499 (DC), 52.530 (FL), 52.581 (GA), 52.632 (HI), 52.683 (ID), 52.738 (IL), 52.793 (IN), 52.833 (IA), 52.884 (KS), 52.931 (KY), 52.986 (LA), 52.1029 (ME), 52.1116 (MD), 52.1165 (MA), 52.1180 (MI), 52.1234 (MN), 52.1280 (MS), 52.1339 (MO), 52.1382 (MT), 52.1436 (NB), 52.1485 (NV), 52.1529 (NH), 52.1603 (NJ), 52.1634 (NM), 52.1689 (NY), 52.1778 (NC), 52.1829 (ND), 52.1884 (OH), 52.1919 (OK), 52.1987 (OR), 52.2058 (PA), 52.2083 (RI), 52.2131 (SC), 52.2178 (SD), 52.2233 (TN), 52.2303 (TX), 52.2346 (UT), 52.2380 (VT), 52.2451 (VA), 52.2497 (WA), 52.2528 (WV), 52.2581 (WI), 52.2630 (WY), 52.2676 (GU), 52.2729 (PR), 52.2779 (VI), and 52.2827 (AmS),

paragraphs (a) and (b) are revised to read as follows:

\* \* \* \* \*

(a) The requirements of sections 160 through 165 of the Clean Air Act are not met, since the plan does not include approvable procedures for preventing the significant deterioration of air quality.

(b) *Regulation for preventing significant deterioration of air quality.* The provisions of § 52.21 (b) through (v) are hereby incorporated and made a part of the applicable State plan for the State of \_\_\_\_\_.

\* \* \* \* \*

[FR Doc. 78-16890 Filed 6-14-78; 4:15 pm]