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WEDNESDAY, SEPTEMBER 6, 1978



highlights

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BUFFALO, NEW YORK, AND ATLANTA, GEORGIA, WORKSHOPS

See inside cover for details.

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HOW TO USE THE FEDERAL REGISTER WORKSHOPS

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

WHAT: Free public workshops (approximately 2½ hours) to present:

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

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in government actions. There will be no discussion of specific agency regulations.

BUFFALO, NEW YORK

WHEN: September 8, 1978, at 10:00 a.m.

WHERE: Conference Room 914, Federal Building, 111 W. Huron St., Buffalo, New York.

RESERVATIONS: Call Federal Information Center, 716–846–4010.

ATLANTA, GEORGIA

WHEN: September 13 and 14, 1978, at 9:00 a.m. (Each session identical.)

WHERE: First Floor Conference Room, U.S. Environmental Protection Agency, 345 Courtland St., Atlanta, Georgia.

RESERVATIONS: Call Dave Conner, 404–881–4661.

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NOTE: The Office of the Federal Register is interested in suggestions from its readers about the new listing of documents relating to Federal grants programs. If you have any comments on the usefulness or format of this new feature, please send them to Mr. Dean Smith, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

presidential documents

[3195-01]

Title 3—The President

PROCLAMATION 4591

National Day of Prayer, 1978

By the President of the United States of America

A Proclamation

Our Nation, perhaps more than any other, has always held a special cognizance of the gifts of the Creator. We were founded upon a belief in, and reverence for, the liberty of the human spirit under God and the equality of all people before the Almighty. Regardless of our individual conceptions of the Divine, Americans have always sought from Providence the help and guidance necessary to live justly and to build a better world for all who share this planet.

Today we face challenges equal to any in our history. Few generations have been given such opportunities for good or ill on earth. We approach our responsibility confidently, but with sobering awareness that God's sea is very great, and our ship, infinitely small.

From time to time we should turn to the Almighty for help and guidance, as we have done throughout our Nation's two hundred and three years. In humility and reverence, we should pause from our daily activities to thank our Creator for the bountiful goodness that imbues our lives, and to ask for His blessing in the days ahead.

Recognizing this, the Congress by joint resolution approved April 17, 1952 (36 U.S.C. 185; 66 Stat. 64) has called upon the President to set aside a suitable day each year as a National Day of Prayer.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Saturday, October 7, 1978, as National Day of Prayer. I ask all Americans to join with me on that day in asking God's help that we may see and understand our responsibilities and discharge them with wisdom, strength, and patience.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-25199 Filed 9-5-78; 10:27 am]

rules and regulations

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

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

[3410-05]

Title 7—Agriculture

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1435—SUGAR

Marketing Authorization Provisions for 1977 Crop and 1978 Crop Loans; Correction

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Correction to final rule.

SUMMARY: In FR Doc. 78-23561 appearing on page 37419 in the FEDERAL REGISTER of Wednesday, August 23, 1978, paragraph (a) of § 1435.42 is corrected by changing the reference from "§ 1435.22(a)" to "§ 1435.41(a)."

EFFECTIVE DATE: August 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Laurence E. Ackland, ASCS, 202-447-5647, P.O. Box 2415, Washington, D.C. 20013.

Signed at Washington, D.C., on August 28, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-24994 Filed 9-5-78; 8:45 am]

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 5, Amdt. 14]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Purchase of Securities From Underwriter

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule adopts, in modified form, certain amendments published in proposed form on December 7, 1977 (42 FR 61869) authorizing a small business investment company (licensee) to purchase Equity Securities of a small concern from an underwriter. This rule revises the conditions under which small business investment companies (SBIC's) may make purchases of Equity Securities through or from underwriters. The changes are technical in nature and the purpose is to assure that SBIC's purchase only newly issued Equity Securities as distinguished from previously issued and outstanding securities in the hands of individuals and other holders.

EFFECTIVE DATE: September 6, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Under present regulations a Licensee may purchase securities from or through an underwriter for the issuing small concern only if: (a) The underwriter is not an "Associate" of the licensee (as defined in 13 CFR 107.3); (b) the securities are "Equity Securities" (as defined in 13 CFR 107.302(b)); (c) the purchase is made within 90 days after the public offering is first lawfully made; (d) the purchase is not made at more than the original public offering price; (e) at least 80 percent of the net proceeds of the issue are received by the issuing small business concern; and (f) the aggregate offering price of the entire offer does not exceed $10 million.

The final rule adopted today will allow a Licensee to purchase Equity Securities from an underwriter associated with it or with another Licensee, provided no fees are charged in connection with the Licensee's purchase. A Licensee will be permitted to purchase Equity Securities included in a mixed offering, but only newly issued Equity Securities in a mixed offering can be purchased by the Licensee. Accordingly, a Licensee will be required to obtain from the underwriter a certification that a sum equal to the net proceeds of the purchase by that Licensee has been or will be paid to the issuing small concern. Finally, the aggregate offering price of an issue of Equity Securities will no longer affect the eligibility of such securities for purchase by a Licensee.

It had been proposed that a Licensee be required to obtain the underwriter's certification that the amount paid by the Licensee (less reasonable and customary underwriting fees and other expenses) will be paid to the small concern. On the basis of all comments received, the Small Business Administration has concluded that the purpose intended to be served by the certification requirement will be better served by a requirement of certification that a sum equal to such amount has been, or will be, paid to the small concern. In many cases, the small concern will have received payment before the public offering commences.

Pursuant to the authority contained in section 308 of the Small Business Investment Act of 1958, as amended, 15 U.S.C. 661, et seq., §§ 107.3, 107.504, and 107.505 of Part 107, Chapter I of Title 13, Code of Federal Regulations, is amended as follows:

1. Paragraph (e) of the definition of "Financing" in § 107.3 is amended to read as follows:

§ 107.3 Definition of Terms.

* * * * *

Financing. "Financing" or "Financed" means outstanding financial assistance provided to a Small Concern by a Licensee, whether through * * * (e) Purchases of Equity Securities (see § 107.302(b)) of a Small Concern through or from an underwriter (see § 107.505).

2. Section 107.504. Other permissible financing is amended by adding the following sentence at the end of paragraph (b)(3):

§ 107.504 Other permissible financing.

* * * * *

(b) *Investments permitted.* * * *

(3) *Securities purchased from nonissuers.* * * * See § 107.505 for purchases

of Equity Securities through or from an underwriter.

3. A new § 107.505 is added reading as follows:

§ 107.505 Purchase of Equity Securities through or from underwriter.

A Licensee may purchase Equity Securities (see § 107.302(b)) issued by a Small Concern through or from an underwriter, within 90 days after a public offering is first lawfully made: *Provided, however,* That (a) such purchase may not be made at more than the original public offering price; (b) the underwriter certifies in writing whether it is an Associate of any Licensee, that the portion of the offering purchased by the Licensee represents only newly issued Equity Securities, and that an amount equal to the amount paid by the Licensee (less reasonable and customary underwriting and related charges permitted to be charged by the underwriter in connection with the Licensee's purchase) has been, or will be, paid to the small concern; (c) if the underwriter is an Associate of any Licensee, no fees or charges may be retained by such underwriter with respect to the portion of the offering purchased by any Licensee; and (d) Licensee maintains records available for SBA inspection showing relevant details of the transaction, including date, price, commissions, etc., paid, if any, and underwriter's certificate. See also § 107.301(e) regarding size status and nondiscrimination certification.

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

Dated: August 4, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-24928 Filed 9-5-78; 8:45 am]

[6355-01]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1209—INTERIM SAFETY STANDARD FOR CELLULOSE INSULATION

Establishment of Interim Safety Standard; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Correction of final rule.

SUMMARY: This document makes corrections to FR Doc. 78-22034 which appeared at page 35240 in the issue of Tuesday, August 8, 1978. The regulation established interim mandatory safety standards to eliminate or reduce unreasonable risks of injury to consumers from flammable and corrosive cellulose insulation.

FOR FURTHER INFORMATION CONTACT:

Wade D. Anderson, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6400.

In FR Doc. 78-22034, appearing at page 35240 in the issue of Tuesday, August 8, 1978, make the following changes in Part 1209.

1. On page 35247, second column, the eighteenth line of § 1209.1(a) should read, "ASTM C 739-77(e), 'Standard Specifica-[tion]' ", the sixth from last line of § 1209.1(a) should read, " 'Building Materials'; ASTM C 519-65 (reapproved 1975)' " and the third from last line of section 1209.1(a) should read, " '[Insula]-tions'; and ASTM D 2016-74, 'Stand-[ard]' ".

2. On page 35247, third column, the fifteenth line of § 1209.4(a) should read, "25 ft. ± 3 in. (7.62 m ± 76.2 mm). The".

3. On page 35249, first column, the eighth line of § 1209.4(a)(3) should read, "side walls of the chamber at distances," and the seventeenth line of § 1209.4(a)(4) should read "kg/m ^{3})."

4. On page 35249, second column, the thirty first line of § 1209.4(a)(5) should read, "during period of use shall consist of a", and the thirteenth line of § 1209.4(a)(6) should read, "a total draft capacity of at least 0.15-in.".

5. On page 35249, third column, the second line of § 1209.4(a)(10) should read, "Awg. (1.02 mm) thermocouple, with", and the second line of § 1209.4(a)(11) should read, "18 Awg. (1.02 mm) thermocouple em-[bedded]".

6. On page 35250, second column, the fifth from last line of § 1209.4(c)(3) should read, "device accurate to 0.001 V, has been", and the eleventh line of § 1209.4(c)(5) should read, "otherwise corrected for, when bottled".

7. On page 35250, third column, the third line of § 1209.4(c)(8) should read "[con-]ditioned as described in §§ 1209.4(c)(2),".

8. On page 35251, third column, the first line of § 1209.4(e)(1)(ii) should read, "(ii) If this total Area (A_T) is less than", the second line of § 1209.4(e)(1)(ii) should read, "or equal to 97.5 min-ft, the flame", and the second line of § 1209.4(e)(1)(iii) should read, "than 97.5 min-ft, the flame spread".

9. On page 35256, first column, the thirteenth line of § 1209.5(a)(2) should read, "Scientific Instruments (CSI) 2-ft flame".

10. On page 35256, second column, the first line of § 1209.6(a)(2) should read, "(2) *Crystallizing dishes.* Crystallizing", the third line of § 1209.6(a)(3) should read, "by 0.003 in. (0.0762 mm) thick metal", and the second line of § 1209.6(c)(1) should read, "metal specimens with trichloroethylene or 1,1,1,-trichlor-[oethane]".

11. On page 35256, third column, the third line of § 1209.7(c) should read, "[rela-]tive humidity and 73 ± 2°F (23 ± 1.1°C)".

Dated: August 31, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-25031 Filed 9-5-78; 8:45 am]

[4110-07]

Title 20—Employees' Benefits

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

[Reg. No. 16]

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

Deeming of Income

AGENCY: Social Security Administration, HEW.

ACTION: Final rules.

SUMMARY: The amendment provides rules under which the Social Security Administration will deem income and a conforming rule to insure that State supplement computations are consistent with the revised deeming of income provisions.

This amendment to the regulations provides the methodology to be used in determining the amount of income to be deemed from an ineligible spouse to an eligible individual. It also provides rules for determining the amount of income to be deemed from an ineligible spouse to an eligible individual and to his or her eligible child residing in the same household. Similarly, it provides rules for determining the amount of income to be deemed from an ineligible parent (and ineligible spouse of such a parent) to an eligible child.

These rules are designed to simplify Supplemental Security income (SSI) eligibility determinations. The rules take cognizance of the inflationary process on the income of persons from whom income is deemed, and will more closely equalize the treatment of income used in the deeming process as compared with income of other SSI beneficiaries not involved in the deeming process.

EFFECTIVE DATE: The amendment shall be effective January 1, 1977, for all new and pending claims and for all redetermined cases. Cases requiring the application of deeming for periods prior to January 1, 1977, shall be subject to the deeming regulations which were published in the FEDERAL REGISTER on January 22, 1974 (39 FR 2487) as a notice of proposed rulemaking with interim effectiveness.

FOR FURTHER INFORMATION CONTACT:

Mr. S. J. Weissman, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7341.

SUPPLEMENTARY INFORMATION: On January 18, 1977, there was published in the FEDERAL REGISTER (42 FR 3316) a notice of proposed rulemaking with interim effectiveness, relating to the deeming of income.

Section 1614(f) of the Social Security Act (42 U.S.C. 1382c(f)) requires that the income of an eligible individual be deemed to include the income of his or her ineligible spouse if they are residing together in the same household. That section also requires that the income of a child under age 21 be deemed to include the income of the parent and spouse of parent residing in the same household. The statute does not provide specific limitations of the amount of income to be deemed. This statue requires all such income to be deemed except to the extent that the Secretary of Health, Education, and Welfare determines it would be inequitable to do so. In these regulations, the Secretary has accordingly specified methods of deeming and the amount of income to be deemed.

The incorporation of the deeming concept into title XVI of the Act (SSI program) originates from the long social and legislative history of determining spousal responsibility to support a spouse and the parents' responsibility to support their children. This deeming provision reflects the concept relating to spouse and parent responsibility as it is incorporated into the SSI program.

A. DISCUSSION OF REGULATIONS

1. Deeming income to an eligible individual from an ineligible spouse. Section 416.1185(a) provides that the income to be deemed to an eligible individual from an ineligible spouse will be reduced by an allocation for each ineligible child in the household under age 21, in an amount equal to the difference between the quarterly benefit rate for an individual (see § 416.410) and the quarterly benefit rate for a couple (see § 416.412). The allocation will be deducted from the ineligible spouse's unearned income first and any unmet remainder of the allocation will be deducted from the ineligible spouse's earned income. Any income of the ineligible child not otherwise excluded by § 416.1185(d) will be used to reduce the allocation made on his or her behalf.

Next, the amendment provides that if the remaining income (after all appropriate allocations for the ineligible children) of the ineligible spouse does not exceed one-half the quarterly benefit rate for an eligible individual no income will be deemed. In this situation, the eligible individual's quarterly countable income will be subtracted from the quarterly standard payment amount for an individual to determine the eligible individual's quarterly benefit rate.

However, where the remaining income (after all appropriate allocations for the ineligible children) exceeds one-half the quarterly benefit rate for an eligible individual, all of the remaining income is deemed to the eligible individual. The deemed unearned income is combined with the eligible individual's unearned income, and the deemed earned income is combined with the eligible individual's earned income. The appropriate exclusions are applied (§ 416.1145) to the applicable sums of earned and unearned income, and the combined quarterly countable income will be subtracted from the quarterly standard payment amount for a couple to determine the eligible individual's quarterly benefit rate. However, in no case will a payment to an eligible individual exceed the amount that he or she would have received if he or she was not subject to the deeming provisions.

2. Deeming income to an eligible child. The amendment (§ 416.1185(b)) provides that prior to deeming the income of the ineligible parent (and ineligible spouse of such a parent) will be reduced by an allocation for each ineligible child under age 21 of the parent or spouse of the parent residing in the same household. The allocation for each ineligible child is an amount equal to the difference between the quarterly benefit rate for an individual (see § 416.410) and the quarterly benefit rate for a couple (see § 416.412). The ineligible child's allocation is deducted from the parents' unearned income first. Any unmet remainder of the allocation is subtracted from the parents' earned income. Any income of the ineligible child not otherwise excluded by § 416.1185(d) will be used to reduce the allocation made on his or her behalf.

Next, the income is reduced by an allocation for the parents. The amount of the allocation varies by the type of income involved. Section 416.1185(b)(3)(i), (ii) and (iii) describes the amount of the parents' allocations by type of income.

After all allocations have been made, the remaining income will be deemed to the eligible child. The deemed income will be treated as unearned income. The child's income is then subject to the applicable exclusions (see § 416.1145) to determine the child's countable income. The countable income is subtracted from the standard payment amount for an individual and the remainder is the child's quarterly benefit.

Whenever there is more than one blind or disabled child in the deeming situation, the income to be deemed will be divided equally among them. However, no income will be deemed to a blind or disabled child in excess of that amount which when combined with his or her income, if any, reduces the payment level to zero. Any remaining deemable income will be deemed to the remaining blind or disabled children.

3. Deeming income to an eligible spouse and eligible child from an ineligible individual. Section 416.1185(c) provides that the amount of income to be deemed from an ineligible parent to an eligible spouse and eligible child will first be reduced by an allocation for each ineligible child in the household under age 21. Here again, the allocation for each ineligible child will be an amount equal to the difference between the quarterly benefit rate for an individual and the quarterly benefit rate for a couple. Next, spouse to spouse deeming is applied (as described in § 416.1185(a)), and all income in excess of the amount which reduces the eligible spouse's payment to zero is deemed to the blind or disabled child and treated as unearned income.

4. Income not subject to deeming. The regulations (§ 416.1185(d)) provide that certain items of income will not be included in the deeming process. Several of these items are income exclusions adopted from title XVI of the Social Security Act or other Federal statutes (e.g., Food Stamp Act of 1965). Assistance based on need and income based on need will not be included as income to be deemed nor will the income used to determine the eligibility and amount of the need-based payments be included because to do so would be indirectly requiring the other assistance program to support an SSI beneficiary. Any in-kind support and maintenance (food, clothing, and shelter) furnished to the ineligible spouse, parent or spouse of a parent, if any, and any ineligible children in the household will not be counted as income under this section.

5. Limitation on deeming. The regulations also provide (§ 416.1185(e)) that the Social Security Administration will continue to deem income as long as the individual is residing in the

household with the person from whom income is deemed even during periods of temporary absence. A temporary absence is defined as one in which either the eligible individual or the person from whom income is deemed leaves the household but intends to return and actually returns to the household in the same or the next month.

If the absence is not temporary, deeming will cease to be effective with the first full month of absence. The amendment specifically provides that deeming will continue to apply to a child who is absent for extended periods in order to attend school so long as the child returns home on vacations, and, thus, can fairly be said to continue to maintain his residence with his or her parents. Where a child attains age 18 (or age 21, where the child is a student) during a month, or becomes a student during a month, deeming will cease with the month following the month of the change or start with the first full calendar month the eligible individual is subject to deeming.

6. Conforming amendment regarding State supplementation. Under § 416.2015(c), eligibility for and the amount of the State supplementary payment will be determined pursuant to the provisions applicable to Federal SSI benefits including the deeming provisions. Also under § 416.2025, "countable income" for the purposes of State supplementary payments is determined in the same manner as for Federal SSI benefits and thus includes application of the "deeming" provisions. However, a technical conforming change in the language of § 416.2025 is necessary for consistency with the amended deeming regulations. Accordingly, § 416.2025(b)(1) has been amended and states that in the case of an eligible individual living with an ineligible spouse with income (the deeming provisions of § 416.1185 apply) the Federal benefit rate from which countable income will be deducted is the Federal benefit rate applicable to an eligible couple. However, an eligible individual's payment amount may not exceed the amount he or she would have received if he or she was not subject to the deeming provisions (§ 416.1185(a)(4)). This clarification conforms the State supplement computations provision with the new deeming provisions.

B. Discussion of Comments

Interested persons were given the opportunity to submit, within 45 days, data, views, or arguments with regard to the proposed changes. A number of comments were received from private, State and local organizations. Responses to the comments are discussed below.

Comment: One commenter proposed that: (1) Only income which is actually available to the eligible individual should be deemed; (2) income of parents should not be deemed to an individual eighteen years or older as this is inconsistent with present majority statutes; and (3) the exemptions for unearned income of the parent should be the same as those for earned income.

Response: The first proposal is not consistent with the legislative language of title XVI (section 1614(f)) which states that all income of an ineligible spouse, parent, or spouse of a parent shall be deemed to the eligible individual whether or not available to the eligible individual.

The second proposal cannot be implemented because title XVI (section 1614(f)(2)) requires the deeming of a parent's income to a child under age 21. The statute defines a child as an individual who is neither married nor the head of household and is under age 18 or under age 22, if the individual is a student regularly attending a school, college, university, or a course of vocational or technical training designed to prepare him or her for gainful employment. Therefore, the statute requires the deeming of income to a child 18, 19, or 20 years old if the child is attending school or vocational training and lives at home.

The third recommendation cannot be adopted because it is not consistent with the differing treatment of unearned and earned income for eligible individuals under the SSI program. The equal treatment of unearned and earned income would eliminate the work incentive contained in the program. The intent of the deeming regulations is to treat the income of the parents comparably to the way the income of an eligible individual would be treated.

Comment: One commenter proposed that the ineligible spouse be permitted to retain at least $600 a month net income for his or her own needs before any income is deemed.

Response: In arriving at the amounts of the allocations for the ineligible spouse and ineligible parents consideration was given to various alternatives. Among the alternatives considered were the amount of income based on the Bureau of Labor Statistics poverty levels, a flat percentage of the parent's income, and allocations equal to the amount of income that an individual or couple could have if they were applying for SSI benefits on their own behalf. It was decided that the allocations should continue to be based on consideration of the income exclusions and benefit rates under the SSI program. However, the new allocations are higher than those formerly in effect and generally permit the ineligible spouse or parents to set aside as much income as they could have before becoming ineligible for SSI payments, if they were applying on their own behalf. To increase the allocations above this point would greatly advantage people in the deeming situation over eligible beneficiaries not subject to deeming. Therefore, we are not adopting this recommendation.

Comment: A comment was received suggesting that an allocation for an ineligible child should be extended in situations involving an eligible couple just as is done when a couple is in the deeming situation; i.e., an eligible individual resides with an ineligible spouse.

Response: The statutory language of title XVI does not provide an income exclusion or any provision to deduct an amount of income for an ineligible child when both parents are applying for title XVI payments. The authority to provide rules setting allocations is permissible under the deeming provisions of section 1614(f) of the Social Security Act which does not extend to situations involving an eligible couple. In determining the eligibility of a couple, the authority to deduct or exclude income is limited to those items or amounts of income set forth in section 1612(b) of the act or other Federal statutes which do not provide for allocations for an ineligible child or children of an eligible couple.

Comment: Three commenters stated that the earned income exclusions should be applied to the earned income of the ineligible spouse and parents before allocating income for the needs of ineligible children.

Response: The deeming regulations are designed to treat individuals subject to deeming similarly to the way they would be treated if both were eligible. To apply the children's allocation after the income exclusions would further advantage the parents in a deeming situation more than an eligible couple since the latter have no allocation. This is so because the child's allocation coming after the earned income exclusion results in the child's allocation offsetting more earned income than the amount of the allocation. After applying the earned income exclusion approximately one-half of the gross earned income remains. If the child's allocation were subtracted at this point the allocation would in effect be double the stated amount. This recommendation is not being adopted because it would allow individuals in the deeming situation to retain more income than those not subject to deeming.

Comment: Two commenters pointed out that the allowances for the needs of ineligible family members are unrelated to supplementation levels in the various States.

Response: The allocations were developed to be applied to the deeming provisions as applicable to the basic national SSI program. The individual States can adjust the supplementation levels if they wish to reflect the cost of living as applicable in their State. To make the various deeming allowances reflect the supplementation levels would create a different allowance for each State, and living arrangement within each State and would be totally inconsistent with a national uniform program.

Comment: One commenter suggested that the earned and unearned disregards which are applied to the income of the eligible child should also be applied to the income of the ineligible child.

Response: A portion of the income of the ineligible spouse, parent or spouse of a parent is set aside as an allocation for the ineligible child and the child's income could be used to reduce his or her allocation. In addition, the exclusions from income for deeming purposes contained in § 416.1185(d) are applicable in determining the amount of income of the ineligible child. One of the exclusions contained in § 416.1185(d)(2) permits an eligible child to exclude up to $1,620 of earned income per year as long as the child is a student while employed. Assuming such child who is a student has such income it would not cause a reduction of the allocation to that child.

If the ineligible child has countable income it is used to lower the allocation on the premise that such income can be used for the child's needs. If the ineligible child's income equals or exceeds the allocation no allocation is made. However, in no case is any of the ineligible child's income deemed to the eligible individual and therefore, there is no need to extend all of the income exclusions applicable to an eligible individual to the income of the ineligible child.

Comment: One commenter felt the regulations are too liberal in that they will provide a large number of persons, especially children, with an SSI payment thereby increasing the number of eligibles for medical assistance under title XIX.

Response: The deeming regulations are designed to provide equity in the deeming of income and in so doing update the treatment of income of ineligible spouses and parents in view of the increases in living costs which has occurred since 1973. These rules represent a modest effort to provide more SSI payments to aged, blind, or disabled individuals with low income.

Comment: One commenter proposed that when the income of an ineligible person must be deemed to an eligible individual and an eligible child, the income to be deemed should be divided equally between the eligible individual and eligible child to protect the medicaid eligibility of both.

Response: Under the former regulations the income of the ineligible person was deemed equally to the eligible individual and eligible child after subtracting the allocation for any ineligible children and the ineligible spouse in the household. Under the revised regulations the income of the ineligible spouse is combined with that of the eligible spouse after deducting the appropriate allocation for the ineligible children. The eligibility of the eligible spouse is determined just as if they were an eligible couple including the appropriate supplementation level. If the eligible spouse is eligible for an SSI or State supplementary payment, no income is deemed to the child. If the eligible spouse cannot receive either payment the amount of income which reduces the payment to zero is deemed to the child.

The revised regulations for the most part treat all couples and parents in deeming situations similar to the way they would be treated if they were applying for SSI payments on their own behalf. The regulations also provide for a similar set-aside of parental income before deeming to the child as would be done in regular parent-to-child deeming. Since this concept provides greater equity in the treatment of income, the commenter's proposal is not being adopted.

Comment: A number of commenters stated that the preamble and the amendment to the regulations were difficult to understand because both failed to cover the methodology of deeming in depth. Along these same lines, many commenters stated that the examples in the amendment lacked explicitness, and that better examples should be incorporated to provide a clearer understanding of the deeming provisions.

Response: Although the deeming policies remain unchanged, in response to these comments the preamble and the amendment to the regulations have been rewritten to provide greater specificity. The language has been simplified and expanded to facilitate an understanding of the deeming rules. Moreover, the examples have been rewritten to more clearly illustrate the application of the deeming regulations.

Accordingly, with these clarifying and editorial changes, the amendments are adopted as set forth below.

(Secs. 1102, 1614(f), 1616(a), 1631 of the Social Security Act, as amended, 49 Stat. 647, as amended, 86 Stat. 1473, 1474(a), and 1475 (42 U.S.C. 1302, 1382c(f), 1382e(a), 1383).)

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

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

Dated: October 31, 1977.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: August 24, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

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

1. Section 416.1185 is added to read as follows:

§ 416.1185 Deeming of income.

Section 1614(f) of the Social Security Act (42 U.S.C. 1382c(f)) requires that, where an eligible individual lives in the same household with his or her ineligible spouse, his or her income shall be deemed to include the income of the ineligible spouse, except to the extent that it would be inequitable to do so. Similarly, the income of a child under age 21 who is eligible for SSI benefits and lives with his or her parent (or spouse of a parent) in the same household, is deemed to include the parents' income except to the extent that it would be inequitable to do so. Generally, the amounts of an ineligible spouse's or a parent's income which are not deemed to the beneficiary are termed "allocations." Allocations of an ineligible spouse's or a parent's income, prior to deeming, are provided for any ineligible children in the household who are not beneficiaries. In addition, before the deeming of a parent's income, an allocation is also provided for the parent (or spouse of a parent).

Any amounts used in the examples in paragraphs (a), (b), and (c) of this section are based on the rates for quarters beginning July 1, 1977.

(a) *Individual with spouse.* In the case of an individual who is living in the same household with a person not eligible for benefits under this part who is, or who is considered to be, such individual's husband or wife in accordance with the provisions set forth in §§ 416.1001-416.1041, the eligible individual's income shall be deemed to include (except as otherwise provided in this section) any income (as defined in § 416.1102(a)) of the ineligible spouse whether or not such income is available to the eligible individual.

(1) The quarterly income to be deemed to an eligible individual from an ineligible spouse will first be reduced by an allocation for each child (§ 416.1050) in the household who is under age 21 and is neither blind nor disabled.

(i) The allocation for the ineligible child (children) will be an amount equal to the difference between the quarterly benefit rate for an individual (as defined in § 416.410) and the quarterly benefit rate for a couple (as defined in § 416.412).

(ii) Any income of such child (children) not otherwise excluded by § 416.1185(d) will be used to reduce the allocation of income made on his or her behalf.

(iii) The allocation for the child (children) will be deducted from the ineligible spouse's unearned income first. Any unmet remainder of the allocation will be deducted from the ineligible spouse's earned income.

(2) If the remaining income of the ineligible spouse (after all appropriate allocations for the ineligible children) does not exceed one-half the quarterly benefit rate for an eligible individual (as defined in § 416.410), there is no income deemed. In such case, the eligible individual's income will be reduced by the appropriate exclusions (see § 416.1145), and then emainder (quarterly countable income) will be subtracted from the quarterly standard payment amount for an individual (§ 416.410) to determine the quarterly benefit rate.

(3) Where the remaining income of the ineligible spouse (after all appropriate allocations for the ineligible children) exceeds one-half the quarterly benefit rate for an eligible individual (as defined in § 416.410) all of the remaining income will be deemed to the eligible individual.

(i) The deemed unearned income will be combined with the eligible individual's unearned income, and the deemed earned income will be combined with the eligible individual's earned income.

(ii) The appropriate exclusions (see § 416.1145) will be applied to the unearned and earned income to determine the countable income.

(iii) The quarterly countable income will be subtracted from the quarterly standard payment amount for an eligible couple (see § 416.412) and the remainder is the eligible individual's quarterly benefit rate, except as provided in paragraph (a)(4) of this section.

(4) In no case will a payment to an eligible individual exceed the amount that he or she would have received if he or she was not subject to the deeming provisions of this section.

(5) Whenever the initial application is filed in the second or third month of a quarter, the allocations described in this paragraph (a) will be prorated on a monthly basis.

(6) *Examples:*

Example 1. Ted, an aged individual, resides with his ineligible spouse Alice. Alice receives $200 unearned income per quarter. She has no earned income. Since Alice's income does not exceed one-half the quarterly benefit rate for an individual no income is deemed to Ted. Only his own countable income is subtracted from the quarterly standard payment amount for an individual to determine his quarterly benefit rate.

Example 2. George, an aged individual, has no income and resides with his ineligible spouse Mary. Mary receives $600 unearned income per quarter. She has no earned income. Since Mary's income exceeds one-half the quarterly benefit rate for an individual all $600 is deemed to George. The $60-per-quarter exclusion is applied, reducing the quarterly countable income to $540. The quarterly countable income ($540) is subtracted from the quarterly standard payment amount for a couple ($800.10) leaving a quarterly benefit of $260.10.

Example 3. Ted, a disabled individual, lives with his ineligible spouse Alice and ineligible child, Christine. Ted has no income. Alice has earned income of $900 a quarter and unearned income of $600 a quarter. Before any income is deemed, an allocation is made to Christine of $266.70 (the difference between the quarterly benefit rate for an individual, and the quarterly benefit rate for a couple). The allocation ($266.70) is taken from Alice's unearned income ($600) leaving $333.30 unearned income which is deemed to Ted. Also deemed to Ted is the $900 earned income. The $60-per-quarter exclusion is applied to the unearned income leaving $273.30. The earned income ($900) is reduced by the earned income exclusion ($195 plus one-half the remainder) leaving $352.50. The countable unearned income ($273.30) and the countable earned income ($352.50) are combined ($625.80), and subtracted from the quarterly standard payment amount for a couple ($800.10) leaving a quarterly benefit of $174.30.

Example 4. Joe, a disabled individual, resides with his wife Mary. She is employed and earns $600 a quarter, and Joe receives a pension of $300 a quarter. Since Mary's income exceeds one-half the quarterly benefit rate for an individual all of her income is deemed to Joe. The $60-per-quarter exclusion is applied to Joe's unearned income ($300) leaving $240. The deemed earned income ($600) is reduced by the earned income exclusion ($195 plus one-half the remainder) leaving $202.50. The total countable income is $442.50. This amount ($442.50) is subtracted from the quarterly standard payment amount for a couple ($800.10) leaving $357.60. However, if Joe was not subject to deeming his SSI payment would be $293.40. This is so because Joe's unearned income ($300) would be reduced by the $60-per-quarter exclusion leaving $240 countable income. This amount ($240) would be subtracted from the quarterly standard payment amount for an individual ($533.40) leaving a quarterly benefit of $293.40. Since an eligible individual's payment cannot exceed the amount that he would have received if he was not subject to deeming, Joe's quarterly benefit will be $293.40.

(b) *Child.* In the case of an individual who is a child (as defined in § 416.1050) and under age 21, such child's income shall, subject to the succeeding sentences of this paragraph and to paragraph (c) of this section, be deemed to include (except as otherwise provided in this section), any income (as defined in § 416.1102(a)) of a parent of such individual (or the spouse of such a parent) who is not eligible for benefits under this part and is living in the same household as the child whether or not such income is available to the child.

(1) The quarterly income to be deemed to an eligible child from the parent of the child (and the spouse of such a parent, if any) will first be reduced by an allocation for:

(i) Each ineligible child under age 21 of the parent or spouse of the parent residing in the same household; and

(ii) For the parents.

(2) The allocation for each ineligible child under age 21 of the parent or spouse of the parent residing in the same household will be an amount equal to the difference between the quarterly benefit rate for an individual (as defined in § 416.410) and the quarterly benefit rate for a couple (as defined in § 416.412).

(i) Any income of the ineligible child not otherwise excluded under § 416.1185(d) will be used to reduce the allocation made on his or her behalf.

(ii) The ineligible child's allocation is deducted from the parents unearned income first.

(iii) Any unmet remainder of the allocation is subtracted from the parents earned income.

(3) The amount of the allocation for the parents will be applied after the appropriate allocations are made for each ineligible child. The amount of the allocation for the parents will vary depending on the type of income involved.

(i) In the case of income for any quarter, all of which is earned (as defined in § 416.1102(b)), of the parent and spouse of such parent, such earned income will be reduced by an amount equal to $255 plus:

(*a*) Twice the quarterly benefit rate for an individual (as defined in § 416.410) in the case of one parent or spouse of a parent residing in the household; or

(*b*) Twice the quarterly benefit rate for a couple (as defined in § 416.412) in the case of a parent and spouse of a parent residing in the household.

(ii) In the case of income for any quarter, all of which is unearned, of the parent and spouse of such parent, such unearned income will be reduced by an amount equal to $60 plus:

(*a*) The quarterly benefit rate for an individual in the case of one parent or

spouse of a parent residing in the household; or

(*b*) The quarterly benefit rate for a couple in the case of a parent and spouse of a parent residing in the household.

(iii) In any case in which the total income for a quarter of the parent(s) includes both earned and unearned income, the unearned income is reduced by $60; and the earned income is reduced by $195 plus one-half of the remainder. The sum of the unearned and earned income remaining after such reduction is further reduced by:

(*a*) The quarterly benefit rate for an individual (as defined in § 416.410) in the case of one parent or spouse of a parent residing in the household; or

(*b*) The quarterly benefit rate for a couple (as defined in § 416.412) in the case of a parent and spouse of a parent residing in the household.

(*c*) The remaining income is deemed income.

(4) The deemed income will be treated as unearned income and will be combined with the eligible child's unearned income.

(i) The appropriate exclusions (see § 416.1145) will be applied to the child's unearned and earned income to determine the countable income.

(ii) The quarterly countable income will be subtracted from the quarterly standard payment amount for an eligible individual (§ 416.410) and the remainder is the eligible child's quarterly benefit rate.

(iii) Whenever there is more than one blind or disabled child in the deeming situation, the income to be deemed will be divided equally among them.

(iv) No income will be deemed to a blind or disabled child in excess of that amount which when combined with his or her own income, if any, reduces his or her payment level to zero. Any remaining deemable income will be deemed only to the remaining blind or disabled child.

(5) Whenever the intial application is filed in the second or third month of the quarter, the allocations described in this paragraph (b) will be prorated on a monthly basis.

(6) *Examples:*

Example 1. Susan, a blind 10-year-old, lives with her mother and an ineligible sister. Susan and her sister have no income but her mother has earned income of $1,900 per quarter. In computing deemable income there is first allocated to the ineligible sister $266.70 from the mother's earned income leaving $1,633.30. Next, there is allocated to the mother $1,321.80 ($255 plus twice an eligible individual's quarterly benefit rate) leaving $311.50, which is deemed to Susan. Since this is treated as unearned income, her $60-per-quarter exclusion is applied, reducing the quarterly countable income to $251.50. The quarterly countable income ($251.50) is subtracted from the quarterly standard payment amount for an individual ($533.40) leaving a quarterly benefit of $281.90.

Example 2. Henry, a disabled child, resides with his mother and father and an ineligible brother. The mother receives a pension of $600 per quarter, and the father earns $1,900 per quarter. Henry has no income of his own. First, there is allocated to the ineligible child $266.70 from the unearned income ($600) leaving $333.30. Since the remaining parental income is both unearned and earned, the unearned income is reduced by $60 leaving $273.30, and the earned income is reduced by $195 plus one-half of the remainder leaving $852.50. The sum of the unearned and earned income ($1,125.80) is further reduced by the quarterly benefit rate for a couple ($800.10) leaving $325.70 which is deemed to Henry. Thereafter, Henry's $60-per-quarter exclusion is applied, reducing his countable income to $265.70. The quarterly countable income ($265.70) is subtracted from the quarterly standard payment amount for an individual ($533.40) leaving Henry a quarterly benefit of $267.70.

Example 3. James and Tony are disabled children who live with their mother. The children have no income but the mother receives $800 a quarter in unearned income. Since the mother's income is totally unearned, it is reduced before deeming by $593.40 ($533.40) (the quarterly benefit rate for an individual) plus $60 (the unearned income exclusion), leaving $206.60. This amount is equally divided ($103.30) and then deemed to James and Tony as unearned income. The $60-per-quarter exclusion is applied to each child's income leaving $43.30 countable income. The quarterly countable income ($43.30) is subtracted from the quarterly standard payment amount for an individual ($533.40) leaving each child with a quarterly benefit of $490.10.

(c) *Individual with spouse and child.* In the case of an individual, as described in paragraph (a) of this section, and a child, as described in paragraph (b) of this section, living in the same household with a person not eligible for benefits under this part who is, or who is considered to be, the husband or wife of the individual and parent or spouse of the parent of the child, such individual's and child's income shall be deemed to include the income of such person whether or not such income is available to such individual or child.

(1) The quarterly income to be deemed will first be reduced by an allocation for each ineligible child under age 21 in the household, exclusive of the child (or children) who applies for benefits. The allocation for each ineligible child will be an amount equal to the difference between the quarterly benefit rate for an individual (as defined in § 416.410) and the quarterly benefit rate for a couple (as defined in § 416.412).

(2) After allocations are made for each ineligible child, spouse to spouse deeming will be applied (as described in paragraph (a) of § 416.1185).

(3) All income in excess of the amount which reduces the eligible individual's benefit (including any federally administered State supplement) to zero will be deemed to the blind or disabled child and treated as unearned income.

(4) *Examples:*

Example 1. Mary, a blind individual, resides with her husband John and their disabled son Peter. Mary and Peter have no income but John is employed and earns $1,700 per quarter. Mary's eligibility is determined first. Since John's income exceeds one-half the quarterly benefit rate for an eligible individual the entire $1,700 is deemed to Mary as earned income. This income is reduced by the $60-per-quarter income exclusion and further reduced by $195 plus one-half of the remainder (earned income exclusion) leaving Mary $722.50 countable income. The countable income ($722.50) is subtracted from the quarterly standard payment amount for a couple ($800.10) leaving Mary a quarterly benefit of $77.60. Since Mary is eligible for an SSI payment, there is no excess income to be deemed to Peter. If Mary were ineligible, the amount of income over and above the amount which causes Mary to be ineligible would be deemed to Peter.

(d) *Income not included.* (1) For purposes of this section, the term income does not include:

Example 2. Al, a disabled individual, resides with his wife Dora and their disabled son Jeff. Al and Jeff have no income but Dora is employed and earns $2,500 a quarter. Since Dora's income exceeds one-half of the quarterly benefit rate for an eligible individual the entire $2,500 is deemed to Al as earned income. This income is reduced by the $60-per-quarter income exclusion and further reduced by $195 plus one-half of the remainder (earned income exclusion) leaving Al $1,122.50 countable income. Al is ineligible because his quarterly countable income ($1,122.50) exceeds the quarterly standard payment amount for a couple ($800.10). Since Al is ineligible, the amount of income over and above the amount which causes him to be ineligible ($322.40) (the difference between Al's quarterly countable income and the quarterly standard payment amount for a couple) is deemed to Jeff. The income deemed to Jeff ($322.40) is treated as unearned income and Jeff's $60-per-quarter exclusion is applied, reducing his countable income to $262.40. The quarterly countable income is subtracted from the quarterly standard payment amount for an individual ($533.40) making Jeff eligible for a quarterly benefit of $271.

(i) Assistance based on need and income based on need and provided by any Federal agency, State, or political subdivision of a State, or the payments made under title XVI of the Social Security Act and any income which was taken into account in determining and which affected the eligibility for, and amount of such assistance or payments;

(ii) Any portion of any grant, scholarship, or fellowship used to pay the cost of tuitions and fees;

(iii) Amounts received for foster care of an ineligible child;

(iv) Bonus value of food stamps and the value of the Department of Agriculture donated foods;

(v) Home produce grown for personal consumption;

(vi) Refund of taxes paid on income, real property, or food purchased by the family;

(vii) Income needed to fulfill an approved plan for achieving self-support;

(viii) Income used to comply with the terms of court-ordered support;

(ix) The value of any in-kind support and maintenance furnished to the ineligible spouse, ineligible parent or ineligible spouse of a parent, and ineligible children in the household;

(x) Periodic payments made by a State under a program established before July 1, 1973, based solely on duration of residence and attainment of age 65; and

(xi) Income otherwise excluded by Federal statute (see § 416.1146 of this part).

(2) In determining the income of ineligible children in the household for purposes of allocating a share of the parent's income, the items enumerated in paragraph (d)(1) of this section shall be excluded, and, in addition, the total earned income of such child who is a student (subject to the limitation in § 416.1163) shall be excluded unless the child actually makes this income available to the family.

(e) *Limitation on deeming.* The procedures for computing an individual's income described in this section will be applied as long as the individual is residing in the household with the person from whom income is deemed, even during periods of temporary absence.

(1) For purposes of this section, a temporary absence is defined as one in which either the individual, or the person from whom income is deemed, leaves the household but intends to return and actually returns to the household the same month or the next month. If an absence is not temporary, those procedures will cease to be applied effective with the first full month of absence.

(2) A child who is away at school will be considered to be temporarily absent (regardless of the duration of the absence) if he or she comes home on weekends or lengthy holidays and vacations (or for extended visits in accordance with school regulations) and, unless otherwise indicated, is still under parental control. If the child is not under parental control while away at school, the child will not be subject to deeming.

(3) If a child attains age 18 or 21 during a month or becomes a student during a month, deeming will cease the month following the month of the change or start with the first full calendar month the eligible individual is subject to deeming.

* * * * *

2. Section 416.2025 is amended by revising paragraph (b)(1) to read as follows:

§ 416.2025 Optional supplementation; countable income.

* * * * *

(b) Effect of countable income on payment amounts. "Countable income" of an eligible individual or eligible couple is determined in the same manner as such income is determined under the title XVI supplemental security income program. Countable income will affect the amount of the State supplementary payments as follows:

(1) As provided in § 416.420, countable income will first be deducted from the Federal benefit rate applicable to an eligible individual or eligible couple. In the case of an eligible individual living with an ineligible spouse with income (the deeming provisions of § 416.1185 apply) the Federal benefit rate from which countable income will be deducted is the Federal benefit rate applicable to an eligible couple, except that an eligible individual's payment amount may not exceed the amount he or she would have received if he or she was not subject to the deeming provisions (§ 416.1185(a)(4)).

[FR Doc. 78-25007 Filed 9-5-78; 8:45 am]

[4210-01]

Title 24—Department of Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—MORTGAGE AND LOAN INSURANCE PROGRAMS UNDER THE NATIONAL HOUSING ACT

[Docket No. R-78-567]

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Amendments To Make Public Bodies, Cooperatives, Limited Dividend Corporations, and Nonprofit Corporations or Associations Eligible Under Section 221(d)(4)

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: With this change public bodies, cooperatives, limited dividend corporations and nonprofit sponsors will be expressly eligible for mortgage insurance under section 221(d)(4) of the National Housing Act. The amendments are needed to implement current legislation.

EFFECTIVE DATE: September 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert I. Gould, Director, Multifamily Mortgage Insurance Division, Office of Insured and Direct Loan Origination, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-8203.

SUPPLEMENTARY INFORMATION: Present regulations expressly provide that bodies, cooperatives, limited dividend corporations, and nonprofit sponsors are eligible for mortgage insurance under section 221(d)(3), but do not expressly make them eligible under section 221(d)(4). Section 221(d)(4) of the National Housing Act was ambiguous with respect to the eligibility of these sponsors, but this ambiguity was removed by the amendment provided in section 106 of the Supplemental Housing Authorization Act of 1977.

In order to carry out the objective of Congress in clarifying section 221(d)(4) and in order, also, to remove any possible ambiguity with respect to the eligibility of these sponsors under HUD regulations, we are amending part 221 as set forth below. Since this amendment simply implements the clarifying statutory change and expresses existing HUD requirements, the Secretary has determined that advance publication, notice, and public procedure are unnecessary.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, part 221 is amended as shown below:

Subpart C—Eligibility Requirements—Moderate Income Projects

In § 221.514, paragraphs (a) (2), (3), and (4) are revised to read as follows:

§ 221.514 Maximum mortgage amounts.

(a) The mortgage shall involve a principal obligation not in excess of the lesser of the following:

(1) * * *

(2) *New construction.* (i) In the case of new construction where the mortgage is to be insured under section 221(d)(3) of the Act and the mortgagor is a nonprofit, builder-seller, public, cooperative, or investor-sponsor, the Commissioner's estimate of replacement cost of the property or project when the improvements are completed (the replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Commissioner).

(ii) * * *

(iii) In the case of new construction where the mortgage is to be insured under section 221(d)(4) and the mortgagor is a nonprofit, builder-seller, public cooperative, or investor-sponsor, 90 percent of the Commissioner's estimate of the replacement cost of the property or project when the proposed improvements are completed. The replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction and other miscellaneous charges incident to construction and approved by the Commissioner.

(3) *Repair or rehabilitation.* (i) In the case of a project which is to be repaired or rehabilitated where the mortgage is to be insured under section 221(d)(3) and the mortgagor is a nonprofit, builder-seller, rehabilitation sales, public, cooperative or investor-sponsor, the sum of the estimated cost of the repairs or rehabilitation of the project and the Commissioner's estimate of the value of the property before repairs or rehabilitation.

(ii) * * *

(iii) In the case of a project which is to be repaired or rehabilitated where the mortgage is to be insured under section 221(d)(4) and the mortgagor is a nonprofit, builder-seller, rehabilitation sales, public, cooperative, or investor-sponsor, 90 percent of the sum of the estimated cost of the repairs and rehabilitation of the project and the Commissioner's estimate of the value of the property before repair and rehabilitation.

(4) *Purchase from local public agency.* * * *

(i) Where the purchaser is a mortgagor other than a general or limited distribution mortgagor and the mortgage is to be insured under section 221(d)(3) of the Act, the appraised value of the property as of the date the mortgage is accepted for insurance, or the actual cost of acquisition, whichever amount is the lesser.

(ii) * * *

(iii) Where the purchaser is other than a general or limited distribution mortgagor and the mortgage is to be insured under section 221(d)(4), 90 percent of the appraised value of the property, as of the date the mortgage is accepted for insurance, or 90 percent of the actual cost of acquisition as approved by the Commissioner, whichever amount is the lesser.

* * * * *

In § 221.515, paragraphs (b) and (c) are revised to read as follows:

§ 221.515 Adjusted mortgage amount—rehabilitation projects.

* * * * *

(b) *Property subject to existing mortgage.* * * *

(1) If the mortgagor is other than a general or limited distribution mortgagor and the mortgage is to be insured under section 221(d)(3), the Commissioner's estimate of the cost of repairs or rehabilitation plus such portion of the outstanding indebtedness as does not exceed the Commissioner's estimate of the value of the land and improvements prior to the repairs or rehabilitation.

(2) * * *

(3) If the mortgagor is other than a general or limited distribution mortgagor and the mortgage is to be insured under section 221(d)(4), the Commissioner's estimate of the cost of repair or rehabilitation plus such portion of the outstanding indebtedness as does not exceed 90 percent of the Commissioner's estimate of the value of such land and improvements prior to the repair or rehabilitation.

(c) *Property to be acquired.* * * *

(1) If the mortgagor is other than a general or limited distribution mortgagor and the mortgage is to be insured under section 221(d)(3) of the Act, the Commissioner's estimate of the cost of the proposed repairs or rehabilitation plus the lesser of either of the following:

(i) The actual purchase price of the land and improvements.

(ii) The Commissioner's estimate of the value of such land and improvements prior to the repair or rehabilitation.

(2) * * *

(3) If the mortgagor is other than a general or limited distribution mortgagor and the mortgage is to be insured under section 221(d)(4) of the Act:

(i) 90 percent of the Commissioner's estimate of the cost of the repair or rehabilitation, plus

(ii) 90 percent of the actual price of the land and improvements, or the Commissioner's estimate of the value of such land and improvements prior to the repair or rehabilitation, whichever is the lesser as provided in this subdivision (ii).

* * * * *

In § 221.547, paragraph (a)(3) is revised to read as follows:

§ 221.547 Certification of cost requirements.

(a) * * *

(3) To apply in reduction of the outstanding balance of the principal of the mortgage any excess of mortgage proceeds over:

(i) In the case of a general or limited distribution mortgagor, 90 percent of actual cost; or

(ii) In the case of all other mortgagors, when the mortgage is to be insured under section 221(d)(4), 90 percent of actual cost; or

(iii) In the case of all other mortgagors, when the mortgage is to be insured under section 221(d)(3), 100 percent of actual cost.

* * * * *

In § 221.555, paragraph (a) is revised to read as follows:

§ 221.555 Reduction in mortgage amount—new construction.

(a) If the principal obligation of the mortgage exceeds (1) in the case of general or limited distribution mortgagors, 90 percent, (2) in the case of all other mortgagors, when the mortgage is to be insured under section 221(d)(4), 90 percent, or (iii) in the case of all * * * other mortgagors, when the mortgage is to be insured under section 221(d)(3), 100 percent, of the total amount as shown by the certificate of actual cost plus the value of the land, the mortgage shall be reduced by the amount of such excess prior to final endorsement for insurance.

In § 221.556, paragraphs (b) and (c) are revised to read as follows:

§ 221.556 Reduction in mortgage amount—rehabilitation.

* * * * *

(b) *Property subject to existing mortgage.* If the insured mortgage is to include the cost of refinancing an existing mortgage acceptable to the Commissioner, the amount of the existing mortgage or (1) in the case of a general or limited distribution mortgagor, 90 percent, (2) in the case of all other mortgagors, when the mortgage is to be insured under section 221(d)(4), 90 percent, or (3) in the case of all other mortgagors, when the mortgage is to be insured under section 221(d)(3), 100 percent of the Commissioner's estimate of the fair market value of the land and existing improvements, whichever is the lesser, shall be added to the actual cost of the repair or rehabilitation. If the principal obligation of the insured mortgage exceeds the total amount thus obtained, the mortgage shall be reduced by the amount of such excess prior to final endorsement for insurance.

(c) *Property to be acquired.* If the mortgage is to include the cost of land and improvements, and the purchase price thereof is to be financed with part of the mortgage proceeds, the purchase price or the Commissioner's estimate of the fair market value of the land and improvements prior to repair or rehabilitation, whichever is the lesser, shall be added to the actual cost of the repair or rehabilitation. If the principal obligation of the insured mortgage exceeds (1) in the case of a general or limited distribution mortgagor, 90 percent, (2) in the case of all other mortgagors, when the mortgage is to be insured under section 221(d)(4), 90 percent, or (3) in the case of all other mortgagors, when the mortgage is to be insured under section 221(d)(3), 100 percent, of the total amount thus obtained, the mortgage shall be reduced by the amount of such excess prior to final endorsement for insurance.

* * * * *

Issued at Washington, D.C., August 24, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary, Housing, Federal Housing Commissioner.

[FR Doc. 78-24915 Filed 9-5-78; 8:45 am]

[4210-01]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

[Docket No. FI-4481]

PART 1916—Consultation with Local Officials

Changes in Special Flood Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with Chief Executive Officer of each community listed, finds that modification of the proposed Special Flood Hazard Areas (SFHA's) for those communities is appropriate as a result of requests for changes in the interim rule.

DATES: These modified SFHA's are in effect as of the dates listed in the sixth column of the attached list and amend the Federal Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified SFHA determinations for each community are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator has published a notification of modification of the SFHA's in prominent local newspapers for the communities listed below. Ninety (90) days have elapsed since that publication, and the administrator has received appeals from the communities requesting changes in the proposed SFHA determinations.

The numerous changes made in the SFHA's on the Flood Insurance Rate Map for each community make it administratively infeasible to publish in this notice all of the SFHA changes reflected on the maps. However, this notice includes the address of the Chief Executive Office where the modified SFHA determinations are available for inspection.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR part 1916).

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

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

These SFHA's together with the flood plain management measures required by 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in its flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified SFHA's shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The changes in the SFHA's listed below are in accordance with 24 CFR 1916.8:

State	County	Location	Name and date of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Colorado	Arapahoe	City of Englewood	The Englewood Herald Sentinel, July 19 and 26, 1978.	Hon. James Taylor, mayor, city of Englewood, city hall, 3400 South Elati St., Englewood, Colo. 80110.	July 28, 1978	085074D
Delaware	Kent, Sussex	City of Milford	The Milford Chronicle, July 6 and 13, 1978.	Hon. Harman McNatt, mayor, city of Milford, city offices, P.O. Box 159, Milford, Del. 19963.	July 14, 1978	100042 0001C
Louisiana		Jefferson Parish	The Jefferson Parish Times, May 12 and 19, 1978.	Mr. Hugh Ford, director of planning, Jefferson Parish, 3300 Metairie Rd., Metairie, La. 70001.	Apr. 20, 1978	225199B
Do		Orleans Parish	The Times Picayune, July 27 and 28, 1978.	Hon. Moon Landrieu, mayor, Orleans Parish, city hall, 1300 Perdido St., New Orleans, La. 70112.	July 28, 1978	225203B
Massachusetts	Bristol	Town of Swansea	The Herald News, May 12 and 15, 1978.	Mr. Donald F. Lasage, chairman, board of selectmen, town hall, Main St., Swansea, Mass. 02777.	Type B, letter revised.	255221A
North Dakota	Pembina	City of Pembina	The Pembina New Era, June 21 and 28, 1978.	Hon. Franklyn Barron, mayor, city of Pembina, P.O. Box 3 Pembina, N. Dak. 58271.	June 30, 1978	385368D

State	County	Location	Name and date of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Florida	Broward County		The Broward Review, May 25 and 26, 1978.	Mr. L. A. Hester, Broward County Administrator, Broward County Courthouse, 201 Southeast 6th St., Fort Lauderdale, Fla. 33301.	May 26, 1978	125093C
Do	do	City of Deerfield Beach	The Sun Sentinel, May 25 and 26, 1978.	Hon. Oren Woodward, mayor, city of Deerfield Beach, city hall, P.O. Drawer AH, Deerfield Beach, Fla. 33441.	do	125101C
Do	do	City of Fort Lauderdale	The Fort Lauderdale News, May 25 and 26, 1978.	Hon. E. Clay Shaw, Jr., mayor, city of Fort Lauderdale, P.O. Drawer 1811, Fort Lauderdale, Fla. 33302.	do	125105C
Do	do	City of Hallandale	The Hollywood Sun Tattler, May 25 and 26, 1978.	Hon. Milton L. Weinkle, mayor, city of Hallandale, 308 South Dixie Highway, Hallandale, Fla. 33009.	do	125110B
Do	do	City of Hollywood	do	Hon. David Keating, mayor, city of Hollywood, P.O. Box 2207, Hollywood, Fla. 33022.	do	125113C
New Jersey	Essex County	Town of Nutley	The Nutley Sun, May 4 and 11, 1978.	Hon. Carmen A. Orechio, mayor, town of Nutley, Kenndedy Dr., Nutley, N.J. 07110.	May 12, 1978	340191B
California	Santa Barbara	Carpinteria	The Carpinteria Herald, June 29 and July 6, 1978.	Hon. Ernest C. Wullbrandt, mayor, city of Carpinteria, 5775 Carpinteria Ave., Carpinteria, Calif..	July 7, 1978	060332C
Delaware	New Castle	Wilmington	Wilmington News-Journal, June 27 and 28, 1978.	Hon. William T. McLaughlin, mayor of Wilmington, city-county building, 800 French St., Wilmington, Del. 19801.	June 14, 1978	100028B
Texas	Tarrant	Arlington	Citizen Journal, June 7 and 9, 1978.	Hon. S. J. Stovall, mayor of Arlington, Post Office Box 231, Arlington, Tex. 76010.	May 19, 1978	485454A

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

Issued July 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24907 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-2395]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Tinicum, Bucks County, Pa., are available for review at the Municipal Building on the bulletin board, P.O. Box 153, Pipersville, Pa. 18947.

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 Tinicum, 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 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
Delaware River	Corporate limits	103
	Tory Rd. extended	109
	Smithtown Rd. extended.	111
	Dark Hollow Rd. extended.	116
	Geigel Hill Rd.	121
	Jugtown Hill Rd.	132
	Corporate limits	136
Tohican Creek	Iron Bridge Rd.	269
	Dark Hollow Rd.	277
	Gruver Rd.	285
	Route 611 (Easton Rd.).	290
	Bedminster Rd. (Route 113).	293
	Farm School Rd.	301
	Tohican Valley Rd.	305
	Frete Valley Rd.	310
	Corporate limits	312
Cafferty Run	Covered bridge	125

Source of flooding	Location	Elevation in feet, above mean sea level
	Cafferty Run tributary ..	138
	Geigel Hill Rd. Bridge	144
	Farm Bridge	154
Cafferty Run Tributary.	Cafferty Run.....	138
	End Cafferty Run tributary (500 ft upstream).	145

(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: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24243 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-2970]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Marathon County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Marathon County, are available for review at Marathon County Courthouse, Wausau, Wis.

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 Marathon County, Wis.

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 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
Wisconsin River	U.S. Highway 51 bridge..	1157
	City of Wausau corporate limits (east bank).	1198
Bull Junior Creek .	Maple Rd	1160
	Town Rd. Bridge	1195
Johnson Creek	County Trunk Highway C Bridge.	1128
	Upstream of 16th Rd. Bridge.	1191
Eau Claire River ...	Camp Phillips St	1179
	Club House Rd.....	1236

(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: July 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24253 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-3163]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the town of Johnson, Lamoille County, Vt.

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 Johnson, Lamoille County, Vt. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Johnson, Lamoille County, Vt.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Johnson are available for review at the Town Clerk's Office, Pearl Street, Johnson, Vt.

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 town of Johnson, Lamoille County, Vt.

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 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
Gihon River	Town/village of Johnson corporate limits.	564
	Just upstream of town/village of Johnson corporate limits.	569
	500 ft downstream State Route 100-C.	570
	Just downstream of State Route 100-C.	577
	Just upstream of State Route 100-C.	578
	Just downstream of dam.	586
	Just upstream of dam	608
	1,100 ft upstream of dam.	613
	Just downstream of Town Highway 33.	614
	Just upstream of Town Highway 33.	619
	½ mi upstream of Town Highway 33.	620
	¾ mi upstream of Town Highway 33.	621
Bell Brook	260 ft upstream of mouth at Gihon River.	577
	320 ft upstream of mouth at Gihon river.	581
	530 ft upstream of mouth at Gihon River.	582
	1,000 ft upstream of mouth at Gihon River.	603
	370 ft downstream of Town Highway 32.	619
	100 ft downstream of Town Highway 32.	626
	Just upstream of Town Highway 32.	627
	690 ft upstream of Town Highway 32.	634
Lamoille River	West corporate limits	469
	Just downstream of Ithiel Falls.	476
	580 ft downstream of Smith Brook.	486
	Just downstream of State Route 15.	489
	Just upstream of State Route 15.	491
	1 mi upstream of State Route 15.	493
	West town/village of Johnson corporate limits.	497
	Southeast town/village of Johnson corporate limits.	500
	1,600 ft upstream of southeast town/village of Johnson corporate limits.	502
	3,200 ft upstream of southeast town/village of Johnson corporate limits.	517
	¾ mi upstream of southeast town/village of Johnson corporate limits.	528
	500 ft downstream of Vermont Northern Railroad.	530
	Just upstream of Vermont Northern RR.	533
	East corporate limits	536
Foot Brook	290 ft downstream of State Route 15.	492
	Just downstream of State Route 15.	494
	Just upstream of State Route 15.	498
	530 ft upstream of State Route 15.	503

(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: July 28, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 78-24248 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-3164]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Johnson, Lamoille County, Vt.

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 Johnson, Lamoille County, Vt. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the village of Johnson, Lamoille County, Vt.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of Johnson are available for review at the Village Clerk's Office, Pearl Street, Johnson, Vt.

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 Johnson, Lamoille County, Vt.

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 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
Lamoille River	West corporate limits	497
	Just downstream of Railroad Street Bridge.	499
	South corporate limits	500
Gihon River	Mouth at Lamoille River.	499
	Just upstream of Pearl St.	499
	200 ft upstream of Pearl St.	502
	900 ft downstream of School St.	505
	530 ft downstream of School St.	515
	Just upstream of School St.	525
	160 ft upstream of School St.	526
	425 ft upstream of School St.	533
	100 ft downstream of dam.	546
	Just upstream of dam	558
	680 ft upstream of dam	561
	1,100 ft upstream of dam.	562
	East corporate limits	565

(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: July 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator

[FR Doc. 78-24249 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-3414]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Ellicottville, Cattaraugus 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 village of Ellicottville, Cattaraugus 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 village of Ellicottville, Cattaraugus County, N.Y.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of Ellicottville, Cattaraugus County, N.Y., are available for review at the Town Hall, 1 West Washington Street, Ellicottville, 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 village of Ellicottville, Cattaraugus 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 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
Great Valley Creek.	Monroe St	1,533
	Martha St	1,535
	Confluence w/Elk Creek	1,536
	Mill St	1,538
Elk Creek	Confluence w/Great Valley Creek.	1,536
	Private Rd	1,537
	Washington St	1,539
	Elizabeth St	1,539
	Park Dr	1,544
Plum Creek	Confluence w/Great Valley Creek.	1,530
	Jefferson St	1,532
	Village boundary	1,600

(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: August 2, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24240 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-3464]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Chili, Monroe County, N.Y., are available for review at the Town Hall, 3235 Chili 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 Chili, Monroe County, N.Y., are available for review at the Town Hall, 3235 Chili Avenue, Rochester, 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 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
Genesee River	Downstream corporate limits.	520
	Confluence with Little Black Creek.	521
	ConRail	522
	Route 522 (Ballantyne Rd.).	523
	N.Y.S. Thruway (I-90)	529
	Upstream corporate limits.	529
Black Creek	Confluence with Genesee River.	523
	Abandoned Railroad	525
	B. & O. RR	525
	Route 252 (Archer Rd.).	526
	Humphrey Rd.	528
	Route 251 (Chili-Scottsville Rd.).	530
	Stottle Rd.	534
	Union St	540
	Stuart Rd.	543
	Route 33A (Buckbee Corners Rd.).	543
	Upstream corporate limits.	544

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

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-24238 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-3523]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Somerdale, Camden 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 Somerdale, Camden 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 Somerdale, N.J.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Somerdale, Camden County, N.J., are available for review at Borough Hall, Somerdale and Post Road, Somerdale, 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 Somerdale, 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 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
Cooper River.....	Chews Landing Rd.....	54
	ConRail.....	57

(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: August 2, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24237 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-3557]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Mitchell, Davison County, S. Dak.

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 Mitchell, Davison County, S. Dak. 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 Mitchell, Davison County, S. Dak.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Mitchell, Davison County, S. Dak., are available for review at City Hall, 612 North Main Street, Mitchell, S. Dak. 57301.

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 Mitchell, Davison, County, S. Dak.

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 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
Dry Run Creek.....	Chicago, Milwaukee, St. Paul and Pacific RR.	1,262
	East Havens St.....	1,262
	Marshall St. (extended).	1,265
	Foster St.....	1,272
	Mentzer St. (extended)..	1,275
	Chicago, Milwaukee, St. Paul and Pacific RR. (upstream).	1,286
	Burr St.....	1,287
	Sanborn St. (upstream)..	1,297
	Minnesota St.....	1,297
	Ohlman St.....	1,300
	Du Pre St. (extended).....	1,301

(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 dele-

gation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: July 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24244 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-3715]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Fremont County, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Fremont County, are available for review at Fremont County Courthouse, Lander, Wyo.

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 Fremont County, Wyo.

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 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 Popo Agie River.	Highway 789 Bridge	5,084
Big Popo Agie River.	City of Lander (downstream corporate limits).	5,303
	(Upstream Corporate limits).	5,429
	Mortimer Lane Bridge	5,472
Baldwin Creek	Second Street Rd. (downstream).	5,296
	(Upstream)	5,299
	Culvert under U.S. Highway 287.	5,346
Squaw Creek	City of Lander (upstream corporate limits).	5,329
	U.S. Highway 287	5,346
	Culvert Baldwin Creek Rd.	5,361
	County Rd	5,402

(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: July 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24236 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-4076]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Olean, Cattaraugus 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 Olean, Cattaraugus 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 Olean, Cattaraugus County, N.Y.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Olean, Cattaraugus County, N.Y., are available for review at the Town Hall, R.D. 1, Olean, 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 Olean, Cattaraugus 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 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
Allegheny River	South Union St	1,425
	Confluence of Kings Brook.	1,426
	Confluence of Haskell Creek.	1,427
Olean Creek	Downstream corporate limits.	1,432
	Hastings Rd	1,434
	Route 17	1,436
	Upstream corporate limits.	1,438
Haskell Creek	Confluence with Allegheny River.	1,427
	Corporate limits	1,427

(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: August 2, 1978

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24241 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-4106]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Lorena, McLennan County, Tex.

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 Lorena, McLennan 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 the city of Lorena, McLennan County, Tex.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for city of Lorena, McLennan County, Tex., are available for review at the City Hall, Lorena, Tex. 76655.

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 Lorena, McLennan 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 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
North Cow Bayou tributary 1.	Just downstream County Rd 22 Bridge.	521
	Approximately 100 ft upstream of FM 2837 Bridge.	570
North Cow Bayou tributary 2.	County Rd 133	581
North Cow Bayou.	Approximately 150 ft upstream of the eastern corporate limits.	516

(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: July 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24245 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-4107]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of McGregor, McLennan County, Tex.

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 McGregor, McLennan 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 the city of McGregor, McLennan County, Tex.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of McGregor, McLennan County, Tex. are available for review at City Hall, 409 West Forrest Street, McGregor, Tex. 76657.

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 McGregor, McLennan 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 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
Harris Creek	Just upstream of Atchison, Topeka, & Santa Fe RR.	685
	Just downstream of North Main Street (State Highway 317).	691
Tributary to Harris Creek.	Just upstream of U.S. Highway 84.	721
Willow Creek	Eastern corporate limits	702

(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: July 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24246 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-4109]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Chatham, Pittsylvania County, Va.

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 Chatham, Pittsylvania County, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Chatham, Pittsylvania County, Va.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Chatham, Pittsylvania County, Va., are available for review at the Bulletin Board, Town Hall, Chatham, Va.

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 Chatham, Pittsylvania County, Va.

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 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
Cherrystone Creek.	City boundary (downstream).	586
	Davis Rd.	587
	U.S. Highway 29	592
	South Ry.	600
	VA-57	610
	City boundary (upstream).	613

(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: July 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24250 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-4011]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Provo, Utah County, Utah

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 Provo, Utah County, Utah. 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 Provo, Utah.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Provo, Utah County, Utah, are available for review at Provo City Center, 351 West Center Street, Provo, Utah.

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 Provo, Utah.

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 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 neodetic vertical datum
Provo River	West Center St	4,495
	Geneva Rd	4,519
	I-15[1]	4,527
	900 North St	4,565
	Columbia Lane	4,585
	Brigham Young University Parkway[1].	4,612
	3700 North St	4,693

[1] Upstream side.

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

Issued: July 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24247 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-4111]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the town of Ilwaco, Pacific County, Wash.

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 Ilwaco, Pacific County, Wash. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Ilwaco, Pacific County, Wash.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Ilwaco, Pacific County, Wash., are available for review at the bulletin board at the City Hall, Ilwaco, Wash.

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 Ilwaco, Pacific County, Wash.

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 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
Baker Bay	Ilwaco Marine	9
	Coastline at town of Ilwaco.	11

(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: July 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24251 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-4119]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Deposit, Delaware 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 village of Deposit, Delaware 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 village of Deposit, Delaware County, N.Y.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of Deposit, Delaware County, N.Y., are available for review at the village clerk's office, Deposit, N.Y. 13754.

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 Deposit, Delaware 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 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 Delaware River.	Approximately 100 ft upstream New York State Route 10.	989
	Just downstream northern corporate limits.	994
Oquaga Creek	Just upstream of Mill Street Bridge.	994
Butler Brook	Approximately 150 ft upstream of Front St.	991
	Just upstream of Elm St	997
Big Hollow	Just upstream Second St. abutments.	1,002
Bone Creek	Just upstream of Front St.	1,015
	Just downstream of Fourth St.	1,060

(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: July 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24239 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-4120]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Bridgeport, Belmont 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 Bridgeport, Belmont 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 Bridgeport, Belmont County, Ohio.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of Bridgeport are available for review at the City Building, 301 Main Street, Bridgeport, 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 Bridgeport, Belmont 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 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
Ohio River	Downstream corporate limit.	659
	Upstream corporate limit.	659
Wheeling Creek	Upstream corporate limit.	660

(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: July 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24242 Filed 9-5-78; 8:45 am]

[4210-01]

[Docket No. FI-4125]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Redmond, King County, Wash.

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 Redmond, King County, Wash. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Redmond, King County, Wash.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Redmond, King County, Wash., are available for review at the City Planning Department, 15670 Northeast 85th Street, Redmond, Wash. 98052.

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 Redmond, King County, Wash.

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 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
Sammamish River	Just downstream of northeast 116th St.	28
	Approximately 300 ft upstream of State Highway 908.	31
	Just upstream of Leary Way.	31
	Mouth of Sammamish River.	32
Bear Creek	Approximately 300 ft upstream of State Highway 202.	43
	Approximately 300 ft downstream of northeast 95th St.	56
Evans Creek	192d Ave. northeast (extended).	52

(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: July 28, 1978.

GLORIA JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24252 Filed 9-5-78; 8:45 am]

[7710-12]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Second Class Preparation Requirements

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule amends the Postal Service Manual to allow publishers to combine copies of more than one second-class publication in the same sack or bundle to meet the 20 pound or 1,000 cubic inch requirement for the presort levels B, C, and E per-piece rates. The number of pieces of each publication must be documented for each ZIP Code destination and carrier route.

EFFECTIVE DATE: September 5, 1978. Written comments should be received on or before October 6, 1978.

ADDRESS: Comments on these regulations are solicited and will be considered with a view toward making any changes that may be needed. Comments should be sent to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Room 1610, 475 L'Enfant Plaza SW., Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in the Office of Mail Classification, Room 1610, 475 L'Enfant Plaza SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Ernest J. Collins, 202-245-4749.

SUPPLEMENTARY INFORMATION: Postal Service second-class per piece charges for regular and science of agriculture publications vary depending upon the degree to which the mail has been presorted before mailing. There are five levels of per-piece charges ranging from level A (the highest per-piece charge) through E (the lowest per-piece charge). Level A, for mailings of 5,000 or more copies per issue outside the county of publication, and level D, for mailings of less than 5,000 copies outside the county, carry the least stringent mail preparation requirements for the respective categories. Levels B and C, for the large-volume category, and level E, for the small-volume category, require more stringent mail preparation, for which the rate reflects a discount. Qualification for any one of the three discounted-rate categories (B, C, and E) includes a requirement that a specified minimum volume of presorted mail be presented in the mail sack, namely 1,000 cubic inches or 20 pounds of mail. Postal Service Manual 125.329a, b. This minimum volume requirement is currently applied to the copies of each separate publication mailed.

A number of publishers have asked the Postal Service to allow them to combine copies of more than one second-class publication in the same sack to meet the 20 pound or 1,000 cubic inch requirement for the levels B, C, and E per-piece rates. This would allow more addressed pieces of second-class publications to qualify for the levels B, C, and E per-piece rates and reduce the number of handlings required of the Postal Service to deliver the mail to the addressees. The Postal Service believes this is a good suggestion. The purpose of new 125.329g is to authorize the requested combination.

In order to accommodate this change, additional documentation will be required from mailers who wish to combine copies of more than one publication. For such consolidated mailings, levels B, C, and E per-piece rates will be claimed on only one submitted Form 3541. Mailers will be required to document for each publication in the mailing the pieces sent to each ZIP Code destination or carrier route. These administrative requirements also are codified in new 125.329g.

Although exempt from the notice and comment requirement of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service ordinarily invites comments from the public whenever it proposes a new or amended regulation such as this, which would or might have a substantial effect on the public. In this case, however, publishing these rules as proposals, with a comment period of 30 days, would delay needed relief from a restriction that prevents certain mailers from receiving cheaper rates upon providing additional mail preparation that benefits the Postal Service. See 5 U.S.C. 553(d).

Accordingly, the Postal Service finds it unnecessary and contrary to the public interest to follow its customary practice by publishing these rules as proposed rules for comment before they become effective. However, we reiterate that comments are welcomed on the published rules (which we anticipate may be interim rules), and that any proposed changes will be considered and acted upon as appropriate.

In view of the considerations discussed above, the Postal Service hereby adopts the following revision of the Postal Service Manual:

PART 125—SECOND-CLASS BULK MAILINGS

In 125.3, add new .329g reading as follows:

§ 125.3 Mailing.

* * * * *

.329 Outside County Per Piece Rates (Regular Rate and Science of Agriculture Publications)

* * * * *

g. More than one second-class publication may be combined to meet the 20 pound or 1,000 cubic inch per sack or bundle requirement for the levels B, C, and E piece rates. To qualify for levels B and C piece rates, at least 5,000 copies of each issue in the combined mailing must be mailed to destinations outside the county of publication. Listings and records provided by publishers in accordance with 125.329e must also document the number of combined pieces and copies of each publication mailed to each unique three-digit city, five-digit ZIP Code destination and carrier route. The total number of consolidated mailing pieces for each level of presort is to be reported on the Form 3541 for one publication or on a separate Form 3541. A notation such as "per piece charge for consolidated copies of (*title*), (*title*), etc." must be included on the Form 3541 on which the piece rates are computed. The Forms 3541 used to compute pound-rate postage for the individual publications must include a notation as to the number of copies included in the consolidated mailing pieces, and where the piece rate computations can be found (i.e., (number) copies sent in consolidated bundles and reported on the Form 3541 for (title)).

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the FEDERAL REGISTER as provided in 39 CFR 111.3.

(39 U.S.C. 401(2), 403.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-24998 Filed 8-31-78; 3:42 pm]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 78-147; RM-3012]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Ottumwa, Iowa; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein substitutes a class A FM channel for a class C channel at Ottumwa, Iowa. Because of site and other restrictions, the class C channel no longer could meet the requirements for an Ottumwa station. The substitute channel could provide for a second local FM service to the community.

EFFECTIVE DATE: October 10, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *table of assignments*, FM broadcast stations. (Ottumwa, Iowa), BC docket No. 78-147. RM-3012.

REPORT AND ORDER—(PROCEEDING TERMINATED)

Adopted: August 24, 1978.

Released: August 30, 1978.

1. The Commission here considers the notice of proposed rulemaking, adopted April 28, 1978, 43 FR 19895, inviting comments on a petition filed by KBIZ, Inc. ("petitioner"), licensee of full-time AM station KBIZ, Ottumwa, Iowa. The petitioner proposed the substitution of FM channel 224A for unoccupied class C channel 223 at Ottumwa, Iowa. The only comments submitted were from the petitioner in support of its proposal.

2. Ottumwa (pop. 29,610), seat of Wapello County (pop. 42,149) is located approximately 112 kilometers (70 miles) southwest of Des Moines,[1] Iowa, and 320 kilometers (200 miles) northwest of St. Louis, Mo.

3. Petitioner states that channel 223 was assigned to Ottumwa on the basis that it would provide the potential for wide area coverage. However, to meet applicable spacing requirements, a station on this channel would have to be located some 56 kilometers (35 miles) south of Ottumwa. Petitioner points out that, because of a combination of factors, including distance separation requirements for a channel 223 operation, changes in the Commission's FM signal propagation curves used for predicting field strength contours, and antenna height restrictions imposed by the existence of an FAA airway over the only area available for tower sites, the potential for wide area coverage has now disappeared. It asserts that no transmitter site is now available from which a channel 223 station could provide the required service to Ottumwa and still meet the applicable spacing requirements.

4. Channel 224A could be assigned to Ottumwa in conformity with the minimum distance separation requirements and without requiring other changes in the FM Table of Assignments. No new preclusion would result by the substitution of channels. Petitioner has reaffirmed its intention to apply for channel 224A, if it is assigned.

5. Since the use of channel 223 at Ottumwa does not appear feasible and the substitution of channel 224A for channel 223 would eliminate the present intermixture of channels, we believe the public interest would be served by the assignment of channel 224A to Ottumwa, Iowa. The substitute assignment would make it possible for Ottumwa to realize a second local FM service whose potential has remained untapped.

6. Authority for the action taken herein is contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. In view of the foregoing, *It is ordered*, That effective October 10, 1978, the FM table of assignments, is amended with respect to the community listed below:

City and Channel No.

Ottumwa, Iowa—224A, 249A.

8. *It is further ordered*, That this proceeding is terminated.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; (47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317.)

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

[FR Doc. 78-24995 Filed 9-5-78; 8:45 am]

[1] Population figures are taken from the 1970 U.S. Census.

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Bear River Migratory Bird Refuge, Utah, to Hunting

AGENCY: Fish and Wildlife Service, Interior

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of the Bear River Migratory Bird Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreation opportunity to the public.

DATES: Ducks, coots, mergansers and whistling swans, October 7, 1978, through January 7, 1979, inclusive; Geese, October 14, 1978, through December 24, 1978, inclusive.

FOR FURTHER INFORMATION CONTACT:

Ned I. Peabody, P.O. Box 459, Brigham City, Utah 84302, telephone 801-744-2488.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds, for individual wildlife refuge areas.

Public hunting of ducks, geese, coots, mergansers, and whistling swans is permitted on the Bear River Migratory Bird Refuge, Utah, only on the areas designated by signs as being open to hunting. Those areas comprising 12,855 acres are delineated on maps available at the refuge headquarters, Brigham City, Utah, and from the area office, Fish and Wildlife Service, Federal Building, Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, mergansers, and whistling swans subject to the following special regulations:

(1) *Steel shot.* The exclusive use of steel shot is required on all days in both hunting area "A" and area "B" for the entire season. The possession of lead shot within a refuge hunting area is prohibited, and having lead shot in one's possession will be considered prima facie evidence that the person possessing such shot is engaged in hunting with same; except lead shot may be possessed for transportation through designated travel lanes for use off refuge.

(2) *Hunting areas.* No hunting is permitted from roadways or within 100 yards of any roadway in area "A". No hunting is permitted from roadway or adjacent area as posted by signs in area "B".

(3) *Boat use.* The use of boats is permitted except that airthrust boats and aircycles may not be used in unit 2 on weekends and holidays. Airboats may be launched only from designated boat ramps. Boats may be left at designated sites 1 week prior to and during the hunting season. All boats and trailers must be removed within 2 weeks after close of the hunting season.

(4) *Parking.* Hunters may park cars only at designed areas within the refuge.

(5) *Hunter check station.* All hunters entering area "A" are required to register at the check station and check out before leaving the refuge. All hunters entering the Perry gate entrance to area "B" are required to register and check out at the self registration counter provided.

(6) *Routes of travel.* Travel to open hunting areas is permitted by foot or bicycle over roads between units 1 and 2 and units 2 and 3, and by vehicle without towed boats or trailers to designated parking area on these roads. Travel by boat is permitted from headquarters area boat ramps down canals between units 1 and 2 and units 2 and 3, and the main river channel into unit 2. Vehicles with boats and trailers are permitted to travel dike roads to designated parking and launching sites on the outer dike. Travel by boat to reach lands outside refuge boundary will be permitted only over designated travel lanes through closed areas. Firearms must be unloaded and either cased or broken down when transported by motor vehicle or boat over the above designated travel lanes.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32, and are effective through January 7, 1979. The public is invited to offer suggestions and comments at any time.

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: August 28, 1978.

NED I. PEABODY,
Refuge Manager, Bear River Migratory Bird Refuge, Brigham City, Utah.

[FR Doc. 78-25017 Filed 9-5-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Audubon National Wildlife Refuge, North Dakota, to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Audubon National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 17, 1978 through November 26, 1978.

FOR FURTHER INFORMATION CONTACT:

David C. McGlauchlin, Refuge Manager, Audubon National Wildlife Refuge, Coleharbor, N. Dak. 58531, phone 701-442-5474.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Deer gun hunting is permitted on the Audubon National Wildlife Refuge, North Dakota, only on the areas designated by signs as being open to hunting. These areas comprising 13,387 acres are delineated on maps available at the refuge headquarters and from the Office of the Area Manager, 1500 Capitol Avenue, Bismarck, N. Dak. 58501. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting is permitted from 12 noon, c.s.t. November 17, 1978 to sunset that day, and from sunrise to sunset each day from November 18 through November 26, 1978.

(2) All hunters must exhibit their hunting license, deer tag, game, and vehicle contents to Federal and State officers upon request.

(3) Vehicular traffic, including the use of boats, is prohibited by hunters on the refuge during the deer season.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

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.

DAVID C. MCGLAUCHLIN,
Refuge Manager, Audubon National Wildlife Refuge, Coleharbor, N. Dak.

AUGUST 25, 1978.

[FR Doc. 78-25018 Filed 9-5-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Lake Nettie National Wildlife Refuge, North Dakota, to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening for deer hunting of Lake Nettie National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize renewable natural resources, and will provide additional recreational opportunity to the public.

DATES: November 17, 1978, through November 26, 1978.

FOR FURTHER INFORMATION CONTACT:

David C. McGlauchlin, Refuge Manager, Audubon National Wildlife Refuge, Coleharbor, N. Dak. 58531, phone 701-442-5474.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Deer gun hunting is permitted on the Lake Nettie National Wildlife Refuge, North Dakota, only on the areas designated by signs as being open to hunting. These areas comprising 1,060 acres are delineated on maps available at the refuge headquarters and from the Office of the Area Manager, 1500 Capitol Avenue, Bismarck, N. Dak. 58501. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting is permitted from 12 noon, c.s.t. November 17, 1978, to sunset that day, and from sunrise to sunset each day from November 18 through November 26, 1978.

(2) From November 17 through November 19 deer hunting will be by permit only. The permits will be issued by the State Game and Fish Department at Bismarck, N. Dak. From November 20 through November 26 no permits will be necessary.

(3) All hunters must exhibit their hunting license, deer tag, special

permit and game to Federal and State officers upon request.

(4) Vehicular traffic, including the use of boats, is prohibited by hunters on the refuge during the deer hunting season.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

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.

DAVID C. MCGLAUCHLIN,
Refuge Manager, Audubon National Wildlife Refuge, Coleharbor, North Dakota.

AUGUST 25, 1978.

[FR Doc. 78-25019 Filed 9-5-78; 8:45 am]

[3510-22]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PART 611—FOREIGN FISHING

Clarification

AGENCY: National Oceanic and Atmospheric Adminstration/Commerce.

ACTION: Clarification of amendment to § 611.92 of the foreign fishing regulations.

SUMMARY: This clarification is intended to carry out the purpose of an amendment to the Foreign Fishing Regulations published on April 13, 1978, which authorized a directed hook-and-line fishery for Pacific cod in the Gulf of Alaska west of 157° W. longitude.

DATE: This clarification is to become effective on August 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, Box 1668, Juneau, Alaska 99802, 907-586-7221.

SUPPLEMENTARY INFORMATION: The April 13, 1978, amendment to the foreign fishing regulations allowed foreign fishermen to conduct a controlled longline (also known as a setline) fishery to permit full utilization of the 1978 Pacific cod TALFF. The amendment prohibited foreign longline fishing inside of the 500 meter isobath during the halibut season in order to avoid conflict between United States and foreign fixed gear. During the time that U.S. and Canadian halibut fishermen are fishing for halibut in that area the foreign longline fishermen must move seaward beyond the 500 meter isobath.

Section 611.92(b)(3)(vi) prohibited foreign longline fishing shoreward of the 500 meter isobath during four defined periods of time. This prohibition was intended to avoid conflict between foreign longline fishermen and United States-Canadian halibut fishermen.

One of the periods mentioned in that publication was the period August 25 to September 12. However, the quota for halibut has been attained in waters of the Gulf of Alaska west of 157° west longitude. Consequently, the halibut fishing in the Gulf of Alaska has ended and there is no purpose in continuing that restriction. Therefore, foreign fishermen may fish shoreward of the 500 meter isobath west of 157° west longitude in the Gulf of Alaska using longline gear for Pacific cod effective August 29, 1978.

Signed at Washington, D.C., this 29th day of August, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-24913 Filed 9-5-78; 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.

[6320-01]

CIVIL AERONAUTICS BOARD

[EDR-361; Docket No. 33314, Dated: August 30, 1978]

[14 CFR Part 298]

CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would increase the capacity limitation on air taxi and commuter carriers to a maximum capacity of up to 60 seats/18,000 pounds. The Board, on its own initiative, is proposing to allow the air taxi and commuter operators to use larger aircraft to meet traffic demand.

DATES: Comments by: November 6, 1978. Reply comments by: November 21, 1978.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: September 18, 1978. Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on the list.

ADDRESS: Twenty copies of comments should be sent to Docket 33314, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW. Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Paul Eldridge, Bureau of Pricing and Domestic Aviation, 1825 Connecticut Avenue NW., Washington, D.C. 20428, phone: 202-673-5410.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Since 1952 the Federal regulatory scheme has included a general exemption under which small air carriers, designated "air taxis", have been exempted from virtually all economic regulation, including the requirement of certification. From the 1960's, with the development of new, efficient small aircraft, configured for up to 19 revenue seats, air taxis ceased to provide predominantly demand or charter operations and began to offer more scheduled service. Both the charter and scheduled operations grew throughout the country, both creating and meeting the demands for air service. In recognition of this growing class of scheduled air taxi operators, the Board in 1969 created a subclassification called "commuter air carrier". It defined a commuter air carrier as an air taxi operator that performs "at least five round trips per week between two or more points" under published schedules or "transports mail by air under a current contract with the U.S. Postal Service".[1]

In the *Part 298 Weight Limitation Investigation*, Order 72-7-61, July 18, 1972, the Board took a comprehensive look at the maximum certificated takeoff weight for equipment used by Part 298 operators to determine if the limitation should be liberalized and, if so, what changes should be made. After a full hearing, the Board decided to use a capacity limitation instead of one based on weight, and it determined that Part 298 operators could use aircraft with a maximum payload capacity of 7,500 pounds and a passenger capacity of 30 revenue seats.[2]

The general class of exempt air carriers has continued to grow, and it prospered even during the recession which struck the airline industry and the economy as a whole in the early 1970's. There are now over 4,200 air taxis operating in the U.S., 183 of these being registered commuter operators.[3] Table 1 shows the growth in revenue passenger miles of the commuter carriers, the local service carriers, and the domestic trunks for the years 1971-1977. In the year ended December 31, 1977, the revenue passenger miles of the commuter carriers grew 22.8 percent, or three times the 7.5 percent growth rate for the domestic trunks, and twice the 11.7 percent rate for the locals. This growth is primarily attributable to tapping new markets and operating at points not served by certificated carriers.

Today traffic is growing at a rapid rate in practically all domestic markets served by certificated, intrastate, and commuter carriers. As a result load factors and aircraft utilization rates are increasing, and certificated carriers in particular are increasing seating density on certain types of aircraft. High traffic growth rates reflect a number of favorable conditions, including the price reductions that have been and are taking place, first in long-haul, high-density markets, and more recently in lesser markets. In part, price competition has been encouraged by Board route policies allowing access to new traffic opportunities through route expansion. Carriers afforded these opportunities and enjoying in addition rapid on-line traffic growth are revising schedules and altering fleet composition to accommodate the largest volume of traffic and in so doing maximize net revenues. In general, the Board believes that carriers should be encouraged to take full advantage of existing flexibility in their licenses to concentrate on the most promising traffic opportunities, and to readjust fleets for the same purpose. In this process, the local service carriers are continuing at an accelerating pace to upgrade to jet aircraft, and to increase the average size of aircraft in their fleets. They are reducing operations with Convair 580-class equipment, and in this process are creating service gaps.

These reductions in service fall into two general categories. First, by Board authorization, certificated carriers have eliminated service at many of their smaller points, particularly where traffic is insufficient to support new, larger equipment.[4] Second, they have begun to reduce service to medium-sized cities, particularly in less-dense markets. For example, Allegheny, a local service carrier not receiving subsidy, has recently revised its New York State schedules to reduce longstanding service levels. We expect these situations to become more numerous as the certificated carriers continue this process of adjustment. In these circumstances, commuter carriers may well be the best resource available immediately to provide substitute service with larger aircraft. In a time of rapid change it is particularly necessary to afford operating flexibility for Part 298 carriers and others to meet these needs.

[1] 14 CFR 298 2(f).

[2] The Court of Appeals for the District of Columbia Circuit affirmed the Board's opinion. *Hughes Air Corp.* v. *C.A.B.*, 492 F2d. 567 (D.C. Cir. 1973).

[3] Special Services Division, BPDA.

[4] The number of certificated points declined from 619 at the end of 1959 to 437 at the end of 1977.

Clearly, then, traffic in certain markets—both those abandoned by certificated carriers and present commuter markets that have experienced rapid growth—justifies service by Part 298 operators with aircraft larger than those now permitted. Similarly, there are markets which need new or replacement service, the stage lengths of which require longer-range aircraft.

While the reductions in service described above are largely short-term, the local service and trunk carriers' conversion to larger jet equipment is a long-term phenomenon and accordingly justifies our permitting Part 298 operators to use larger aircraft. Local service carriers are moving toward all-jet fleets. As shown in Table 2, the local service fleet in 1965 consisted of 80.2 percent piston aircraft, 18.5 pecent turboprop and 1.3 percent jet. By 1977, 69.5 percent of the fleet was turbine jet, 30.0 percent was turboprop and only 0.5 percent piston. By the end of 1977, total investment in aircraft had increased 52 percent from that in 1971. Investment in piston and turboprop aircraft, however, had decreased by 62 percent, while investment in jets had increased by 129 percent and amounted to 91 percent of the total fleet value.[5] Commuters, on the other hand, did not shift extensively to 30 seat aircraft after the *Part 298 Weight Limitation Investigation.* The trend was to institute larger aircraft operations only in markets in which such service was economic. The median number of seats of commuter air carrier aircraft has ranged from 8.9 to 10.3 over the September 1970–September 1976 period.[6] By increasing the limitation, we expect to restore the size ratio that prevailed in the early 1970's between the equipment of certificated carriers and the commuters.

Finally, it is apparent from both the number and the scope of *ad hoc* exemption applications we are granting that the time is ripe for a reevaluation of the Part 298 limits. To operate aircraft above the current limits of Part 298 operators now are required to file specific exemption requests. This process is cumbersome because of the expense and delay of such filings, and the limitations of having to operate within rigid and fixed authorizations. Further, processing of these applications consumes a substantial amount of Board resources. Carriers currently hold 18 exemptions to use larger aircraft that the Board granted in 1977.

Moreover, in some cases the Board has felt compelled to require a hearing before it granted authority to operate large aircraft even by exemption. The application of Colonial[7] is a case in point. The full costs of this process to the applicant, intervening parties, and the government are very high, perhaps over $100,000. We believe that this expense, and the delay inherent in the hearing process, can and should be eliminated for the air taxi class of air carriers, which provides only about 0.5 percent of total domestic service measured by revenue passenger miles.[8]

Therefore, we tentatively find, in accordance with section 416(b) of the Act, that enforcement of the certificate provisions of the Act, to the extent that they would preclude the authority proposed here, would not be in the public interest, and would be an undue burden on the class of Part 298 operators by reason of the limited extent of, or unusual circumstances affecting, their operations.

For the foregoing reasons, and the additional benefits of the increase, as discussed below, we tentatively find that increasing the capacity limitation of Part 298 operators is in the public interest. Moreover, the expense of certificate procedures is not warranted for the type of operations performed by Part 298 operators. They are very limited in scope, amounting in the aggregate to only about 0.5 percent of total domestic revenue passenger miles. Their operations are also affected by unusual circumstances. Since Part 298 operators provide service to meet demand, they need flexibility to enter or leave a market as demand dictates. Certificates, in contrast, generally limit a carrier's ability to enter and exit.

Before we turn to the details of the proposed rule, we highlight our current policy toward individual applications by Part 298 operators for exemptions to use larger aircraft. Since we last revised Part 298, we have generally granted large aircraft exemptions in markets in which a certificated carrier is not providing direct service or in which the commuter operations will not have a major impact on the certificated carrier's operations. In recent months, however, we have pursued a more liberal policy, primarily for the reasons outlined above. We will now grant large aircraft exemptions even in certificated markets if there has been an elimination or a substantial reduction in service. We will also consider authorizing the use of larger equipment in other markets, including certificated markets, to enable the commuter to develop well-coordinated and integrated service patterns that are responsive to traffic demand and that are economically feasible. Among the factors we consider in our review of the exemption applications are whether service was ever provided in the market; whether it has been substantially reduced or downgraded; whether it is necessary for the economic viability of other large aircraft operations; and whether the carrier proposes innovative service through the more effective use of airports and/or the offer of valuable price or quality options.

Proposed Amendment

The amendment we propose will increase the capacity limitation on aircraft used by air taxis in all jurisdictions, including Alaska and Hawaii, to a 60-seat/18,000[9] pound payload limitation.[10] We chose this size aircraft specifically to enable Part 298 operators to use Convair 580[11] aircraft as well as other similar types, principally the Fairchild F-27. Because Part 298 operators are not certificated and not subsidized, it is clear that such aircraft will be employed only in markets where it will be economically sensible, that is, where they can be used successfully to satisfy travel demand—unless, or course, the carrier makes a mistake, which it will presumably discover and correct. This has been true in the case of the 30-seat limitation adopted in 1972. That change permitted an increase of one-half, measured by revenue seats. This proposal would double the maximum permissible size. Moreover, these larger aircraft are readily available for use by the Part 298 operators. Local service carriers are disposing of this class of aircraft as they shift to all-jet fleets. Under these circumstances, we tentatively find that no public purpose would be served by continuing to prohibit their use by Part 298 operators.

In certain markets, however, certificated carriers—Allegheny, Frontier, Reeve Aleutian, Wien Air Alaska, Air New England, Aspen and Wright—are still using this class of aircraft. These carriers may serve the shorter, less dense of their markets entirely with turboprop equipment, often as a result of the subsidy program. With increasing market size, jet equipment becomes more prevalent and is the dominant type in major markets. We

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[5] The shift toward all jet fleets is continuing. For example, in 1976 and 1977, Allegheny, North Central, Ozark and Piedmont made plans to buy or lease additional DC-9-30 and B-727-100 equipment. Allegheny also began to sell or lease its Convair 580's, and TXI has sold nearly all of its Convair 600's. Southern, on the other hand, is buying Swearingen Metros.

[6] Commuter Air Carrier Operators, as of September, various years, FAA.

[7] Colonial Airlines, Inc. Docket 30591.

[8] Commuter Air Carrier Traffic Statistics, Y/E Dec. 31, 1976; Air Carrier Traffic Statistics, Y/E Dec. 31, 1976.

[9] By ER 1052, June 1, 1978, the Board increased the payload capacity for allcargo air taxi operations to 18,000 pounds, except for Hawaii and Alaska.

[10] We will also amend the § 298.34 limitation on air taxi service in Alaska to reflect the proposed increased capacity limitation.

[11] The Convair 580 is used for illustrative purpose throughout as representative of the large twin engine turboprop types. The class also includes, of course, smaller as well as slightly larger aircraft.

expect no substantial diversion in subsidized markets to result from the proposed rule. Commuter carriers operating equipment that is, at most, equal in quality to that of the local service carriers would find the subsidy received by most of the latter to be a formidable obstacle to successful competitive service. It is possible, however, that in some markets served principally by local service turboprop equipment, commuters may offer competitive service. If commuters do enter some of these markets successfully with the larger aircraft, the presumption must be that the public would in that event be provided with a service it demands. Although we are not persuaded that this will be sufficiently widespread or intense to create serious problems in the discharge of certificate obligations, we invite comments on this subject. All such comments should be consistent with our position on diversion as expressed in recent cases [12]—namely that we will not consider diversion a decisive factor unless it is so extensive as to impair the incumbent carrier's ability to perform its certificate obligations. They should also consider any effect which the proposed rule may have on subsidy.

We tentatively find that the proposed increase in the capacity limitation offers various advantages for both the public and the air taxi industry.

1. *Advantages to the public.* The public will receive improved service from the use of larger aircraft in selected markets where such aircraft may be efficiently operated. This larger equipment offers certain passenger amenities superior to what is typically availabe in the equipment the commuter and air taxi operators now use. First, they have larger and wider seats and wider aisles. Second, they offer greater headroom and easier entry and exit. Third, they have room for more carry-on luggage in overhead racks, as well as galleys and lavatories. Fourth, they are pressurized and air conditioned. In addition, they can be operated at higher altitudes, and, accordingly, can be employed successfully in mountainous regions. The ability to operate in mountainous regions may permit Part 298 operators to satisfy potential demand by providing service to areas which they had previously been foreclosed from serving. Convair 580-class aircraft also have substantially greater range. Thus, the public may well receive service for which there is a demand that is not now satisfied. Finally, commuters using turboprop equipment may be able to fill schedule gaps in certificated carriers' service.

The overall superior performance ability of the Convair 580 class also will enhance economic opportunities for commuter carriers and in so doing enhance the commuter-type service the public may receive. First, the capacity of the CV-580 is about three times that of the B-99 and the DHC-6 Twin Otter. This means that more seats will be available for passengers where needed, and more passengers will be able to travel on the flight of choice. Second, the CV-580 can operate at a higher cruising speed than the smaller aircraft now used by commuters, resulting in less travel time for passengers. Its 342-miles-per-hour cruising speed is 21-percent faster than the 283-miles-per-hour B-99 and 63 percent faster than the 210 miles-per-hour DHC-6. Third, these aircraft have a greater range. The range of the CV-580 is 1,605 miles; that of the Twin Otter is 794 miles with a 2,550-pound payload; and the range of the B-99 is 741 miles with a full load.[13] This may open new markets for travelers by allowing Part 298 operators to serve markets that previously were too great a distance for their equipment. In short, we tentatively find that the superior performance ability and the other amenities of these aircraft will greatly benefit the traveling public.

2. *Consumer Protection.* The introduction of aircraft carrying up to 60 passengers into commuter air service may require the extension to commuter carrier passsengers of some or all of the protection formerly restricted to passengers of the certificated carriers. first, larger aircraft in commuter service are capable of being partitioned into smoking and nonsmoking compartments. Second, the larger number of passengers carried on a given flight increases the exposure of baggage to loss or damage. Third, to the extent that commuter air carriers fill gaps in the certificated service in dense markets, they may encounter overbooking problems. We invite comments on the extent, if any, to which the protection now afforded passengers of certificated carriers in the above three areas should be extended to passengers of the commuter air carriers.

3. *Advantages to Part 298 operators.* The advantages of CV-580-class equipment will make scheduled and demand services by part 298 operators more attractive and increase their acceptance by the public. Overall, this class of aircraft will permit operations in markets previously inaccessible to these operators.

Using larger aircraft also will promote greater efficiency. Where volume has grown sufficiently, the Convair 580 class can reduce excessive frequencies. Although high frequencies are an advantage of commuter operations, traffic in certain markets is so great that commuters must use extra sections or schedule flights at very short intervals to meet the demand. The increased capacity of the larger aircraft will enable commuters to eliminate extra sections and excess flights while still providing high frequency service. The use of larger equipment in such cases will also promote fuel efficiency.

The proposed amendment will relieve part 298 operators from having to file exemption applications in order to operate larger aircraft and thus will reduce regulatory costs and delay which, ultimately, are borne by the users. Filing an exemption application is an expense and a burden. If a specific exemption is granted, the part 298 operator must operate according to conditions imposed by the Board, which generally follow the proposal. Any specific exemption is granted only for the particular markets for which part 298 operator requested it. Increasing the capacity limitation will enable part 298 operators to use the larger aircraft without the regulatory burdens, expenses, delays, and rigidities of operating under a specific exemption.[14] Especially important is that expansion of the class exemption under part 298 will enable them to satisfy the demand for their services as soon as it arises, without the delay caused by the processing of an exemption application, and to experiment with markets by trial and error.

Also, as the supply of twin turboprops available from the local service carriers and other sources dwindles and the maintenance costs of their aging fleets increase, commuter carrier equipment demand may well be sufficient to justify the development of new aircraft specifically designed to serve their needs effectively. This, by filling the existing gaps in technologically advanced aircraft, would provide a continuous range of aircraft types capable of meeting the needs of any market. The benefits of such a development would accure not only to the commuter carriers but also to their passengers and the aircraft manufacturing industry as well.

Diversion: As we discussed above, we do not expect significant diversion to result from increasing the maximum size of commuter aircraft. First, the 60-seat turboprop equipment is not competitive with the jet aircraft. Even the smallest jet in the certificated carriers' fleets has a larger capacity,[15]

[12] Greenville/Spartanburg-Washington/New York Subpart M Case, Order 77-10-1, Oct. 3, 1977.

[13] Commuter Air Carrier Operators as of Sept. 1976, FAA; Jane's "All the World's Aircraft." These ranges are much greater than the maximum city-pair distances capable of being served because Federal aviation regulations for instrument flight rule operations require sufficient fuel to reach the destination, then to climb to flight altitude, fly to the alternate airport, and to have 45 minutes of fuel remaining.

[14] It will also relieve the Board of the sizable administrative burden and expense of processing these applications.

[15] As configured by the trunk carriers, the DC-9-10 has 77 seats, and in local service it

Footnotes continued on next page

greater range, and is faster and less costly to operate than the largest turboprop equipment that the part 298 operators will be authorized to use. Second, as we have already observed, the local service carriers are rapidly selling their turboprop equipment and turning to all jet fleets. Third, part 298 operators are not likely to acquire and operate Convair 58-class aircraft on a large scale. After the current capacity limitation was imposed in 1972, they used 30-seat aircraft only where demand justified it; more than three fourths of all commuter aircraft are still configured to 19 or fewer revenue seats.[16] We have no reason to doubt that they will again institute larger aircraft operations only selectively, as market conditions justify it.

Safety

The basic control over safety rests with the Federal Aviation Administration, and the Board defers to the FAA in this area. The FAA regulates commuters for safety; we therefore perceive no safety problems resulting from the increased capacity limitation. If the FAA or any other Federal or State governmental body foresees such problems, we expect it to advise us specifically of them.

Environmental Evaluation

Our study of the proposed rule has led us to conclude that it does not constitute a major Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act of 1969. As we have stated above, part 298 operators constitute only a very small portion of the air carrier industry. Moreover, we expect only a fraction of their operations to be affected by the increased size limits. Finally a large portion of large aircraft operation which the proposed rule will make possible will merely replace similar operations by departing certificated carriers. Therefore, operations in the air carrier industry would be changed only slightly by the amendment. The environment impact of any change which does result from the proposed action would be spread throughout the route system, further mitigating its effect.

Not only would the relative environmental impact be slight, the absolute environmental effects of the rule would also be insignificant. While the larger planes are noisier than the existing part 298 fleet, they are not so noisy as to present a significant noise problem. In *Applications of Colonial Airlines, Inc.*, Order 78-6-183, June 27, 1978, we recently examined the entire question of noise insofar as it affected operations at Morristown Municipal Airport. Our experience from that case is that propeller aircraft operations, whether by small planes or larger turbo-prop equipment, are not a major noise contributor. After careful study, we concluded that by limiting the operation to aircraft no noisier than the Convair 580/F-27, etc. we could avoid undue annoyance of the surrounding community.

The planes we propose to include in Part 298 are all propeller driven, and none is significantly noisier than the Convair 580. Their increased use should therefore not cause significant noise problems. This is especially true because (a) many of the planes will be used at airports which already have jet operations[17] and (b) in many cases the use of the larger planes will replace more numerous operations by smaller planes and/or underutilized, noisier jets, causing a decrease in noise annoyance. The ability of airport proprietors to restrict the use of noisier planes at particularly sensitive airports provides further assurance that our amendment will not cause serious noise problems.

Our analysis of the noise impact of raising the Part 298 limits is also applicable to two other major areas of environmental concern, air pollution and energy consumption. The planes in question are not heavy polluters nor are they significantly less fuel efficient than the smaller planes now used by Part 298 operators. Any increased air pollution or fuel consumption caused by their use will also be offset by the decreased use of smaller planes and underutilized jets which the amendment would cause. We therefore find that adoption of higher Part 298 limits would not have significant air pollution or energy consumption impacts.

Finally, we feel that the proposed amendment is environmentally justified because the changes it makes are not irreversible. We will continue to monitor the effects of the amendment to assure that they do not cause a significant impact on the environment.

Comments

The Board invites all interested parties to comment on the proposed rule. Objections, other than those relating to diversion and subsidy impact, discussed below, should be as specific as possible and based on detailed factual materials or forecasts. Legal arguments, if any, should be fully supported by appropriate citations. Vague, general, or unsupported claims will not be accepted. We summarize here those requests already made for comments in specific areas.

Footnotes continued from last page

has 76 seats. The BAC-111, used only by Allegheny, is configured for 74 seats.

[16] Commuter Air Carrier Operators, September 1976, FAA.

[17] We are generally not even required to apply our noise screening test when new service with non-jet aircraft is proposed at an airport with existing jet operations. See Order 77-12-61, Dec. 8, 1977.

TABLE 1
Revenue Passenger-Miles, by Carrier Group
in Year Ended June 30, 1971-1977
(in millions)

Year Ended June 30	Number Domestic Trunks	Local Service	1/ Commuters	Annual Growth Rate Domestic Trunks	Local Service	Commuters
1971	95,786.3	7,593.7	442.0	-	-	-
1972	103,118.0	8,224.6	497.1	7.7%	8.3%	12.5%
1973	112,018.6	9,438.8	549.1	8.6	14.8	10.5
1974	118,186.6	10,573.0	643.5	5.5	12.0	17.2
1975	115,917.4	10,365.2	708.0 2/	-2.2	- 2.0	10.0
1976	126,445.3	11,641.4	732.7	9.1	12.3	3.5
1977	134,642.1	12,675.9	834.2	6.5	8.9	13.9
12/31/77 3/	141,276.3	13,541.7	946.2	7.5	11.7	22.8

1/ Includes Carribean and Alaskan Commuter Carriers.
2/ Air New England, formerly a commuter air carrier, inaugurated service as a certificated carrier in January 1975.
3/ Annual growth rate for calendar year 1977 based on change from calendar year 1976.

SOURCE: Air Carrier Traffic Statistics, June, various years, C.A.B.
Commuter Air Carrier Traffic Statistics, various years, C.A.B.

TABLE 2
Local Service Carriers, Number and Percentage Distribution of Aircraft by Type
1965-1977

Year	Total Number	Total Percent	Small Total Number	Small Total Percent	Small Piston Number	Small Piston Percent	Small Turbo-prop Number	Small Turbo-prop Percent	Jet Number	Jet Percent
1965	373	100.0	368	98.7	299	80.2	69	18.5	5	1.3
1966	390	100.0	376	96.4	252	64.6	124	31.8	14	3.6
1967	414	100.0	368	88.9	176	42.5	192	46.4	46	11.1
1968	400	100.0	309	77.3	69	17.3	240	60.0	91	22.8
1969	412	100.0	274	66.5	46	11.2	228	55.3	138	33.5
1970	419	100.0	262	62.5	27	6.4	235	56.1	157	37.5
1971	410	100.0	249	60.7	17	4.1	232	56.6	161	39.3
1972	392	100.0	222	56.6	17	4.3	205	52.3	170	43.4
1973	413	100.0	213	51.6	14	3.4	199	48.2	200	48.4
1974	390.8	100.0	179.9	46.0	10	2.6	169.9	43.5	210.9	54.0
1975	377.4	100.0	145	38.4	8.7	2.3	136.3	36.1	232.4	61.6
1976	378.1	100.0	133.4	35.3	6.9	1.8	126.5	33.5	244.7	64.7
1977	406	100.0	124	30.5	2	0.5	122	30.0	282	69.5

SOURCE: Flight magazine, Local Air Transport Yearbook, June, various years and Aicraft Operating Cost and Performance Report, various years, CAB. 1977 data from Form 41, December 1977, C.A.B.

On page 5, we requested comments on the extent to which operations permitted by the rule would adversely affect the ability of certificated carriers to meet their certificate obligations by reason of diversion. Subsidized carriers making objections based on adverse subsidy impact should estimate the change in total subsidy costs, and the points which would be affected. Objecting parties should present concrete evidence that the Board's conclusions concerning diversion or subsidy impact are erroneous. However, because the mere existence of some competition is not dispositive, objectors must demonstrate that diversion is so extensive as to impair the ability of a carrier to perform its certificate obligations. Air carriers claiming substantial diversion or adverse impact on subsidy in a particular market or markets or wanting to protect particular markets should identify the particular airport-pair markets in which they have been operating 31-60 seat aircraft, specifying the type of aircraft used and the type of service provided, including a description of any service they provide with jet aircraft, and the percentage of traffic traveling on the small aircraft. If protection is sought, the carrier should also submit for each market estimates on a projected participation and 1-year growth offset basis of revenue passenger miles and revenue which will be diverted from the carrier in 1979 should a commuter carrier begin operations with larger aircraft in that market.

On page 7, we invite comments on the extent, if any, to which the protection now afforded passengers of certificated carriers should be extended to passengers of commuter carriers. Such comments should be clearly identified as to whether they apply to all commuter carriers or only to those that operate larger than 30-passenger aircraft.

The Federal Aviation Administration and other State or Federal government agencies are invited to advise us if they find any safety problems resulting from the proposed increase.

PROPOSED RULE

Accordingly, the Board proposes to amend Part 298 of the Economic Regulations (14 CFR Part 298) as follows:

1. Revised paragraph (1) of § 298.2 to read as follows:

§ 298.2 Definitions.

* * * * *

(i) "Large aircraft" means any aircraft used in passenger service having maximum seating capacity of more than 60, or a maximum payload capacity of more than 18,000 pounds.

2. Section 298.31 be revised to read as follows:

§ 298.31 Scope of service and equipment authorized.

Nothing in this part shall be construed as authorizing the operation of large aircraft in air transportation, and the exemption provided by this part to air taxi operators which register and reregister with the Board extends only to the direct operation in air transportation in accordance with the limitations and conditions of this part of aircraft having maximum passenger capacities and maximum payload capacities as defined in § 298.2(i) of subpart A of this part, except that with respect to all-cargo operations conducted within Hawaii and Alaska such exemption extends only to such operation of aircraft having a maximum payload capacity of 7,500 pounds or less.

3. Section 298.34(a) be revised to read as follows:

§ 298.34 Limitations on air taxi service in Alaska.

(a) An air taxi operator shall not provide or offer to provide air transportation between points both of which are in the State of Alaska, or one of which is in Alaska and the other in Canada, unless the air taxi operator also holds authority from the State of Alaska to operate as a common carrier in intrastate commerce, or has applied to the Board for, and received, special exemption authority (see Supart D of Part 302 of the Procedural Regulations).

(Sections 204(a) and 416(b) of the Federal Aviation Act of 1958, as amended 72 Stat 743, 771; 49 U.S.C. 1324, 1386).

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-24867 Filed 9-5-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 201]

[Docket No. R-78-566]

PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Smoke Detection Devices

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: This amendment would permit the financing of certain smoke detection devices through Title I Home Improvement Loans. This amendment is necessary because the current ineligibility of smoke detectors for financing is no longer necessary due to improved industry practices and the improvement of testing standards.

DATE: Comments are due October 6, 1978.

ADDRESS: Interested persons are invited to submit written comments, suggestions or data regarding the proposed rule to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT:

William B. Stansbery, Acting Director, Title I, Insured Loan Division, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-8686.

SUPPLEMENTARY INFORMATION: Title I of the National Housing Act, as amended, 12 U.S.C. 1703(a) provides in pertinent part as follows:

* * * The Secretary shall from time to time declare * * * ineligible for financing under this section any item which he (she) determines is especially subject to selling abuses * * *

In 1954, fire alarms and fire detecting devices were determined to be "especially subject to selling abuses" and were therefore declared ineligible for financing under this part.

However, present industry practices and the development of standards for smoke detectors now justify the removal of smoke detectors from the ineligible determination when the detectors meet Underwriters Laboratory standards and are sold or purchased in connection with general rehabilitation or renovation.

Other types of fire safety equipment will be proposed as eligible for financing as standards and criteria for fire safety devices and facilities are developed or accepted by the Secretary.

Accordingly, it is proposed to amend paragraph (b) of § 201.7 as follows:

§ 201.7 Ineligible loans.

(b) *List of ineligible items.* * * *

"Fire alarms or detecting devices (except smoke detectors of either the ionization chamber or the photoelectric wall mounted type which bear the label of a testing and approval laboratory indicating that the smoke detectors have been tested and approved under the requirements of Underwrit-

ers Laboratory's Standard Nos. 167, 168, and 217)."

* * * * *

(Sec. 7(d) 79 Stat. 670 (42 U.S.C. 3535(d); sec. 2, 48 Stat. 1246 (12 U.S.C. 1703, as amended).)

Issued at Washington, D.C., August 23, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 78-24916 Filed 9-5-78; 8:45 am]

[7710-12]

POSTAL SERVICE

[39 CFR Part 111]

STAMPS (ADHESIVES)

Overprinting of Unauthorized Designs, Messages, or Other Markings on Stamps

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The proposal would amend existing regulations by making invalid for use as postage any postage stamps on which any unauthorized design, message, or other marking has been overprinted. The need for this regulation is suggested by recent inquiries by Postal Service customers with regard to the validity as postage of overprinted stamps. Under present regulations stamps that are mutilated or defaced (i.e., canceled) are considered invalid. The term "unauthorized design, message, or marking" in the proposed rule is intended to exclude from invalidation authorized markings, such as precanceled stamps and precancel postmarks under §§ 142.2 and 142.3 of the Postal Service Manual.

DATES: Written comments must be received on or before October 5, 1978.

ADDRESS: Comments should be directed to Assistant General Counsel, Special Projects Division, U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260. Copies of all comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Charles R. Braun, 202-245-4620.

SUPPLEMENTARY INFORMATION: The proposed regulation printed below includes both the existing regulation and the proposed changes. Proposed subsection (h) embodies the substantive change described in the summary above. The second comma and last seven words of the first sentence of proposed Part 142.6 are a clarifying amendment.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking, 39 U.S.C. 410(a), the Postal Service invited public comment on the following proposed revision of the Postal Service Manual:

PART 142—STAMPS (ADHESIVE)

Amend § 142.6 of the Postal Service Manual by revising it to read as follows:

142.6 Validity of Stamps.

All postage stamps issued by the United States since 1860 are good for postage from any point in the United States or from any other place where the United States domestic mail service operates, except from the Panama Canal Zone where special Canal Zone stamps are used, and except as provided in this section. The following are not good for postage:

a. Mutilated or defaced stamps.

b. Stamps cut from stamped envelopes, aerogrammes, or postal cards.

c. Stamps covered or coated in such manner that the cancelling or defacing marks cannot be imprinted directly on the stamps.

d. Nonpostage stamps (migratory-bird hunting stamps, U.S. saving and thrift stamps, etc.)

e. Postage due, special delivery, special handling, and certified mail stamps.

f. United Nations stamps, except on mail deposited at United Nations, N.Y.

g. Stamps of other countries.

h. Stamps on which any unauthorized design, message, or other marking has been overprinted.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401(2), 404(a)(2), 404(a)(4), 410(a).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-24934 Filed 9-5-78; 8:45 am]

[4110-92]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

[45 CFR Part 1340]

CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAM

Decision to Recodify Regulations

AGENCY: Office of Human Development Services, ACYF.

ACTION: Notice of decision to recodify regulations.

SUMMARY: The proposed regulations would reorganize, clarify, and simplify existing statements of general policy and procedure covering assistance to States, localities, and nonprofit private organizations under the Child Abuse Prevention and Treatment Act of 1974, and incorporate changes made necessary by the recent amendments added by title I of Pub. L. 95-266. the act provides for grants and contracts for demonstration and service programs and projects, provision of technical assistance and training development of training materials, conduct of research, and award grants to eligible States designed to develop, strengthen, or carry out child abuse and neglect prevention and treatment programs. The proposed regulations will also provide procedures for the coordination of programs and activities related to child abuse and neglect administered by Federal agencies.

FOR FURTHER INFORMATION CONTACT:

Douglas Besharov, National Center on Child Abuse and Neglect/Children's Bureau, ACYF/OHDS/DHEW, P.O. Box 1182, Washington, D.C. 20013, 202-755-0587.

Dated: August 30, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-25016 Filed 9-5-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-271; RM-3044]

TELEVISION BROADCAST STATION IN DE KALB, ILL.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the substitution of television channel *33 for channel *48 at De Kalb, Ill., for noncommercial educational use. Petitioner, Northern Illinois Public Telecommunications Corp., states the proposed channel would provide for a station which could furnish noncommercial educational television service to the northwestern region of Illinois which is not presently receiving such service.

DATES: Comments must be received on or before October 24, 1978. Reply comments must be received on or before November 13, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 24, 1978.

Released: August 30, 1978.

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations, De Kalb Ill., BC docket No. 78-271, RM-3044.

1. The Commission has before it for consideration a petition for rulemaking[1] filed by the Northern Illinois Public Telecommunications Corp. ("NIPTC"). The petition seeks amendment of the television table of assignments (§ 73.606(b) of the Commission's rules) by the substitution of channel *33 for the presently unoccupied and unapplied for channel *48 which is reserved for noncommercial educational use at De Kalb, Ill. Comments to the proposal were filed by the Association of Maximum Service Telecasters, Inc. ("AMST").

2. De Kalb (population 32,949), in De Kalb County (population 71,654),[2] is located in north-central Illinois, approximately 90 kilometers (55 miles) west of Chicago. De Kalb is presently assigned channel *48 which is unoccupied and unapplied for.

3. NIPTC states that its purpose is to enable northwestern counties of Illinois to participate in the State educational television network. It notes that the northwestern region of Illinois (populated by approximately 1 million people) is the largest area in the State not covered by educational television service. NIPTC claims that in order to provide the maximum educational television service to this vast region, the best possible signal should be used. It believes that use of channel *33 could better achieve this purpose.

4. AMST states that it does not oppose assignment of channel *33 to De Kalb provided the site chosen meets the distance separation requirements. It points out that at the De Kalb reference coordinates a channel *33 assignment would be short-spaced by 2.67 kilometers (1.66 miles) to station WICU (channel 26), Chicago, Ill. However, it notes that a site may be chosen in a large area west of De Kalb which provides adequate flexibility to avoid a short spacing. AMST states that, if the Commission decides to make the channel *33 assignment to De Kalb, it should make it clear that the assignment is to be used only at a site which meets all applicable separation requirements.

5. So long as an appropriate site is selected, channel *33 can be assigned in compliance with the Commission's distance separation requirements and other technical criteria without requiring changes of assignments at other communities listed in the table of assignments. Petitioner states its intention to file an application for the use of channel *33 as a noncommercial educational assignment should the Commission adopt the proposal.

6. A staff study shows that the substitution of channel *33 for channel *48 would result in less preclusion. Inasmuch as the proposal could confer a substantial benefit upon the public, we believe consideration of the proposal to substitute channel *33 for channel *48 for noncommercial educational use at De Kalb, Ill., is warranted.

7. In light of the foregoing, the Commission proposes to amend the television table of assignments, § 73.606(b) of the Commission's rules, with regard to the community listed below:

City	Channel No.	
	Present	Proposed
De Kalb, Ill.	*48	*33

8. The Commission's authority to institute rulemaking proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

9. Interested parties may file comments on or before October 24, 1978, and reply comments on or before November 13, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief,
Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 78-24996 Filed 9-5-78; 8:45 am]

[1] Public notice of the petition was given on February 7, 1978, report No. 1099.

[2] Population figures are taken from the 1970 U.S. Census.

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-274]

RADIO BROADCAST SERVICES

TV Assignment to Beattyville, Ky.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action herein proposes the assignment of a first television channel to Beattyville, Ky. Petitioner, Hour of Harvest, Inc., states the proposed channel could being a first local television service to the community. Comments must be filed on or before October 24, 1978, and reply comments on or before November 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (Beattyville, Ky.), BC docket No. 78-274, RM-3037. Adopted: August 24, 1978.

Released: August 30, 1978.

1. On January 6, 1978, Hour of Harvest, Inc. ("petitioner"), filed a petition for rulemaking,[1] which was subsequently amended to request the assignment of television channel 65 to Beattyville, Ky.[2] No responses to this proposal were filed.

2. Beattyville (population 923), seat of Lee County (population 6,587)[3] is located in east-central Kentucky, approximately 85 kilometers (53 miles) southeast of Lexington, Ky. Beattyville presently has no local television broadcast service. Channel 65 can be assigned in conformity with the distance separation requirements and other technical criteria of the Commission's rules.

3. Petitioner states that Beattyville is a growing community in eastern Kentucky. It points out that Beattyville is the seat of churches representing nine denominations. Small congregations located in rural areas operate either on an independent basis or as a part of a larger denominational group. Petitioner claims that local television can give expression to the religious interests of the community and surroundings. In support of its proposal, petitioner has submitted detailed information about Beattyville in order to demonstrate its need for the assignment of a television channel.

4. The president of the petitioner's corporation is the licensee of an existing FM station in Beattyville. Under § 73.636(a)(1) of the Commission's rules, no new VHF television-FM combinations may be created. However, UHF television-FM common ownership combinations as would result in this instance, are treated on a case-by-case basis. See note 8 of § 73.636. Consequently, in connection with any application for a new station at Beattyville, petitioner may be required to provide a showing that its being the licensee of both an FM and a television broadcast station in the same community would not be contrary to the public interest.

5. In view of the fact that the proposed assignment could provide for the establishment of a first local television service in Beattyville, the Commission finds it would serve the public interest to seek comments in rulemaking. Accordingly, the Commission proposes to amend § 73.606(b) of the Commission's rules, the television table of assignments, as follows:

City	Channel No.	
	Present	Proposed
Beattyville, Ky		65

6. The Commission's authority to institute rulemaking proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required before a channel will be assigned.

7. Interested parties may file comments on or before October 24, 1978, and reply comments on or before November 13, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief,
Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV table of assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 78-24997 Filed 9-5-78; 8:45 am]

[1] Public notice of the petition was given on January 19, 1978, report No. 1096.

[2] Earlier, petitioner requested channel 51 which would require the substitution of channel 65 for channel 51 at Pikeville, Ky. Oppositions were filed by the Association of Maximum Service Telecasters, Inc. ("MST") and Starr WTVQ-TV, Inc., asserting that the proposed assignment could not meet the minimum mileage separation requirements specified in § 73.658 (table IV) if channel 36 were assigned to Lexington, Ky. (now pending in docket 21392). Petitioner, on March 29, 1978, amended its petition by proposing instead channel 17. WLEX, Inc. and MST filed oppositions to this proposal noting that the proposed assignment was severely short spaced to cochannel station WUNE-TV, Linville, N.C. On June 13, 1978, petitioner again amended its petition by requesting the assignment of channel 65 to Beattyville.

[3] Population figures are taken from the 1970 U.S. Census.

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation Number A648]

COLORADO

Designation of Emergency Areas

The Secretary of Agriculture had determined that farming, ranching, or aquaculture operations have been substantially affected in the following Colorado Counties as a result of a severe freeze April 17 and 18, 1978, in Delta County and damaging hailstorms May 23, June 4, and June 26, 1978, in Kit Carson County.

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

Applications for emergency loans must be received by this Department no later than February 20, 1979, for physical losses and August 23, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 28th day of August 1978.

DENTON E. SPRAGUE,
Deputy Administrator,
Farmers Home Administration.

[FR Doc. 78-24936 Filed 9-5-78; 8:45 am]

[3410-07]

[Designation No. A650]

MICHIGAN

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Michigan counties as a result of excessive rainfall in Allegan, Barry, Berrien, Calhoun, Cass, Hillsdale, and Ottawa Counties; flooding in Allegan County; hail in Berrien and Cass Counties; and high winds in Berrien an Calhoun Counties June 25 and June 26, 1978.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Gov. William G. Milliken that such designation be made.

Applications for emergency loans must be received by this Department no later than February 20, 1979, for physical losses and August 23, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 28th day of August 1978.

DENTON E. SPRAGUE,
Deputy Administrator,
Farmers Home Administration.

[FR Doc. 78-24937 Filed 9-5-78; 8:45 am]

[3410-07]

[Designation No. A651]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas counties as a result of intermittent snow, ice, and extreme cold January 11 through March 1, 1978. In Bowie County; drought August 1, 1977, through August 11, 1978, in Cameron County; drought April 15 through July 14, 1978, in Hill County; drought January 1 through May 31, 1978, damaging freeze April 4 through April 10, 1978, April 25, 1978, and May 3 and May 4, 1978, and hot and dry winds June 1 through July 10, 1978, in Roberts County; and drought March 15 through July 10, 1978, and a tornado May 5, 1978, in Wood County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Gov. Dolph Briscoe that such designation be made. Applications for emergency loans must be received by this Department no later than February 20, 1979, for physical losses and August 23, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 28th day of August 1978.

DENTON E. SPRAGUE,
Deputy Administrator,
Farmers Home Administration.

[FR Doc. 78-24938 Filed 9-5-78; 8:45 am]

[3410-10]

Foreign Agricultural Service

WHITE OR IRISH POTATO PRODUCTION

Estimate With Respect to 1978

Headnote 2 of subpart A of part 8 of schedule 1 of the Tariff Schedules of the United States (TSUS) provides that, if for any calendar year the production in the United States of white or irish potatoes, including seed potatoes, according to the estimate of the Department of Agriculture made as of September 1, is less than 21 billion pounds, an additional quantity of potatoes equal to the amount by which such estimated production is less than 21 billion pounds shall be added to the 45 million pounds for which duty at 37.5 cents per 100 pounds is provided by TSUS item 137.25 for the 12-month period beginning September 15.

The estimate of the Department of Agriculture, made as of September 1, 1978, is that for the calendar year 1978 the production in the United States of white or Irish potatoes, including seed potatoes, will exceed 21 billion pounds.

Issued at Washington, D.C., this 1st day of September 1978.

THOMAS R. SAYLOR,
Acting Administrator.

[FR Doc. 78-25012 Filed 9-5-78; 8:45 am]

[3410-11]

Forest Service

LOG EXPORT RESTRICTIONS

Forest Service Policy

AGENCY: Forest Service, USDA.

ACTION: Final policy.

SUMMARY: This notice sets forth Forest Service policy on log export restrictions and substitution of national forest logs for private logs which are exported. The policy will become a part of the Forest Service manual (FSM).

EFFECTIVE DATE: September 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter J. Wagner, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, 202-447-4051.

SUPPLEMENTARY INFORMATION: On April 3, 1978, the Forest Service published a proposed policy (43 FR 13907) which would establish Forest Service policy on implementing timber export restrictions (36 CFR 223.10). The final policy is unchanged in many respects with the most significant changes being: (1) Revision of the policy on transfers of historic levels, (2) substantial rewrite and reorganization for clarity, (3) allowing brands to be reassigned within 2 months of sale closing rather than 18 as proposed, and (4) clarifying the definition of "historic" level to bring it into line with wording in the regulation.

SUMMARY OF COMMENTS

There were three written and one oral respondents on the proposed policy. In addition, several persons asked. for clarification, but did not comment. Several of the comments dealt with issues mandated by regulation 36 CFR 223.10. While some of these comments have merit, they go beyond the scope of this proposal. The comments within this category are: (1) Require that purchasers who export any private logs be prohibited from buying any national forest timber, (2) eliminate the use of tributary areas, (3) eliminate the use of historic levels and prohibit any purchase of national forest logs by anyone who has exported in the past 3 years, (4) right-of-way sales and accidental trespasses should be exempt, and (5) No. 4 sawlogs should be exempt.

One respondent questioned the need for an 18-month time lapse before a log brand could be used on a new sale. This requirement can be dropped without significant impact, so a 2-month time lapse has been substituted.

One respondent asked for several significant increases in requirements and penalties. One proposal would have required purchasers to file all papers with the Forest Service rather than only have them available for inspection. This was not adopted because it would impose an unnecessary burden and serve no purpose. The proposal to increase penalties suggested a prohibition on bidding for 5 years. This prohibition is equivalent to debarment which is already provided for. No change will be needed.

There was also a proposal that substitution restrictions should be extended to all indirect purchasers of national forest logs, not just the original purchaser. This proposal was considered, but not accepted because control would be almost impossible. The cost of control would far exceed any benefits which might accrue.

One proposal would allow more discretion to forest supervisors in surveillance of export. Experience has shown that some minimum level is necessary for control of violations and, therefore, these minimums have been retained.

Other comments dealt with unique problems or problems in clarity. These have been used where possible.

Therefore, Forest Service Manual 2400 will be amended as follows:

Revise 2430.8 to read:

TITLE 2400—TIMBER MANAGEMENT

2430.8 TIMBER EXPORT RESTRICTIONS

1. *Authority.* The authority for export restrictions is found in the annual Interior and Related Agencies Appropriation Act and in 36 CFR 223.10.

2. *Objective.* The objective of regulation 36 CFR 223.10 is to implement provisions of the Interior and Related Agencies Appropriation Act which prohibits the use of Forest Service appropriations for sale of unprocessed timber to be exported or to be substituted for exported timber. Language limiting the use of appropriated funds has been incorporated in the Appropriation Acts since fiscal year 1974.

This regulation replaced previous language developed under the Morse amendment.

Some provisions are similar to the prior regulation. The significant differences are in the exempt volume provision of the Morse amendment and the control of substitution incorporated in the above regulation. Pub. L. 93-120 and subsequent Appropriation Acts replace part IV of the Foreign Assistance Act of 1968 (Morse amendment) which allowed up to 350 million board feet per year to be sold from Federal lands, which includes lands administered by the Bureau of Land Management, west of the 100th meridian without export restrictions. Although the previous law authorized the Secretary of Agriculture to issue regulations to restrict substitution, the Secretary of Agriculture did not do so until required to by Pub. L. 93-120.

3. *Policy.* Implementation of export and substitution restrictions is through award of the timber sale contract and administration of the contract requirements. Export and substitution provisions will be included in all contracts in excess of $2,000 in advertised value with advance notice in each applicable prospectus (FSM 2431.4) and advertisement (FSM 2431.54). The regulation includes administrative use sales and timber settlements as well as commercial sales. Timber sale set-asides under the Small Business Act are also included.

Contracts awarded prior to March 8, 1974, may contain volume available for export either as surplus species or exempt volume. This timber may be disposed of as the purchaser desires. There is no requirement that exportable volume be exported or, if exported, that it be exported in a particular year. Contract provisions on export continue for the duration of each contract period, including adjustments to or extensions thereof. Instructions to bidders will specify that the bidder must complete the certification of nonsubstitution of timber purchase (form 2400-43) to be eligible for award of the sale.

4. *Definitions.* The timber export and substitution regulation contains several terms which are defined in the regulation. There have been questions concerning these and other terms.

Export—Timber will be considered to be exported when it is no longer under the control of the purchaser because of some transaction which gives control of the timber to an exporter or, if the purchaser is an exporter, when the logs are loaded aboard a shipping vessel.

Purchaser—The term "purchaser" includes affiliates. Affiliates are under the same or common control wholly or in part. Questionable situations should be reviewed by the Field Office of General Counsel for determination of affiliation.

Unprocessed timber—As used in the regulation, unprocessed timber does not include species declared surplus or logs of lesser quality than sawmill grade 4 as published in the 1972 official log scaling and grading rules used by West Coast Log Scaling and Grading Bureaus.

Alaska is the only exception. Logs which are "culls," "cull peelers," or "chip culls" or "utility grades" may be exported without processing. Special products such as timbers, poles, piling, etc. of any size are considered processed for purposes of this regulation when the product is processed into its final form and meets the requirement of a specific order.

2430.81 DETERMINATION OF SURPLUS SPECIES

Regulation 36 CFR 223.10 contains provisions for species to be declared "surplus" and thereby exempt from the domestic processing requirement. The required hearings and determination of surplus are administered by the Secretary of Agriculture. Hearings will normally not be held until after a notice has been published in the FEDERAL REGISTER to determine if hearings are needed. Regional Foresters should be alert for indications that a particular species or grade of timber is surplus to the needs of domestic users and processors, or that a previous determination of surplus volume

should be reviewed through the public hearing(s). The Regional Forester's recommendations should be transmitted to the Chief.

The species currently declared to be surplus to domestic needs are Port Orford cedar and Alaska yellow cedar. Species declared surplus are not subject to domestic processing requirements and consequently may be exported in log form.

2430.82 Administration of Export Restrictions

By signing the certification of nonsubstitution of timber purchased (form 2400-43) and the contract, the purchaser accepts the obligations and restrictions contained therein. As with any other contract provision, the Forest Service representative must determine that the purchaser has complied with the contract. The key to effective administration of C8.641 or C8.642 is the branding and painting required in C6.82. Since branding and painting are the only means of identifying Forest Service logs, it is critical that this provision be enforced on all forests west of the 100th meridian. This requirement applies to both scaled and tree measured contracts.

All products from the sale area shall be branded with the assigned sale brand before removal. Painting and/or branding shall be done before removal from the sale area unless product sorting after removal has been approved. When sorting after removal from the sale area has been approved, branding of exempt products and painting of domestic products shall be done prior to scaling. Both ends of all restricted logs will be hammer branded with an approved brand and one end will be painted with durable quality highway-yellow paint. Exempt logs will not be painted with highway-yellow paint, but will be hammer branded on each end with an approved brand different from that used on the restricted logs.

For timber to be measured after cutting, the scaling record used for computing stumpage charges converted to Scribner scale will be used as the basic accounting record for compliance with the export exemption limit. Accordingly, the record will be subtotaled respectively for restricted and exempt log volumes. The Forest Service will arrange for this if the Forest Service performs the scaling. If not, the purchaser will arrange for the appropriate record to be made and furnished to the Forest Service by an approved scaling service. Where sample scaling is used and sampling frequency must be increased because of the stratification between exempt and restricted logs, the purchaser will pay for any additional scaling required.

When timber is measured prior to cutting, the purchaser will be required to arrange for scaling the exempt logs. This arrangement can be with the Forest Service or with an approved scaling service. In either event, the purchaser will pay for the scaling service.

The exemption limit stated in a contract will not be subject to adjustment up or down, as a consequence of the total volume cut overrunning or underrunning contract volume estimates, unless the entire estimated sale volume is exempt. It is the purchaser's responsibility to supervise operations so that the exemption limit is not violated. It is impractical to sort exempt logs so that their total volume coincides exactly with the exemption limit. Therefore, individual contracts will provide an overage tolerance of 6,000 board feet, Scribner scale, as locally applied.

2430.82a Log Export Surveillance

The purpose of the surveillance program is enforcement of the log export regulation. Preplanned surveillance is necessary for enforcement and also acts as a preventative measure for possible violations. Surveillance action may vary from a simple situation such as a single port or yard to a complex situation of numerous ports and yards. Regional Foresters will establish procedures, controls and training guidance, reporting requirements (FSM 2430.84), areas of responsibility, and staffing requirements for the surveillance program in their region.

1. Regional minimum standards. As a minimum, regional standards should contain the following:

a. Specific areas of surveillance responsibility designated for each forest supervisor.

b. Require specific written instructions prepared for forest officers designated for surveillance duties.

c. Assign a surveillance frequency of at least monthly and increasing with the amount of export activity in the area.

d. Records should include a brand registration book for both domestic and exempt brands. Brands from other forests, regions, BLM, States, etc., should also be maintained for area of surveillance activity.

e. Restriction that brands will not be reissued to a new sale until at least 2 months have lapsed since closing last sale.

f. Specific instructions requiring suspension of sale when improper marking, branding, and painting by purchaser is noted and suspension to continue until corrected.

g. The scheme to insure open communications between surveillance officers, districts, forests, regions, and agencies to coordinate controls.

h. Require that suspected logs in violation of the regulation be marked to be readily identified later if necessary and include pictures when possible.

i. Assign person responsible to make contacts with export port personnel, scalers, port superintendents, tugboat companies, and export yarding personnel.

When a violation is found, the responsible line officer or acting should make personal contact with the violator. Contacts should not be left entirely to the surveillance officer or staff.

Suspected export violations must be investigated and reported immediately. It is not enough to know a violation has occurred. Immediate action may prevent a violation and the violator should be required to correct the situation.

2. Minimum requirements. A report containing the following minimum requirements must be prepared on violations:

a. Chronological sequence of events.

b. Reason why restricted logs were in or on the way to export yards. Circumstances surrounding violation stated in writing by violator as well as surveillance officer.

c. Recorded contacts with violator by line officer or acting noting that action was not left entirely to surveillance officer or staff.

d. Statement of followup action taken or planned by surveillance officer, district, and purchaser.

The surveillance program is not the responsibility of designated surveillance officers alone. Regional and forest staff, district rangers, and district staff must take an active part and be kept informed of activities concerning areas of their responsibility. Interregional coordination is also a necessity and the responsibility of Regional Foresters.

2430.83 Administration of Substitution Restrictions

Paragraph (e) of Regulation 36 CFR 223.10 defines "substitution," "historic levels" and "tributary area."

Historic levels are always associated with a tributary area to a processing facility. The historic level is defined as 110 percent of: (1) The total volume in Forest Service timber sales purchased in a tributary area in calendar years 1971, 1972, and 1973 divided by 3; (2) the total volume of private timber sold into export in the same area for the same 3 years divided by 3. The procedure is the same regardless of the volume purchased or exported on any one year.

In establishing historic levels for purchasers who did not purchase and/or export national forest timber in 1 or more of the years in the 1971-73 base period, the historic level is based upon the 3-year base, regardless of whether or not the purchaser was in existence. For example, the historic levels for a purchaser who did not buy any national forest sales in 1971 [1] and who did not export [2] any private timber in 1973 would be calculated as follows:

[Figures in thousand board feet]

Calendar year	Purchases	Private timber exported
1971	0	400
1972	3,500	500
1973	4,000	0
Total	7,500	900
Divided by 3	2,500	300
Historic level (×1.10)	2,750	330

The historic level of purchases and export may be zero for new firms or firms that did not buy any national forest timber or remove national forest timber or export any private timber during the base period. A firm may not purchase or remove national forest timber in any amount in any calendar year when that firm exports private timber in excess of its historic level of exports. Firms with a historic export level of zero are prevented from buying any national forest timber in any year in which they export private timber. (110 percent×0=0.)

A purchaser cannot remove timber or operate a national forest sale and export private timber in excess of his/her historic level during any calendar year without breaching C8.641 (3/74) or C8.642# (3/74). (Sales without C8.641 (3/74) or C8.642# (3/74) would, of course, not be affected by this prohibition.)

The volume of surplus species is not included in determining the historic average volume. However, the volume of minor species such as alder is included, as long as it meets the minimum quality as specified in the regulation.

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[1] Sale date is the award date as it appears on the front page of the timber sale contract.

[2] See definnition of "export" in FSM 2480.81.

The tributary area for a given purchaser is determined from his historic sources of logs in the 1971-73 base period.

For a purchaser who is either a logger or a nonmanufacturer and disposes of his logs to several mills, the tributary area may be large and contain several mills, whereas a purchaser with a mill who has purchased his needed logs within a minimum haul distance of his mill will have a relatively small tributary area.

The tributary area for two mills will be combined for joint venture purchases if the timber from such sales is hauled to both mills for processing.

2430.83a TRANSFERS OF HISTORIC EXPORT AND PURCHASE QUOTAS

The historic levels of purchases and exports are not assets owned by a purchaser and hence are not available for sale. However, there are circumstances under which the historic levels may logically be transferred from one entity to another.

The general rule on such transfers is that a historic level goes along with the business entity which established the level. In cases where there is a successor in interest (such as a merger or complete purchase of one firm by another) the historic share automatically transfers.

In all other cases, the matter shall be referred to the Regional Forester who will consult with the Field Office of General Counsel and make a ruling.

These other cases will be decided on the nature of the transaction within the tributary area of the selling firm. If the selling firm disposes of all of its assets within a tributary area, the historic levels may follow the rest of the transfer. Assets unrelated to the forest products business may be excluded from the sale without affecting the historic share transfer.

Active timber sales shall be handled in one of the three following ways:

1. If the party taking over the sales is a bona fide successor in interest, the sales may be transferred. For determining export quotas, the sales will be charged to the calendar year in which they were actually purchased. Original sale volume will be used.

2. If the party taking over the sales is not a successor in interest, but the transfer of historic levels is allowed, the sales will be third partied. For determining export quotas, the sales will be charged to the calendar year in which they were actually purchased. Original sale volumes will be used.

3. If the transfer of historic levels is not allowed, the sales will be third partied. The volume remaining on each active sale must be credited to the calendar year in which the third-party agreement is approved. The third-party agreement should not be approved if it would result in an export violation.

2430.84 REPORTS AND RECORDS

The procedures for bidding on national forest timber sales are described in paragraph (f) of 36 CFR 223.10. At the time bids are submitted, the bidder must enclose with his bid a signed certification of nonsubstitution of timber purchased (form 2400-43). Special provision C8.641 (3/74) or C8.642# (3/74) which is to be included in all formally advertised sales west of the 100th meridian provides the agreements specified in (f) 2, 3, and 4 of the regulation. Forms 2400-44 and 2400-45 should be used to supply this information. It is the purchaser's responsibility to maintain his records to show clearly the sources and disposition of timber so that he does not exceed his historic level of export and that replacement does not occur.

The purchaser is required to maintain and upon request furnish the Forest Service the following information needed by the Forest Service to check on compliance with contract provisions:

1. Copies of purchaser's executed log-sale invoices showing points of log delivery, volumes by species, and log brands involved.

2. In the event the purchaser sells or trades any of the restricted logs, he is required to condition such transactions by requiring each buyer, exchangee, or recipient to execute an agreement which shall provide for domestic processing. Executed copies of such agreements will be filed with the Forest Service.

3. Each purchaser is required to retain for 3 years the records of all sales or trades of logs from his sale for inspection and use by the Forest Service.

4. A certified statement showing disposition details of all logs removed from national forest land is required from purchasers. Such a statement is to be filed with the Forest Service prior to termination of the sale contract.

As provided in paragraph (f), item, (2) of the regulation and C6.841 and C6.842#, the purchaser must provide the Forest Service in writing the name and addresses of firms to which the timber will be delivered. This information is to be provided prior to beginning operation on the sale. It should be recognized that the purchaser may later change the outlets for his timber. There should be no pressure to restrict such a change provided the appropriate notice is given the Forest Service in advance.

Also, prior to beginning operations the purchaser must provided a record of all sales (name of sale, advertised volume) purchased for delivery to said location in calendar years 1971, 1972, and 1973 and the volume of private timber under the purchaser's or its affiliates' control, tributary to the same locations, which was exported during the 1971-73 period. This information should be examined to verify the purchaser has not exceeded his historic level in purchasing the sale which means he would have falsely certified at the time of bidding. Discrepancies, false certifications, or violations of the timber export and substitution regulation will be investigated, documented in report format and submitted to the Regional Forester for disposition.

2430.85 PENALTIES

Export of nonexempt national forest logs is a violation of 36 CFR 261.6(g). Although not a penalty, purchasers who are found to have breached the terms of their contracts may be suspended or debarred from further Federal timber sales (FSM 2431.75a). Where appropriate, contracts so breached may be terminated. Bidders, purchasers, purchaser's log buyers, exchangees, or recipients of logs who are found to have filed erroneous certifications will be subject to the penalties set forth in 18 U.S.C. 1001.

Dated: August 30, 1978.

JOHN R. MCGUIRE,
Chief.

[FR Doc. 78-25013 Filed 9-5-78; 8:45 am]

[3410-16]

Soil Conservation Service

UPPER YOCONA RIVER WATERSHED, MISSISSIPPI

Intent to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Upper Yocona River Watershed, Pontotoc, Lafayette, and Calhoun Counties, Miss.

The environmental assessment of this federally-assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection and flood prevention. About 75 percent of the land treatment measures, 18 floodwater retarding structures, and one large channel grade stabilization structure have been installed. The remaining planned works of improvement include 42.1 miles of channel work, a wildlife habitat area, and one channel grade stabilization structure.

Upper Yocona River Watershed, Mississippi, notice of intent to prepare an environmental impact statement.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, P.O. Box 610, Jackson, Miss. 39205; 601-969-4335.

(Catalog of Federal domestic assistance program No. 10.904, Flood Control Act—Public Law 78-534, 58 Stat. 905.)

Dated: August 28, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources.

[FR Doc. 78-24957 Filed 9-5-78; 8:45 am]

[3510-04]

DEPARTMENT OF COMMERCE

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF AGRICULTURE
Research Agreements and Patent Branch General Service Division, Federal Building Agricultural Research Service Hyattsville, Md. 20782.

Patent 3,982,037: Peeling Fruits and Vegetables by Multiple Heatings and Coolings. Filed Jan. 15, 1975, patented Sept. 21, 1976.

DEPARTMENT OF ENERGY,
Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,910,673: Coaxial Cable Connectors. Filed Sept. 18, 1973, patented Oct. 7, 1975.
Patent 3,913,657: Method and Apparatus for Fabricating a Composite Structure Consisting of a Filamentary Material in a Metal Matrix. Filed July 17, 1974, patented Oct. 21, 1975.
Patent 3,914,133: Thermal Battery. Filed Apr. 17, 1973, patented Oct. 21, 1975.
Patent 3,914,392: High Temperature Insulating Carbonaceous Material. Filed Mar. 27, 1973, patented Oct. 21, 1975.
Patent 3,914,681: Ring Magnet Firing Angle Control. Filed Nov. 6, 1974, patented Oct. 21, 1975.
Patent 3,915,119: Apparatus for Fabricating Composite Ceramic Members. Filed May 7, 1974, patented Oct. 28, 1975.
Patent 3,915,742: Interelectrode Separator for Electrochemical Cell. Filed May 7, 1974, patented Oct. 28, 1975.
Patent 3,916,432: Superconductive Microstrip Exhibiting Negative Differential Resistivity. Filed May 17, 1974, patented Oct. 28, 1975.
Patent 3,917,782: Method for Preparing Thin-Walled Ceramic Articles of Configuration. Filed May 16, 1973, patented Nov. 4, 1975.
Patent 3,918,961: Method of Removing Bulk Sodium from Metallic Surfaces. Filed Dec. 12, 1974, patented Nov. 11, 1975.
Patent 3,918,965: Iridium-Hafnium Alloys. Filed Apr. 26, 1974, patented Nov. 11, 1975.
Patent 3,922,748: Reactor Vessel Seal Service Fixture. Filed May 9, 1974, patented Dec. 2, 1975.
Patent 3,922,903: High Temperature Aqueous Stress Corrosion Testing Device. Filed Sept. 27, 1974, patented Dec. 2, 1975
Patent 3,923,231: Diffusion Bonding of Gold to Gold. Filed Apr. 11, 1975, patented Dec. 2, 1975.
Patent 3,924,184: Vibrating Fiber Electrometer. Filed Sept. 16, 1974, patented Dec. 2, 1975.
Patent 3,924,794: Solder Leveling Process. Filed Dec. 2, 1974, patented Dec. 9, 1975.
Patent 3,928,849: Intrusion Detector Self-Test System. Filed Dec. 17, 1974, patented Dec. 23, 1975.
Patent 3,931,520: Sample Positioning Apparatus. Filed Nov. 8, 1974, patented Jan. 6, 1976.
Patent 3,931,522: Period Meter for Reactors. Filed Sept. 27 1974, patented Jan. 6, 1976.
Patent 3,931,673: Aluminum for Bonding Si—Ge Alloys to Graphite. Filed Oct. 8, 1969, patented Jan. 13, 1976.
Patent 3,932,717: High-Explosive Driven Crowbar Switch. Filed Oct. 30, 1974, patented Jan. 13, 1976.
Patent 3,933,447: Underground Gasification of Coal. Filed Nov. 8, 1974, patented Jan. 20, 1976.
Patent 3,933,520: Method of Preparing Electrodes with Porous Current Collector Structures and Solid Reactants for Secondary Electrochemical Cells. Filed Apr. 3, 1975, patented Jan. 20, 1976.
Patent 3,933,521: Anode for a Secondary, High-Temperature Electrochemical Cell. Filed Feb. 13, 1975, patented Jan. 20, 1976.
Patent 3,933,581: Control Rod Drive for Reactor Shutdown. Filed June 4, 1974, patented Jan. 20, 1976.
Patent 3,934,649: Method for Removal of Methane from Coalbeds. Filed July 25, 1974, patented Jan. 27, 1976.
Patent 3,935,063: Emergency Heat Removal System for a Nuclear Reactor. Filed Nov. 28, 1973, patented Jan. 27, 1976.
Patent 3,939,714: Variable Percentage Sampler. Filed June 10, 1975, patented Feb. 24, 1976.
Patent 3,940,617: Method for Nondestructive Fuel Assay of Laser Fusion Targets. Filed Apr. 7, 1975, patented Feb. 24, 1976.
Patent 3,943,014: Logic Elements for Reactor Period Meter. Filed Mar. 20, 1975, patented Mar. 2, 1976.
Patent 3,943,458: Reducing Gain Shifts in Photomultiplier Tubes. Filed Oct. 24, 1974, patented Mar. 9, 1976.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent 3,976,997: Digital Plus Analog Output Encoder. Patented Aug. 24, 1976.
Patent 3,977,147: Flanged Major Modular Assembly Jig. Patented Aug. 31, 1976.
Patent 3,977,831: Method for Detecting Pollutants. Patented Aug. 31, 1976.
Patent 3,978,187: Method of Making Hollow Elastomeric Bodies. Patented Aug. 31, 1976.
Patent 3,978,350: Dual Mode Solid State Power Switch. Patented Aug. 31, 1976.
Patent 3,978,360: III-V Photocathode with Nitrogen Doping for Increased Quantum Efficiency. Patented Aug. 31, 1976.
Patent 3,978,364: Integrated Structure Vaccum Tube. Patented Aug. 31, 1976.
Patent 3,978,410: Aircraft-Mounted Crash-Activated Transmitter Device. Patented Aug. 31, 1976.
Patent 3,978,417: Reflected-Wave Maser. Patented Aug. 31, 1976.
Patent 3,978,490: Furlable Antenna. Patented Aug. 31, 1976.

[FR Doc. 78-24958 Filed 9-5-78; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent 3,981,155: Plasma Deposited Rider Rings for Hot Displacer; filed Mar. 10, 1975, patented Sept. 21, 1976.
Patent 3,981,616: Hollow Composite Compressor Blade; filed Oct. 22, 1974, patented Sept. 21, 1976.
Patent 3,981,805: High Temperature Radioisotope Capsule; filed Sept. 13, 1972, patented Sept. 21, 1976.
Patent 3,981,811: Silicone Fluids as a Corrosion Inhibitor for Perfluorinated Polyether Fluids. Filed Jan. 14, 1976, patented Sept. 21, 1976.
Patent 3,981,812: High Temperature Thermally Stable Greases; filed Jan. 14, 1976, patented Sept. 21, 1976.
Patent 3,982,101: Laser Velocimeter Real Time Digital Data Analyzer; filed May 19, 1975, patented Sept. 21, 1976.
Patent 3,982,130: Ultraviolet Wavelength Smoke Detector; filed Oct. 10, 1975, patented Sept. 21, 1976.
Patent 3,982,132: Patent Restraining Strap for Scintiphotography; filed Feb. 13, 1975, patented Sept. 21, 1976.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patents Branch, General Services Division Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent 3,978,230: Arthropod Maturation Inhibitors; filed Mar. 24, 1975, patented Aug. 31, 1976.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,913,326: Energy Conversion System; filed Apr. 11, 1974, patented Oct. 21, 1975.

Patent 3,916,686: Method for Testing Wire Rope; filed Oct. 24, 1974, patented Nov. 4, 1975.

Patent 3,941,612: Cathode Composition for Electrochemical Cell; filed Mar. 4, 1975, patented Mar. 2, 1976.

Patent 3,945,809: Method and Apparatus for Removing Coarse Unentrained Char Particles from the Second Stage of a Two-Stage Coal Gasifier; filed July 8, 1975, patented Mar. 23, 1976.

Patent 3,947,291: Electrochemical Cell Assembled in Discharged State; filed Sept. 30, 1976, patented Mar. 30, 1974.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief For Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent 3,971,923: Ramp Function Generator; filed Mar. 31, 1975, patented July 27, 1976.

Patent 3,979,803: Quick Release Latch; filed Nov. 2, 1973, patented September 14, 1976.

Patent 3,892,058: Magnetic and Electric Field Shielding of Computer Components from Lightning; filed May 13, 1975, patented Sept. 21, 1976.

Patent 3,982,178: Method of Determining Adequacy of Substrate Memory Wire during the Plating Process; filed January 29, 1975, patented September 21, 1976.

Patent 3,982,189: Square Wave to Sine Wave Converter; filed November 25, 1975, patented September 21, 1976.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent 3,966,499: Solar Cell Grid Patterns; patented June 29, 1976.

Patent 3,977,197: Thermal Energy Storage System; patented August 31, 1976.

[FR Doc. 78-24959 Filed 9-5-78; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20310.

Patent 3,942,132: Combined Electron Beam Semiconductor Modulator and Junction Laser; filed Sept. 6, 1974, patented Mar. 2, 1976.

Patent 3,944,729: Stabilized Terrain Optical Position Sensor; filed Mar. 25, 1975, patented Mar. 16, 1976.

Patent 3,948,699: Hydrogen Gas Generators for Use in Chemical Lasers; filed Nov. 8, 1974, patented Apr. 6, 1976.

Patent 3,948,700: Method of Producing High Temperature Hydrogen; filed Nov. 8, 1974, patented Apr. 6, 1976.

Patent 3,950,862: Solar Cell Detector Array for Engagement Simulation; filed Oct 3, 1974, patented Apr. 20, 1976.

Patent 3,952,583: Apparatus and Method for the Remote Detection of Vibrations of diffuse Surfaces; filed Jan. 2, 1975, patented Apr. 27, 1976.

Patent 3,958,457: Electronically Operated Tipping-Bucket Rain Gage; filed Sept. 26 1975, patented May 25, 1976.

Patent 3,959,659: Intense Energetic Electron Beam Assisted Fusion Neutron Generator; filed Apr. 4 1976, patented May 25, 1976.

Patent 3,965,081: Isotactic and Syndiotactic Polyvinyl Nitrates and Processes for their Formation; filed January 21, 1974, patented June 22, 1976.

Patent 3,965,749: Sampling and Dilution Method; filed March 19, 1975, patented June 29, 1976.

Patent 3,967,121: Low Level Infrared Camera (LLIR Camera); filed September 10, 1975, patented June 29, 1976.

Patent 3,972,864: Copolymers of Methyl Alpha-N-Alkylacrylate and Methyl Methacrylate; filed Feburary 19, 1975, patented August 3, 1976.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel For Patents, Washington, D.C. 20314.

Patent 3,911,280: Method of Measuring a Profile of the Density of Charged Particles in a Particular Beam; filed April 11, 1974, patented October 7, 1975.

Patent 3,912,625: Method for Removing and Decolorizing Aqueous Waste Effluents Containing Dissolved or Dispersed Organic Matter; filed November 5, 1973, patented October 14, 1975.

Patent 3,914,054: Zeeman Effect Absorption Spectrometer; filed Feburary 13, 1974, patented October 21, 1975.

Patent 3,914,373: Method for Separating Isotopes; filed January 20, 1973, patented October 21; 1975.

Patent 3,914,388: Volatilization of Iodine from Nitric Acid Using Peroxide; filed September 11, 1973, patented October 21, 1975.

Patent 3,916,200: Window for Radiation Detectors and the Like; filed September 4, 1974, patented October 28, 1975.

Patent 3,918,812: Diagnoses of Disease States by Fluorescent Measurements Utilizing Scanning Laser Beams; filed May 7, 1973, patented November 11, 1975.

Patent 3,918,818: Method for Detection of Trichinellae; filed March 29, 1974, patented November 11, 1975.

Patent 3,919,273: Nonaqueous Actinide Hydride Dissolution and Production of Actinide Beta-Diketonates; filed August 23, 1974, patented November 11, 1975.

Patent 3,919,274: Nonaqueous Method for Dissolving Lanthanide and Actinide Metals; filed August 23, 1974, patented November 11, 1975.

Patent 3,920,577: Iodine Retention During Evaporative Volume Reduction; filed July 16, 1974, patented November 18, 1975.

Patent 3,922,311: Fluorodinitroethyl Difluoroformal and Process of Manufacture; filed May 10, 1972, patented November 25, 1975.

Patent 3,922,872: Iron Titanium Manganese Alloy Hydrogen Storage; filed Feburary 4, 1975, patented December 2, 1975.

Patent 3,923,619: 018 Enrichment Process in U02F2 Utilizing Laser Light; filed September 16, 1974, patented December 2, 1975.

Patent 3,923,959: Method for Preparing Actinide Nitrides; filed November 28, 1973, patented December 2, 1975.

Patent 3,924,180: Potential Sensing Cell Analyzer; filed October 12, 1973, patented December 2, 1975.

Patent 3,925,036: Stage Design; filed March 23, 1951, patented December 9, 1975.

Patent 3,925,039: System for Treating Fuel Gas; filed November 18, 1974, patented December 9, 1975.

Patent 3,926,560: System for Detecting Gaseous Contaminants in Air; filed October 30, 1973, patented December 16, 1975.

Patent 3,926,953: Process for Producing 1,5-Diacetyl-3, 7-Dinitro-1,3,5,7-Tetraazacycloctane; filed December 5, 1974, patented December 16, 1975.

Patent 3,929,585: Production of Charcoal from Sawdust in a Fluidized Bed; filed August 16, 1972, patented December 30, 1975.

Patent 3,929,601: Synthesis of Pentafluorides; filed March 26, 1974, patented December 30, 1975.

Patent 3,929,979: Process for Generating Hydrogen; filed September 10, 1974, patented December 30, 1975.

Patent 3,929,980: Method of Producing Hydrogen; filed December 26, 1974, patented December 30, 1975.

Patent 3,932,300: System for Disposing of Radioactive water; filed September 10, 1973, patented January 13, 1976.

Patent 3,936,633: Method of Determining Lanthanides in a Transition Element Host; filed January 16, 1975, patented February 3, 1976.

Patent 3,939,049: Process for Radiation Grafting Hydrogels onto Organic Polymeric Substrates; filed April 10, 1974, patented February 17, 1976.

Patent 3,943,062: Cryolite Process for the Solidification of Radioactive Wastes; filed May 13, 1974, patented March 9, 1976.

Patent 3,943,204: Method for Improving the Extraction Properties of a Tributyl Phosphate Solution; filed Feburary 5, 1974, patented March 9, 1976.

Patent 3,994,638: Process for Preparing Metal-Carbide-Containing Microspheres from Metal-Loaded Resin Beads; filed June 18, 1974, patented March 16, 1976.

Patent 3,946,932: Brazing Graphite to Graphite; filed April 25, 1968, patented March 30, 1976.

Patent 3,947,335: Isotope Separation by Selective Photocissociation of Glyoxal; filed March 4, 1975, patented March 30, 1976.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent 3,942,127: Aspheric Cassegrain Laser Power Amplifier System; filed April 11, 1975, patented March 2, 1976.

Patent 3,948,042: System for Controlling the Nozzle throat Area of a Rocket Motor; filed December 23, 1968, patented April 6, 1976.

Patent 3,948,182: Semi-Active Electro-Optical Bomblet Fuze; filed October 3, 1968, patented April 6, 1976.
Patent 3,956,991: Optical, Semi-Active Bomblet Fuze; filed October 3, 1968, patented May 18, 1976.
Patent 3,957,350: Device for Displaying a Laser Beam; filed August 26, 1974, patented May 18, 1976.
Patent 3,964,416: Boiler Reactor; filed July 19, 1965, patented June 22, 1976.
Patent 3,968,400: Flash Tube Modulator; filed March 30, 1965, patented July 6, 1976.
Patent 3,969,667: Device for Determining the State of Charge in Batteries; filed December 20, 1974, patented July 13, 1976.
Patent 3,974,323: Metal Article Having Protective Thin Film Coating and Method of Applying; filed November 19, 1973, patented August 10, 1976.
Patent 3,978,724: Fluidic Angle-of-Attack Sensor; filed December 4, 1975, patented September 7, 1976.
Patent 3,979,253: Method for Dispersing Glass Fibers for the Preparation of Glass Filter Media; filed Feburary 5, 1976, patented September 7, 1976.
Patent 3,979,561: Level-Code Encoded Multiplexer; filed May 6, 1975, patented September 7, 1976.
Patent 3,982,235: Sinusoidal Film Plated Memory Wire; filed August 28, 1974, patented September 21, 1976.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent 3,977,231: Static Coefficient Test Method and Apparatus, patented August 31, 1976.
Patent 3,977,771: Optical Noise Supression Device and Method, patented August 31, 1976.
Patent 3,977,787: High Resolution Fourier Interferometer-Spectrophotopolarimeter, patented August 31, 1976.
Patent 3,978,287: Real Time Analysis of Voiced Sounds, patented August 31, 1976.

[FR Doc. 78-24960 Filed 9-5-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

GROUNDFISH FISHERY IN THE BERING SEA/ ALEUTIAN ISLANDS AREA

Draft Environmental Impact Statement/Fishery Management Plan; Public Hearings

SUBJECT: Groundfish Fishery in the Bering Sea/Aleutian Islands Area.

ACTION: Availability of Draft Environmental Impact Statement/Fishery Management Plan, and Notice of Public Hearings.

SUMMARY: Pursuant to Title III of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), the North Pacific Fishery Management Council has prepared a draft fishery management plan, "Groundfish Fishery in the Bering Sea/Aleutian Islands Area." Concurrently, the North Pacific Fishery Management Council, and the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, and the Alaska Department of Fish and Game have jointly prepared a draft environmental impact statement for the fishery management plan in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969.

DATE: Comments will be received until January 10, 1979.

ADDRESS: Comments should be addressed to: Chairman, North Pacific Management Fishery/Council, P.O. Box 3136DT, Anchorage, Alaska 99510.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), 16 U.S.C. 1801 et seq. (the "Act"), authorizes the Secretary of Commerce (The "Secretary"), to implement fishery management plans prepared by the Regional Fishery Management Councils for their areas of concern within the 3 to 200 mile Fishery Conservation Zone established by the Act.

The proposed action is to adopt and implement a Fishery Management Plan for the groundfish fishery in the Bering Sea and Aleutian Islands area under the provisions of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). This act extends jurisdiction over fishery resources and establishes a program for their management. The purpose of the plan is to manage the groundfish fishery for the optimum yield, to allocate harvest between domestic and foreign fishermen, and to promote conservation of the ocean fishery resource while allowing proper utilization of the stocks by man while maintaining sufficient biomass to support the other members of the Bering Sea/Aleutian Islands ecosystem, including marine mammals, birds, and other dependent organisms.

The Council will not make its final decisions on the management plan until the public review process is complete. Written comments must be submitted on or before January 10, 1979 to the Chairman, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, or to Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Individuals or organizations wishing to comment on the draft environmental impact statement/fishery management plan may also do so at the public hearings to be held at the times and locations listed below:

SEATTLE

October 7, 1978, Seattle Airport Hilton Inn, 9 a.m. to 5:30 p.m., 17620 Pacific Highway South, Seattle, Wash. 98188.

UNALASKA

October 10 or 11, 1978, time and place to be announced.

KODIAK

October 10 or 11, time and place to be announced.

ANCHORAGE

October 31, October 31, 1978, Anchorage/Westward/Hilton Hotel, 9 a.m. to 5 p.m., in the Commodore Room, Third and E Streets, Anchorage, Alaska 99501.

Poor weather conditions on the Aleutian Chain may require cancellation of the hearing at Unalaska or Kodiak, therefore, the Council has scheduled October 17-20, 1978, as alternate dates. Cancellations and new schedules will be announced locally by telephone, radio, television, and newspaper.

Copies of the draft environmental impact statement/fishery management plan are available at the following locations in the State of Alaska:

ANCHORAGE

Department of Fish and Game, 333 Raspberry Road, Anchorage, Alaska 99502.
National Marine Fisheries Service, Room 408, Hill Building, 632 West Sixth Avenue, Anchorage, Alaska 99501.
Z. J. Loussac Public Library, 427 First Street, Anchorage, Alaska 99510.
North Pacific Fishery Management Council, Suite 32, 333 West Fourth Avenue, Post Office Mall Building, Anchorage, Alaska 99510.

BETHEL

Department of Fish and Game, Bethel, Alaska 99559.
Bethel Public Library, Bethel, Alaska 99559.

CORDOVA

Alaska Department of Fish and Game, Cordova, Alaska 99574.
Cordova Public Library, Cordova, Alaska 99574.

DILLINGHAM

Alaska Department of Fish and Game, Dillingham, Alaska 99576.
Dillingham Public Library, Dillingham, Alaska 99576.

FAIRBANKS

Alaska Department of Fish and Game, 1300 College Road, Fairbanks, Alaska 99701.
Fairbanks North Star Borough Public Library, 901 First Avenue, Fairbanks, Alaska 99701.

HOMER

Alaska Department of Fish and Game, Homer, Alaska 99603.
Homer Public Library, Homer, Alaska 99603.

JUNEAU

Alaska Department of Fish and Game, South East Regional Office, 210 Ferry Way, Juneau, Alaska 99801.
Alaska Department of Fish and Game, Commissioner, Subport Building, Juneau, Alaska 99801.

National Marine Fisheries Service, Room 453, Federal Building, Juneau, Alaska 99801.
Juneau Memorial Library, 114 West Fourth Street, Juneau, Alaska 99801.

KETCHIKAN

Alaska Department of Fish and Game, 208 State Court and Office Building, 415 Main Street, Suite 208, Ketchikan, Alaska 9901.
Ketchikan Public Library, 629 Dock Street, Ketchikan, Alaska 99901.

KODIAK

Alaska Department of Fish and Game, Kodiak, Alaska 99615.
A. Holmes Johnson Memorial Library, Kodiak, Alaska 99615.
National Marine Fisheries Service, Gibson Cove, Kodiak, Alaska 99615.

KOTZEBUE

Kotzebue Public Library, Kotzebue, Alaska 99752.

PELICAN

Pelican City Hall, Pelican, Alaska 99832.

PETERSBURG

Alaska Department of Fish and Game, Swanson Building, Petersburg, Alaska 99833.
Petersburg Public Library, Petersburg, Alaska 99833.

SAND POINT

Alaska Department of Fish and Game, Sand Point, Alaska 99661.
Sand Point Community/School Library, Sand Point, Alaska 99661.

SEWARD

Alaska Department of Fish and Game, Seward Court Building, Seward, Alaska 99664.

SITKA

Alaska Department of Fish and Game, State Office Building, Sitka, Alaska 99835.
Kedelson Memorial Library, Sitka, Alaska 99835.

UNALASKA

Alaska Department of Fish and Game, c/o Standard Oil Dock, Dutch Harbor, Alaska 99585.
Unalaska/School/Community Library, Unalaska, Alaska 99685.

VALDEZ

Alaska Department of Fish and Game, Valdez, Alaska 99686.

WRANGELL

Alaska Department of Fish and Game, Wrangell, Alaska 99929.
Wrangell Public Library, Wrangell, Alaska 99929.

YAKUTAT

Alaska Department of Fish and Game, Yakutat, Alaska 99689.

Limited numbers of copies of the draft environmental impact statement/fishery management plan are available from the Executive Director, North Pacific Fishery Management Council, Suite 32, 333 West Fourth Avenue, Post Office Mall Building, Anchorage, Alaska 99510, and the Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Written comments from members of the public may be submitted no later than January 10, 1979, to the North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510.

This Notice of Availability is being published at the request of and in cooperation with the North Pacific Fishery Mangement Council.

Dated: August 31, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-24956 Filed 9-5-78; 8:45 am]

[3510-22]

HIGH SEAS SALMON FISHERY OFF THE COAST OF ALASKA EAST OF 175° EAST LONGITUDE

Draft Environmental Impact Statement/Fishery Management Plan; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration (NMFS), Commerce.

ACTION: Notice of Public Hearings.

SUMMARY: The North Pacific Fishery Management Council and the National Marine Fisheries Service will jointly conduct a series of public hearings on the Draft Environmental Impact Statement/Fishery Management Plan (DEIS/FMP) for the High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude.

In accordance with the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) and the National Environmental Policy Act of 1969 (Pub. L. 91-190), the North Pacific Fishery Management Council, in cooperation with the Alaska Department of Fish and Game and the National Marine Fisheries Service, has prepared this DEIS/FMP.

These hearings will lead toward developing an adopted EIS/FMP for managing the salmon resources of the high seas east of 175° East Longitude and for regulating the fisheries, primarily the troll fishery, on these salmon in the U.S. Fishery Conservation Zone east of the longitude of Cape Suckling.

The draft of the plan proposes to regulate the troll salmon fishery by controlling fishing methods, minimum size of chinook salmon, total allowable harvest, fishing areas and fishing seasons, and by limiting entry into the fishery.

DATES AND ADDRESSES: Comments will be accepted until October 20, 1978. Address written comments to: Chairman, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, or to: Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Individuals or organizations wishing to comment on the DEIS/FMP may also do so at public hearings to be held at the times and locations listed below:

Juneau, Alaska, September 22, 1978, 9 a.m. to 5 p.m., Baranof Hotel, Gastineau Room, 127 Franklin Street 99801.

Ketchikan, Alaska, September 23, 1978, 9 a.m. to 5 p.m., Marine View Hotel, Gold Room, 2415 Hemlock Street 99901.

Petersburg, Alaska, September 24, 1978, 1:30 p.m. to 5:30 p.m., Petersburg City Council Chambers, Main Street 99833.

Pelican, Alaska, September 25, 1978, 10 a.m. to 4:30 p.m., High School gym.

Sitka, Alaska, September 27, 1978, 9 a.m. to 5 p.m., Centennial Building 99835.

Ketchikan, Alaska, October 5, 1978, 9 a.m. to 5 p.m., Marine View Hotel, Gold Room, 2415 Hemlock Street 99901.

Seattle, Wash., October 7, 1978, 9 a.m. to 6 p.m., Seattle Airport Hilton Inn, 17620 Pacific Highway South 98188.

Kodiak, Alaska, October 10, 1978, 9 a.m. to 5 p.m., Elks Club.

Unalaska, Alaska, October 12, 1978, 8:30 a.m. to 1 p.m., Community Hall.

The uncertainty of travel in Southeast Alaska makes it necessary to consider alternative meeting places and times. The Council has, therefore, scheduled October 2-6, 1978, for public hearings which may be canceled. Canceled public hearings will be rescheduled as soon as possible and not later than 5 days after the cancellation. Cancellations and new schedules will be announced locally by telephone, radio, television, and newspapers.

Copies of the draft environment impact statement/fishery management plan are available at the following locations in the State of Alaska:

ANCHORAGE

Department of Fish and Game, 333 Raspberry Road 99502.
National Marine Fisheries Service, Hill Building, Room 408, 632 West Sixth Avenue 99501.
Z. J. Loussac Public Library, 427 First Street 99510.
North Pacific Fishery Management Council, 333 West Fourth Avenue, Suite 32, Post Office Mall Building 99501.

BETHEL

Alaska Department of Fish and Game 99559.
Bethel Public Library 99559.

CORDOVA

Alaska Department of Fish and Game 99574.
Cordova Public Library 99574.

DILLINGHAM

Alaska Department of Fish and Game 99576.
Dillingham Public Library 99576.

FAIRBANKS

Alaska Department of Fish and Game, 1300 College Road 99701.
Fairbanks North Star Borough Public Library, 901 First Avenue 99701.

HOMER

Alaska Department of Fish and Game 99603.
Homer Public Library 99603.

JUNEAU

Alaska Department of Fish and Game, Southeast Regional Office, 210 Ferry Way 99801.
Alaska Department of Fish and Game, Commissioner, Subport Building 99801.
National Marine Fisheries Service, Federal Building, Room 453, Ninth Street 99801.
Juneau Memorial Library, 114 West Fourth Street 99801.

KETCHIKAN

Alaska Department of Fish and Game, State Court and Office Building, Suite 208 99901.
Ketchikan Public Library, 629 Dock Street 99901.

KODIAK

Alaska Department of Fish and Game 99615.
A. Holmes John Memorial Library 99615.
National Marine Fisheries Service, Gibson Cove, Kodiak 99615.

KOTZEBUE

Kotzebue Public Library 99752.

PELICAN

Pelican City Hall 99832.

PETERSBURG

Alaska Department of Fish and Game, Swanson Building 99833.
Petersburg Public Library 99833.

SAND POINT

Alaska Department of Fish and Game 99661.
Sand Point Community/School Library 99661.

SEWARD

Alaska Department of Fish and Game, Seward Court Building 99664.

SITKA

Alaska Department of Fish and Game, State Office Building 99835.
Kedelson Memorial Library 99835.

UNALASKA

Alaska Department of Fish and Game, c/o Standard Oil Dock, Dutch Harbor, Alaska 99585.
Unalaska School/Community Library 99685.

VALDEZ

Alaska Department of Fish and Game, Valdez, Alaska 99686.

WRANGELL

Alaska Department of Fish and Game 99929.
Wrangell Public Library 99929.

YAKUTAT

Alaska Department of Fish and Game 99689.

In addition, a limited number of single copies of the DEIS/FMP are available from the Executive Director, North Pacific Fishery Management Council, Suite 32, 333 West Fourth Avenue, Post Office Mall Building, Anchorage, Alaska 99510; and the Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

This notice is being published at the request of and in cooperation with the North Pacific Fishery Management Council.

FOR FURTHER INFORMATION CONTACT:

Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box 1668, Juneau, Alaska 99802, telephone, 907-586-7221.

Dated: August 30, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-24955 Filed 9-5-78; 8:45 am]

[3510-17]

Office of the Secretary

TECHNICAL ADVISORY COMMITTEES

Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63 (Revised), and after consultation with members of the Committees, the Secretary of Commerce has determined that the renewal of the following Technical Advisory Committees is in the public interest in connection with the performance of duties imposed on the Department of Commerce by law:

Computer Systems Technical Advisory Committee;
Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee;
Electronic Instrumentation Technical Advisory Committee;
Numerically Controlled Machine Tool Technical Advisory Committee;
Semiconductor Technical Advisory Committee; and
Telecommunications Equipment Technical Advisory Committee.

The Committees were initially established by the Secretary of Commerce pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 5 U.S.C. App. 2401 et seq. The purpose of the Committees was and continues to be to perform the advisory functions set forth in the Export Administration Act of 1969, as amended. The Committees, where they have expertise in such matters, advise and assist with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to such articles, materials, and supplies, including technical data or other information, and (D) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The technical findings and recommendations which have been submitted to the Department and the reports on which the Committees are currently working, will be utilized not only by the Department, but also by other agencies, including the Departments of State and Defense, in formulating the U.S. Government's position with regard to international negotiations on continuing or modifying existing international export controls over commodities within the purview of the Committees.

Inasmuch as there is considerable technical input from industry, the information and recommendations could not be obtained as effectively from other sources within the Department, from other advisory committees of the Department, or from another Federal agency.

The Committees will continue to function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committees revised charters will be filed with appropriate committees of the Congress, and copies will be forwarded to the Library of Congress concurrent with the publication of this notice.

Inquiries or comments may be addressed to the Committee Control Officer, Charles C. Swanson, Director, Operations Division, Office of Export Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone, 202-377-4196.

Dated: August 28, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 78-24933 Filed 9-5-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD

Advisory Committee Meeting

The Defense Science Board will meet in closed session October 5-6, 1978, in the Pentagon, Arlington, Va.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense, Research and Engineering, on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Board has been scheduled for October 5-6, 1978, to discuss interim findings and tentative recommendations resulting from ongoing task force activities associated with strategic, tactical, intelligence/command, control and communication, and technology issues. The Board will also discuss plans for future considerations of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives.

AUGUST 31, 1978.

[FR Doc. 78-24965 Filed 9-5-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

CONSERVATION AND SOLAR APPLICATIONS FOOD INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Food Industry Advisory Committee will meet Monday September 25, 1978, at 8 a.m., in the South Scott Room, Gramercy Inn, 1616 Rhode Island Avenue, Washington, D.C.

The Committee was established to provide the Secretary of Energy with recommendations and advice with respect to the development and implementation of policies and programs affecting the food industry.

The agenda for the meeting is as follows:

8 to 10 a.m.—General meeting (South Scott Room).
Action items requested from DOE: Future energy supply and the food industry; summary of State conservation plans; and status of the pilot Energy Extension Service.
Formation of subcommittees.
10 a.m. to 12 noon—Subcommittee meetings: Draft goals for approval of full committee.
Room 811—Energy supply and alternative sources.
Room 911—Conservation and cost avoidance.
Room 1020—Financial incentives.
Room 227 Parkview—Food and energy consumer concerns.
Room 209 Westview—Energy allocations.
Room 1006—Transportation and distribution.
12 noon to 1 p.m.—Break.
1 to 2 p.m.—Subcommittee meetings (same rooms as indicated above).
2 to 3 p.m.—Reconvene general committee meeting (South Scott Room).
3:30 to 4 p.m.—Public comment (10 minute rule).

The full Committee and subcommittee meetings are open to the public. The Chairman of the Committee and each subcommittee is empowered to conduct each meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with either the Committee or a subcommittee will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform Georgia Hildreth, Director, Advisory Committee Management, 202-566-9969, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meetings will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C., on August 31, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-24964 Filed 9-5-78; 8:45 am]

[3128-01]

MILES CITY-BAKER-HETTINGER-NEW UNDERWOOD 230-KV TRANSMISSION LINE, MONTANA-NORTH DAKOTA-SOUTH DAKOTA

Availability of Draft Environmental Impact Statement

Notice is hereby given that the U.S. Department of Energy (DOE) has issued a draft Environmental Impact Statement, DOE/EIS-0025-D, Miles City-Baker-Hettinger-New Underwood 230-kv Tranmission Line, Montana-North Dakota-South Dakota. The statement was prepared pursuant to implementation of the National Environmental Policy Act of 1969 to support DOE's proposed joint construction of a 528-kilometer (328-mile) Miles City-Baker-Hettinger-New Underwood 230-kv Transmission Line located in Custer and Fallon Counties in Montana, Adams, Bowman, and Slope Counties in North Dakota and Meade, Pennington, and Perkins Counties in South Dakota. Montana-Dakota Utilities Co would construct the North Dakota portion of the line and DOE would construct the portions in Montana and South Dakota. The Rural Electrification Administration is a cooperating agency for the project and may guarantee minimum funds for the Basin Electric Power Cooperative portion of this project.

The transmission line is proposed in order to provide additional high voltage transmission capacity in the area to improve power system stability, to improve reliability of service to existing area loads, and to provide increased capability to serve future load growth in the area. The draft Environmental Impact Statement addresses a single 9.7-kilometer (6-mile) wide corridor used in planning the exact line routing in lieu of several narrower alternative corridors. In consideration of line terminals and terrain, alternate line locations are also available within the corridor.

The statement assesses the potential environmental impacts associated with construction and operation of the proposed transmission line. This includes the adverse impacts associated with dust and noise pollution and clearing of trees and brush during the construction phase of the activity. Long-term impacts include visual impacts where the line crosses highways, occasional loss of bird life as a result of collision with structures or conductors, and removal of 35 hectares (86 acres) of farm- and rangeland from agricultural production.

Copies of the draft Environmental Impact Statement have been distributed for review and comment to appropriate Federal, State, and local agencies, and other organizations and individuals who are know to have an interest in the activities associated with construction of the proposed transmission line.

Copies of the statement are available for public inspection at the DOE public reading rooms located at:

Library, Room 1223, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C.

Room 2107, Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C.

Comments and views concerning the draft Environmental Impact Statement are requested from other interested agencies, organizations, and individuals. Single copies of the statement will be furnished for review and comment upon request addressed to James D. Davies, Area Manager, Western Area Power Administration, Department of Energy, P.O. Box EGY, Billings, Mont. 59101, 406-657-6532. Comments should be addressed to the same address.

In accordance with the guidelines of the Council on Environmental Quality, those submitting comments on the draft Environmental Impact Statement should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of form in the impact statement. However, it would assist in the review of the comments if the comments were organized in a manner consistent with the structure of the draft Environmental Impact Statement. Commenting entities may recommend modifications and/or alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

Copies of comments received on the draft Environmental Impact Statement will be placed in the above referenced locations for inspection and will be considered in the preparation of the final Enviromental Impact Statement, if received on or before October 16, 1978.

Dated at Washington, D.C., this 30th day of August 1978.

For the U.S. Department of Energy.

WILLIAM P. DAVIS
Deputy Director
of Administration.

[FR Doc. 78-24931 Filed 9-5-78; 8:45 am]

[3128-01]

[DOE/EIS-0015-D]

STORAGE OF UNITED STATES SPENT POWER REACTOR FUEL

Availability of Draft Environmental Impact Statement

Notice is hereby given that the U.S. Department of Energy (DOE) has issued a draft Environmental Impact Statement (EIS), DOE/EIS-0015-D, Storage of United States Spent Power Reactor Fuel. This generic draft EIS was prepared in compliance with the National Environmental Policy Act of 1969, to assess the environmental impacts of various options for interim storage in the United States of domestic spent fuel.

In April 1977, President Carter announced that the United States would indefinitely defer reprocessing of spent fuel for the recovery of useable uranium and plutonium. In October 1977, a Presidential policy on the interim management of spent fuel was announced. Under this policy the Federal Government would offer to take title to and provide interim storage in this country for spent fuel from domestic nuclear power reactors for a one-time charge. This EIS will provide environmental input into decisions on whether, and if so how, this domestic spent fuel interim storage policy should be implemented. Subsequent EIS's will analyze the environmental impacts of alternative charge methodologies and the storage of foreign spent fuel in the United States. These related EIS's will be issued in draft form for public review and comment. The comment period for this draft EIS and the related EIS's are currently planned to expire at the same time.

Alternatives that are assessed in the draft EIS include: (1) No Federal action other than health, safety, and environmental regulation and (2) implementation of the policy with (a) centralized storage and (b) decentralized storage. The effects of these alternatives on transportation are assessed.

This draft EIS does not address the environmental impacts of the options for the ultimate disposition of spent fuel, which will be assessed in a separate statement.

Copies of the draft EIS have been distributed for review and comment to appropriate Federal agencies, the 50 States, and other organizations and individuals who are known to have an interest in this activity.

Copies of the draft EIS are available for public inspection at the DOE public document rooms located at:

Library, Room 1223, 20 Massachusetts Avenue NW., Washington, D.C.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, N. Mex.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.
Richland Operations Office, Federal Building, Richland, Wash.
San Francisco Operations Office, 1333 Broadway, Oakland, Calif.
Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

Comments and views concerning the draft EIS are requested from other interested agencies, organizations and individuals. Single copies of the draft EIS will be furnished for review and comment upon request addressed to W. H. Pennington, Mail Station E-201, U.S. Department of Energy, Washington, D.C. 20545, 301-353-4241. Comments should be sent to the same address.

In accordance with the guidelines of the Council on Environmental Quality, those submitting comments on the draft EIS should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of form. However, it would assist in the review of the comments if the comments were organized in a manner consistent with the structure of the draft EIS. Commenting entities may recommend modifications and/or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

Copies of comments received on the draft EIS will be placed in the above referenced locations for inspection and will be considered in the preparation of the final EIS if received by February 15, 1979.

Dated at Washington, D.C., this 30th day of August 1978.

For the U.S. Department of Energy.

WILLIAM P. DAVIS,
Deputy Director
of Administration.

[FR Doc. 78-24930 Filed 9-5-78; 8:45 am]

[6712-01]

FEDERAL COMMUNCATIONS COMMISSION

NATIONAL INDUSTRY ADVISORY COMMITTEE, AMATEUR RADIO SERVICES SUBCOMMITTEE

Meeting

Pursuant to the provisions of Pub. L. 92-463, announcement is made of a public meeting of the Amateur Radio Services Subcommittee of the National Industry Advisory Committee to be held Friday, September 29, 1978. The subcommittee will meet at the Federal Communications Commission Annex Building, Room A-110, 1229 20th Street NW., Washington, D.C., at 9 a.m.

PURPOSE: To consider emergency communication matters.

AGENDA: As follows:

ITEMS:

1. Chairman's opening remarks.
2. Review of the subcommittee's action items from the previous meeting of March 29, 1978.
3. Reports of the working groups:
   Electro-magnetic pulse (EMP).
   Operational problems.
   Requirements.
   Emergency Broadcast System/Amateur Radio Service interface plan.
4. MARS-ARS-RACES interface issues.

5. Representative views from U.S. Government agencies.
6. Other business.
7. Closing comments and adjournments.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, 202-632-7232.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-24946 Filed 9-5-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

ALLIED BANCSHARES, INC.

Acquisition of Bank

Allied Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Champions Bank, Houston, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 26, 1978.

Board of Governors of the Federal Reserve System, August 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-25022 Filed 9-5-78; 8:45 am]

[6210-01]

CONSUMER ADVISORY COUNCIL

Meeting of Consumer Advisory Council

Notice is hereby given that the Consumer Advisory Council will meet on Wednesday, September 13, and Thursday, September 14. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The September 13 session will begin at 1 p.m. until 5 p.m. and will resume that evening from 7:30 p.m. until 9:30 p.m. The September 14 session will begin at 8:30 a.m. and conclude at 3:30 p.m. The Martin Building is located on C Street NW., between 20th and 21st Streets, in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities with regard to consumer credit legislation and regulation. It is anticipated that the September 13-14 meeting of the Council will include consideration of the following topics:

1. *Consumer credit education.* Review of programs to increase public understanding of consumer credit laws and more informed use of information required to be given consumers under the Consumer Credit Protection Act; and further steps which the Board of Governors should take in this effort.
2. *Community Reinvestment Act.* Discussion of proposed regulation to implement the act.
3. *Uniform enforcement guidelines.* Proposed interagency guidelines of Federal Reserve Board, Federal Deposit Insurance Corporation, Comptroller of the Currency, Federal Home Loan Bank Board, and National Credit Union Administration for examination of institutions under their jurisdictions for compliance with regulation B (Equal Credit Opportunity Act) and regulation Z (Truth in Lending Act).

Brief reports will be made on the status of matters previously discussed by the Council.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202-452-3204.

Board of Governors of the Federal Reserve System, August 29, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-25021 Filed 9-5-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 29, 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 receipt.

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 September 25, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

The ICC requests clearance of revisions to the annual report form R-1 required to be filed by some 49 class I linehaul railroads, switching and terminal companies, and railroad holding companies, pursuant to section 20 of the Interstate Commerce Act. Data collected by the form are used for economic regulatory purposes. Revisions made in this annual report form resulted from the adoption of docket No. 36725, "Revision to the Annual Report Forms for Class I and Class II Railroads," decided July 18, 1978. This decision also incorporated the reporting requirements mandated by the following Commission decisions:

1. No. 36557, Reporting Railroad Track Maintenance, decided April 14, 1978.
2. No. 36604, Accounting for Leases, decided October 12, 1977.
3. No. 36367, Revision to the Uniform System of Accounts for Railroads, decided June 13, 1977.
4. No 36141, Corporate Disclosure Regulations, decided May 13, 1977, January 19, 1978, and March 23, 1978.

Other revisions resulted from the adoption of No. 36767, Accounting for Certain Government Transfers by Railroads and Motor Carriers of Passengers, decided June 30, 1978. The ICC estimates reporting burden will average 1,161 hours per report. Reports are mandatory and available for use by the public.

The ICC requests clearance of revisions to annual report form R-2, required to be filed by some 40 class II line-haul railroads, switching and terminal companies, and railroad holding companies, pursuant to section 20 of the Interstate Commerce Act. Data collected by the form are used for economic regulatory purposes. Revisions made to this annual report form resulted from the adoption of No. 36725, "Revision to the Annual Report Forms for Class I and Class II Railroads," decided July 18, 1978. This decision also incorporated the reporting requirements mandated by the following Commission decisions:

1. No. 36557, Reporting Railroad Track Maintenance, decided April 14, 1978.
2. No. 36604, Accounting for Leases, decided October 12, 1977.

3. No. 36367, Revision to the Uniform System of Accounts for Railroads, decided June 13, 1977.
4. No 36141, Corporate Disclosure Regulations, decided May 13, 1977, January 19, 1978, and March 29, 1978.

The ICC estimates reporting burden for carriers will average 175 hours per report. Railroads subject to Corporate Disclosure Regulations are expected to experience an estimated 341 hours of reporting burden per report. Reports are mandatory and available for use by the public.

JOHN M. LOVELADY,
Assistant Director,
Regulatory Reports Review.

[FR Doc. 78-25005 Filed 9-5-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL FOR CAREER EDUCATION

Meeting

AGENCY: Office of Education; HEW.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the National Advisory Council for Career Education. It also describes the functions of the Council. Notice of the meeting is required pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). This document is intended to notify the general public of their opportunity to attend.

DATE: Monday, September 25, 1978. Tuesday, September 26, 1978.

ADDRESS: HEW-N Auditorium, 330 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dr. Joseph Scherer, Office of Education, Office of Career Education, Seventh and D Streets SW., Room 3100, ROB No. 3, Washington, D.C. 20202, 202-245-2547.

The National Advisory Council for Career Education is established under section 406 of the Education Amendments of 1974, Pub. L. 93-380 (88 Stat. 552, 553). The Council is directed to:

Advise the Commissioner of Education on the implementation of section 406 of the Education Amendments of 1974, sections 331-336 of the Education Amendments of 1976, and the Career Education Incentive Act and carry out such advisory functions as it deems appropriate, including reviewing the operation of these sections and all other programs of the Division of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining the need for further legislative remedy in order that all citizens may benefit from the purpose of career education as described in section 406 and in the Career Education Incentive Act.

The Council with the assistance of the Commissioner conducted a survey and assessment of the current status of career education programs, projects, curricula and materials in the United States and submitted to Congress a report on such survey.

The Assistant Secretary shall, to the extent practicable, seek the advice and assistance of the Council concerning the lifelong learning activities authorized by section 133, part B, title I of the Higher Education Act of 1965, as amended.

The meeting of the Council shall be open to the public. The meeting will be held on Monday, September 25, 1978, and will begin at 8:30 a.m. and end at 5 p.m., and on Tuesday, September 26, 1978, and will begin at 8:30 a.m. and end at 1 p.m. The meeting will be held in the HEW-N Auditorium, located at 330 Independence Avenue SW., Washington, D.C. 20202.

The proposed agenda includes:

MONDAY, SEPTEMBER 25, 1978

(1) Opening remarks.
(2) NACCE's structure and function.
(3) Discussion of Pub. L. 95-207.
(4) Public statements on the implementation of career education.

TUESDAY, SEPTEMBER 26, 1978

(1) Council's reflections on the public statements.
(2) YEDPA and career education.
(3) Exemplary career education programs receiving JDRP (Joint Dissemination Review Panel) approval.
(4) A process for the evaluation of State plans.
(5) Dissemination of career education materials.
(6) Next steps.
(7) Council business.

Records shall be kept of all Council proceedings and shall be available 14 days after the meeting for public inspection at the Office of Career Education located at Seventh and D Streets SW., Room 3100, ROB No. 3, Washington, D.C. 20202.

Signed at Washington, D.C., on August 30, 1978.

JOHN LINDIA,
Delegate, National Advisory Council for Career Education.

[FR Doc. 78-24993 Filed 9-5-78; 8:45 am]

[4110-07]

Social Security Administration

ADVISORY COUNCIL ON SOCIAL SECURITY

Public Hearings

AGENCY: Advisory Council on Social Security, HEW.

ACTION: Notice is hereby given of public hearings of the Advisory Council on Social Security.

SUMMARY: In February 1978, the Secretary of Health, Education, and Welfare appointed a 13-member Advisory Council on Social Security. The council is authorized under section 701 of the Social Security Act and is composed of representatives of employer and employee organizations, the self-employed and the general public. The council has been charged by the Secretary with conducting a comprehensive review of the social security program. It is to report its findings and recommendations to the Secretary for transmittal to the Congress by October 1, 1979.

The council has been meeting in Washington, D.C. monthy since April 1978 and has been reviewing thoroughly the present structure of social security benefits and the present method of financing these benefits. As a part of this review, the council has identified series of issues which it would like to consider more carefully and on which it would like to hear the views of the general public. In order to facilitate public comment, the Council has scheduled hearings in five locations around the country. The dates and locations are:

Detroit, Mich., Oct. 25, 1978
Los Angeles, Calif., Nov. 14, 1978
New Orleans, La., Nov. 29, 1978
Miami Beach, Fla., Dec. 7, 1978
Washington, D.C., Jan. 4-5, 1979

Within the constraints of time, as many speakers as possible will be scheduled at each site. Persons unable to testify at the hearings may submit written comments for the record up to 1 week following the date of each hearing. Because of the time constraint, witnesses are encouraged to address orally the issues on which they feel most strongly and submit further written testimony on other issues.

The council recognizes the complexity of the social security program and the broad range of concerns that people have about the program. To provide some focus for testimony at the hearings and for written comment, the council has prepared a list of issues that it views as having particular importance for its review of the program. The issues and questions set out in this statement are intended to organize public comments in a way

that will be most useful to the council. Additional background on those issues is available from the key staff contacts listed below.

BACKGROUND ON THE PRESENT SOCIAL SECURITY PROGRAM

The social security cash benefits program is the Nation's basic insurance program. More than 9 out of 10 Americans in paid employment and self-employment are covered or eligible for coverage under this program. It paid about $85 billion cash benefits to 34 million retired and disabled workers and their dependents, and survivors of deceased workers in 1977. One out of every seven Americans are getting monthly cash benefits.

In addition, individuals eligible for social security cash benefits become eligible for medicare benefits as soon as they reach 65 and disabled workers become eligible 2 years after they become disabled. Today, 26 million are protected by medicare, and medicare payments for hospital and physicans' care are estimated to account for about two-thirds of the expenditures for hospital and physicians services provided to the aged.

The social security cash benefit and hospital insurance portion of the medicare program are financed virtually exclusively from the proceeds of a payroll tax leveled on both employers and employees. In 1978, each will pay a tax of 6.5 percent of the employee's earnings; 4.275 percent for retirement and survivors' insurance, 0.775 percent for disability insurance and 1.0 percent for hospital insurance.

The total tax rate is scheduled to increase to 6.13 percent each in 1979, to 6.65 percent each in 1981 and to 6.70 percent each in 1982; the limit on earnings which are subject to the tax is $17,700 in 1978 and is scheduled to rise to $22,900 in 1979 and to $29,700 in 1981, with automatic adjustments to take account of increases in average wages thereafter.

In 1974, Congress established the Supplemental Security Income (SSI) program. SSI is a federally-financed and administered income assistance program for needy aged, blind, and disabled persons. It replaced the former State-adminstered aid to the aged, blind, and disabled programs. The SSI program, financed out of general revenues, guarantees recipients a montly income of $189.40 for a single individual and $284.10 for a married couple. Many States supplement the basic Federal benefit. There are nearly 4.3 million SSI recipients at a cost of $4.7 billion to the Federal Government plus $1.6 billion from the states.

Less than 3.1 percent of all SSI recipients have earned income. However, 52 percent, receive social security benefits.

ISSUES FOR THE PUBLIC HEARINGS

While the Council is studying all aspects of the social security cash benefits and medicare program, it would like to focus on selected issues during the public hearings. Public discussion of any of these issues will make an important contribution to the work of the council.

1. How should the responsibility for supporting retirement incomes be divided among the social security program, programs of income assistance (mainly the Supplemental Security Income program) and private retirement income support programs? Should social security bear more or less of the responsibility for supporting the retirement incomes of higher households or lower income households?

2. The social security program has always been structured to serve the social objective of assuring lower wage workers a more adequate retirement income than would be produced if all benefits were strictly proportional to preretirement earnings. Should this policy be continued? Under this policy, are higher wage workers getting a fair return on their social security contributions?

3. Should the present social security earnings test be modified or abolished? Should beneficiaries who are over age 65 be treated differently than beneficiaries under age 65?

4. Should the normal retirement age in social security, now set at age 65, be changed?

5. At what age should social security benefits first be made available? Should early retirement benefits be reduced by the full actuarial amount? Should the size of the credit given people who delay their retirement beyond age 65 be changed?

6. Does the present system treat fairly both the partners of a marriage when both are working? When one works for pay and the other remains in the home to care for children? When a marriage is dissolved through divorce?

7. How important is exclusive reliance on the payroll tax as the method of finanacing retirement and survior benefits or disability insurance benefits? Should general revenues be used to finance all or a portion of the benefits paid under these two program?

8. Should the general revenue be used to finance a greater portion of the hospital insurance program or should it continue to be financed virtually entirely from the payroll tax?

9. Should those employees of Federal, State and local government and of private nonprofit firms who are not now covered by the social security program be brought into the program?

10. Is the present definition of disability too restrictive? Are disability benefits too high, too low, or at roughly appropriate levels? Is sufficient effort made to rehabilitate disabled beneficiaries?

11. Are there significant areas (e.g., types of benefits or types of events) in which social security could and should offer wage replacement protection not now offered? Are there parts of the current package which are no longer necessary given their cost and the alternative sources of income support currently available?

INFORMATION ON THE PUBLIC HEARINGS

The hearings will be conducted in a manner comparable to Congressional hearings. Each hearing will be from 9 a.m. to 12 noon and from 1 p.m. to 5 p.m. Participants will be permitted a maximum of 10 minutes each. Additionally, written statements may be offered by any person, including those who testify orally.

Requests to testify will be accepted from public officials, representatives of civic and public interest organizations and concerned citizens. Time allotments of 10 minutes or less will be governed by the number of requests received. If the requests exceed the available time, prospective witnesses speaking on similar issues or with similar views will be asked to combine their presentations. In the event that accommodations cannot be made, witnesses will be chosen by lot.

Any public official, representative of an organization, or individual desiring to participate at the hearing should write to the key contact for the specific hearing (see list below) 30 days prior to the public hearing, providing the following information: (1) name; (2) business address; (3) telephone number during normal working hours; (4) capacity in which presentation will be made, i.e., public official, organization presentation, or citizen; (5) principal issues to be addressed and basic position on them; (6) time desired (which must be 10 minutes or less); and (7) text of presentation, if available. Late requests for testifying will be honored as time permits.

FOR FURTHER INFORMATION CONTACT:

For additional background materials on any of the issues selected by the Advisory Council for discussion at the public hearings, and for requests to testify, write to the following (marking envelopes—"Social Security Hearing"):

PUBLIC HEARINGS AND CONTACTS

For the October 25 Detroit Hearing: Cobo Hall, Room 2043, 1 Washington Boulevard—Wilbur Schmidt, Director, Intergovernmental and Congressional Affairs, DHEW, 300 South Wacker Drive, 35th Floor, Chicago, Ill. 60606, 312-353-5166.

For the November 14 Los Angeles Hearing: Auditorium, Room 1138, State Building, 107 South Broadway—Edward J. Avila, Director for Intergovernmental and Congressional Affairs Office, DHEW, 50 United Nations Plaza, Room 443, San Francisco, Calif. 94102, 415-556-6603.

For the November 29 New Orleans Hearing: City Council Chamber, City Hall, East Wing, 1300 Perdido Street—Jerry Stephens, Intergovernmental Relations Specialists, Office of Service Delivery Assessments, DHEW, 1200 Main Tower Building, Room 1100, Dallas, Tex. 75202, 214-655-3310.

For the December 7 Miami Beach Hearing: (Place to be announced later.) Joe Britten, Intergovernmental Relations Specialists, DHEW, 101 Marrietta Tower, Suite 1403, Atlanta, Ga. 30323, 404-221-2277.

For the January 4-5 Washington, D.C. Hearings: 1st Floor Auditorium, HEW North Building, 330 Independence Avenue SW.—Dorothy Sortor Stimpson, Coordinator for Public Hearings, Advisory Council on Social Security, DHEW, Hubert H. Humphrey Building, Room 410E, Washington, D.C. 20201, 202-245-6665.

The public and the press are invited to attend the hearings which will be transcribed. The transcriptions and all written submissions will become a part of the record of these proceedings.

General telephone inquiries should be directed to Ms. Dorothy Sortor Stimpson telephone number 202-245-6665.

(Catalog of Federal Domestic Assistance Program Numbers 13.800-13.805, Social Security Programs.)

Dated:

LAWRENCE H. THOMPSON,
Executive Director, Advisory Council on Social Security.

[FR Doc. 78-24951 Filed 9-5-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

IDAHO

Application

AUGUST 28, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp filed an application for a right-of-way to construct an addition to their Cathodic Protection Station No. 627 on the following described Federal Lands:

T. 2 S., R. 5 E., B.M.,
Sec. 5, SE¼NE¼.

The addition to the Cathodic Protection Station is needed for the protection and safe operation of their Ignacio to Sumas natural gas pipeline.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 230 Collins Road, Boise, Idaho 82702.

VINCENT S. STROBEL,
Chief, Branch of L&M Operations.

[FR Doc. 78-24961 Filed 9-5-78; 8:45 am]

[4310-09]

Bureau of Reclamation

BEULAH RESERVOIR, VALE PROJECT, OREGON

Public Notice of Off-Road Vehicle Use at Beulah Reservoir, Vale Project, Oregon.

The Bureau of Reclamation will restrict off-road vehicle (ORV) use at Beulah Reservoir to designated and established roads and trails above the high-water mark. Under this restrictive use, no adverse environmental impacts will result, thus no further action under NEPA is required.

This decision is made in accordance with authorities and requirements of Executive Order Nos. 11644 and 11989, the provisions of Title 43, Part 420, Code of Federal Regulations, and the Department of the Interior Final Environmental Impact Statement (FES) 78-5 of April 21, 1978, and following an intensive study of the potentials and impacts of ORV use in the area.

Copies of the evaluation leading to this decision and a map showing the designated roads and trails for ORV use, as well as those areas on which ORV use is prohibited, may be examined at the following addresses:

Bureau of Reclamation, Pacific Northwest Regional Office, 550 West Fort Street, Boise, Idaho 83724,

Bureau of Reclamation, Central Snake Projects Office, 214 Broadway Avenue, Boise, Idaho 83702.

Malheur County Courthouse, Vale, Oreg. 97918.

State of Oregon, Department of Fish and Wildlife, Southeast Regional Office, Hines, Oreg. 97738.

Effective date: October 6, 1978.
For futher information contact:

Mr. Mike Misner, Chief, Recreation Branch, Division of Water, Power, and Land, Pacific Northwest Regional Office, Bureau of Reclamation, 550 West Fort Street, Boise, Idaho 83724, telephone 208-384-1177.

D. D. ANDERSON,
Acting Commissioner of Reclamation.

Dated: August 28,1978.

[Doc. 78-24954 Filed 9-5-78; 8:45 am]

[4310-09]

BULLY CREEK RESERVOIR, VALE PROJECT, OREGON

Public Notice of Off-Road Vehicle Use on Designated Roads and Trails at Bully Creek Reservoir, Vale Project, Oregon

In accordance with authorities and requirements of Executive Orders Nos. 11644 and 11989, the Department of the Interior Final Environmental Impact Statement (FES) 78-5 of April 21, 1978, and the provisions of Title 43, Part 420, Code of Federal Regulations, off-road vehichle (ORV) use is permitted on designated established roads and trails at Bully Creek Reservoir. Because of this restricted use, no significant environmental impacts will result, thus no further action under NEPA is required.

Copies of the evaluation leading to this decision and a map showing the designated roads and trails for ORV use, as well as those areas on which ORV use is prohibited, may be examined at the following adresses:

Bureau of Reclamation, Pacific Northwest Regional Office, 550 West Fort Street, Boise, Idaho 83724.

Bureau of Reclamation, Central Snake Projects Office, 214 Broadway Avenue, Boise, Idaho 83702.

Malheur County Courthouse, Vale, Oreg. 97918.

State of Oregon, Department of Fish and Wildlife, Southeast Regional Office, Hines, Oreg. 97738.

Effective date: October 6, 1978.
For further information contact:

Mr. Mike Misner, Chief, Recreation Branch, Division of Water, Power, and Lands, Pacific Northwest Regional Office, Bureau of Reclamation, 550 West Fort Street, Boise, Idaho 83724, telephone 208-384-1177.

Dated: August 28, 1978.

D. D. ANDERSON,
Acting Commissioner of Reclamation.

[FR Doc. 78-24953 Filed 9-5-78; 8:45 am]

[4310-09]

WARM SPRINGS RESERVOIR, VALE PROJECT, OREGON

Public Notice of Off-Road Vehicle Use on Designated Roads and Trails at Bully Creek Reservoir, Vale Project, Oregon

In accordance with authorities and requirements of Executive Orders Nos.

11644 and 11989, the Departmental Final Environmental Impact Statement (FES) 78-5 of April 21, 1978, and the provisions of Title 43, Part 420, Code of Federal Regulations, and following an intensive study of the potentials and impacts of ORV use in the area, off-road vehicle use at Warm Springs Reservoir, Vale Project, Oregon, will be permitted only on designated trails and roadways above the high-water line and prohibited in all other areas at Warm Springs Reservoir. Under this restrictive use, no adverse environmental impacts will result, and no further action under NEPA is required.

Copies of the evaluation leading to this decision and a map showing the designated roads and trails for ORV use, as well as those areas on which ORV use is prohibited, may be examined at the following addresses:

Bureau of Reclamation, Pacific Northwest Regional Office, 550 West Fort Street, Boise, Idaho 83724.
Bureau of Reclamation, Central Snake Projects Office, 214 Broadway Avenue, Boise, Idaho 83702.
Malheur County Courthouse, Vale, Oreg. 97918.
State of Oregon, Department of Fish and Wildlife, Southeast Regional Office, Hines Oreg. 97738.

Effective date: October 6, 1978.

For further information contact:

Mr. Mike Misner, Chief, Recreation Branch, Division of Water, Power, and Land, Pacific Northwest Regional Office, Bureau of Reclamation, 550 West Fort Street, Boise, ID 83724, telephone 208-384-1177.

D. D. ANDERSON,
Acting Commissioner of Reclamation.

Dated: August 28, 1978.

[FR Doc. 78-24952 Filed 9-5-78; 8:45 am]

[4310-03]

Heritage Conservation and Recreation Service

CHIEF, BRANCH OF REGISTRATION

Redelegation of Authority

Section 1. *Delegation.* The Keeper of the National Register is hereby authorized to redelegate his authorities to the Chief, Branch of Registration to make determinations of eligibility for and list properties in the National Register and to make the several determinations of significance for the Secretary required by section 2124 of the Tax Reform Act of 1976, 80 Stat. 1916 as set forth in part in National Park Service Order No. 91, published in the June 21, 1977, FEDERAL REGISTER.

Section 2. *Redelegation.* The Keeper of the National Register through the Chief, Office of Archeology and Historic Preservation, hereby redelegates the authorities specified in section 1 hereof to the Chief, Branch of Registration, National Register.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

[FR Doc. 78-24929 Filed 9-5-78; 8:45 am]

[4310-05]

Office of Surface Mining Reclamation and Enforcement

ADVISORY COMMITTEE ON MINING AND MINERAL RESOURCES RESEARCH

Rescheduling of Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. I) and the Office of Management and Budget's Circular No. A-63, Revised.

Due to unforeseen delays, it has been necessary to reschedule the committee's meeting previously scheduled for September 14 and 15, 1978. The Advisory Committee on Mining and Mineral Resources Research will meet from 9 a.m. to 5 p.m. (or completion of business) on September 18, 1978, in Room 1042, Columbia Plaza, 2401 E Street NW., Washington, D.C.

The meeting will deal with the following principal subjects:

1. Review of minutes of previous meeting—Assistant Director David R. Maneval.
2. Evaluation of potential institutions and recommendations for designation by the Director as Mineral Institutes.
3. Policies, responsibilities and future activities of the Advisory Committee.

The meeting of this committee is open to the public. Approximately 40 visitors can be accommodated on a first come, first serve basis. Written statements concerning the subjects are welcome.

Visitors who expect to attend should make this known no later than September 11 to:

David R. Maneval, Assistant Director—Technical Services and Research, Office of Surface Mining, Room 114, South Interior building, 19th and Constitution Avenue NW., Washington, D.C. 20240, phone, 202-343-4264.

Dated: August 30, 1978.

RICHARD M. HALL,
Assistant Director of Inspection and Enforcement.

[FR Doc. 78-24939 Filed 9-5-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-42]

CERTAIN ELECTRIC SLOW COOKERS

Notice Canceling Prehearing Conference and Hearing

Notice is hereby given that the prehearing conference and hearing in the above-styled investigation previously set by order dated August 15, 1978, are canceled.

This cancelation is due to pending motions, whose rulings will be dispositive of all issues in this investigation, and lack of any party indicating an intention to appear as requested in the August 15, 1978, order for prehearing statements. Accordingly, the prehearing conference and hearing will not be reset.

The Secretary shall serve a copy of this notice on all parties of record and have it published in the FEDERAL REGISTER.

Issued: August 30, 1978.

Judge DONALD K. DUVALL,
Presiding Officer.

[FR Doc. 78-25029 Filed 9-5-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-47]

CERTAIN FLEXIBLE FOAM SANDALS

Notice Canceling Prehearing Conference and Hearing

Notice is hereby given that the prehearing conference and hearing in the above-styled investigation previously set by order dated August 15, 1978, are canceled.

No respondent has complied with the prehearing statement order nor otherwise indicated an intention to appear and contest the allegations of the complaint. Moreover, complainant, in lieu of an appearance, intends to file by September 15, 1978, a motion for default judgment as to the remaining respondents that will permit the presiding officer to make a ruling dispositive of this investigation. Accordingly, the prehearing conference and hearing will not be reset.

The Secretary shall serve a copy of this notice on all parties of record and have it published in the FEDERAL REGISTER.

Issued: August 30, 1978.

Judge DONALD K. DUVALL,
Presiding Officer.

[FR Doc. 78-25030 Filed 9-5-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting With the French Groupe Permanent

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), representatives of the Advisory Committee on Reactor Safeguards (ACRS) will meet with representatives of the Groupe Permanent, an advisory body to the regulatory agency for safety of nuclear installations of the Ministry of Industry, Federal Republic of France, on September 18-20, 1978. The meeting will be held in Room 1046, 1717 H Street N.W., Washington, D.C. 20555. Notice of this meeting was published August 15, 1978 (43 FR 36151).

Representatives of the ACRS, the Groupe Permanent (GP), and the NRC staff will meet to discuss reactor safety policy and practice. Specific discussions will include plant security, plant design requirements, engineered safety feature design and performance, risk assessment, and related analytical models and waste management.

The agenda for this meeting will be as follows:

September 18, 1978 (open).

1:30-3 p.m.: Introduction—Representatives of the ACRS and the Groupe Permanent will present and discuss brief reports regarding the responsibilities and procedures of the respective bodies.

3-4 p.m.: Reliability of auxiliary systems—Members of the ACRES and the Groupe Permanent will present and discuss brief reports on the requirements and criteria for systems needed to remove decay heat from the reactor core under normal and abnormal conditions.

4-5:30 p.m.: Emergency core cooling systems—Members of the ACRS and the Groupe Permanent will present and discuss reports on the adequacy of emergency core cooling systems and related safety research programs.

September 19 and 20, 1978 (closed).

Members of the ACRS and the Groupe Permanent will discuss information considered confidential by the French Government and will provide it on the basis that it will be protected from public disclosure.

Procedures for the conduct of and participation in ACRS meetings were outlined in the FEDERAL REGISTER on October 31, 1977, page 56972. In accordance with these procedures, oral or written statements may be presented by members of the public. Questions may be asked only by members of the committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

I have determined in accordance with subsection 10(d) of Pub. L. 92-463 that it is necessary to close these sessions to insure the security of information identified and supplied by a foreign government as confidential (5 U.S.C. 552b(c)(1)). Further separation of nonexempt material from the exempt material while this meeting is in progress is considered impractical.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, telephone 202-634-3265, between 8:15 a.m. and 5 p.m., e.d.t.

Dated: September 1, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-25078 Filed 9-5-78; 8:45 am]

[7590-01]

APPLICATIONS FOR LICENSES TO EXPORT NUCLEAR

Facilities or Materials

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses during the period of August 14-18, 1978. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated this 30th day of August, 1978 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Name of applicant, date of application, date received, and application No.	Material in kilograms or reactor type and power level	Enrichment	Enduse	Country of destination
Transnuclear, Inc., Aug. 11, 1978, Aug. 14, 1978, ISNM78012.	233.3 uranium ..... 98.8 plutonium	87	Used in irradiation test program performend by HEDI.	From Japan.
General Electric Co., Aug. 9, 1978, Aug. 15, 1978, XSNM01365.	54,300 uranium	3.65	Reload fuel for Tokai 2 nuclear reactor.	Japan.

[FR Doc. 78-24925 Filed 9-5-78; 8:45 am]

[7590-01]

Docket No. 50-466]

HOUSTON LIGHTING & POWER CO. (ALLENS CREEK NUCLEAR GENERATING STATION, UNIT 1)

Order

The Special prehearing Conference noticed in our Memorandum and Order dated August 14, 1978 will be held on September 15, 1978 at 9:30 a.m. in the Host International Hotel, 18700 JFK Boulevard, Houston, Tex. 77205.

Limited Appearance statements will not be received at the above mentioned conference, but will be received at any subsequent prehearing conference and/or at the beginning of the hearing, if one is held.

It is so ordered.

Dated at Bethesda, Md., this 30th day of August 1978.

For the Atomic Safety and Licensing Board.

SHELDON J. WOLFE,
Chairman.

[FR Doc. 78-24918 Filed 9-5-78; 8:45 am]

[7590-01]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Co. (the licensee), which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to support the operation of the Maine Yankee Atomic Power Station at rated power during Cycle 4 after core reload. This amendment also authorizes: (1) Operation with a positive moderator temperature coefficient for power levels up to 70 percent; (2) operation with fuel assemblies with control element assembly guide tubes with sleeves; and (3) operation with all right part length control element assemblies removed and replaced by guide tube plugs.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated April 28 and June 26, 1978, as supplemented July 21 and August 1, 1978, (2) Amendment No. 40 to License No. DPR-36, and (3) the Commission's related Safety Evaluation. All ot these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md, this 18th day of August 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-24920 Filed 9-5-78; 8:45 am]

[7590-01]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) had issued Amendment No. 41 to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Co. (the licensee), which revised the Technical Specifications for operation of the Maine Yankee Atomic Power Station (the facility), located in Lincoln County, Maine. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications regarding reactor coolant system surveillance testing by incorporating a later edition and addenda of the ASME Section XI Code, deferring reactor vessel clad inspection until the end of the current inspection interval and waiving some vessel head clad surface and volumetric inspection requirements.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), adn the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 15, 1978, (2) Amendment No. 41 to License No. DPR-36, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 23d day of August 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-24921 Filed 9-5-78; 8:45 am]

[7590-01]

[Docket No. 50-289]

METROPOLITAN EDISON CO. ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Co., Jersey Central Power & Light Co. and Pennsylvania Electric Co. (the licensees), which revised technical specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pa. The amendment is effective as of its date of issuance.

This amendment revises the technical specifications by increasing the volume requirements of the boric acid mix tank, the reclaimed boric acid storage tank, and the borated water storage tank.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 15.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 27, 1978 as supplimented by letter dated July 17, 1978, (2) Amendment No. 43 to License No. DPR-50, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pa. A

copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention, Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 23d day of August 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-24922 Filed 9-5-78; 8:45 am]

[7590-01]

PETITION FOR EMERGENCY AND REMEDIAL ACTION

Request for Action Pursuant to 10 CFR 2.206

Notice is hereby given that by petition dated July 29, 1978, Jeannine Honicker of Nashville, Tenn., requested, pursuant to 10 CFR 2.206 of the Commission's regulations, that the NRC take certain emergency and remedial action with respect to operation of the nuclear fuel cycle. Petitioner alleges that continued operation of the nuclear fuel cycle endangers public health and safety in contravention of principles of international law, the U.S. Constitution, and the NRC's responsibilities under the Atomic Energy Act. Petitioner requests, inter alia, that the NRC revoke licenses of all nuclear fuel cycle facilities over which it has jurisdiction, order the decommissioning and dismantling of all existing facilities which handle fuel cycle materials and isolate all hazardous radioactive materials from the biosphere. In accordance with 10 CFR 2.206, appropriate action will be taken on this request within a reasonable time.

A copy of the petition is available for inspecion in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Dated at Bethesda, Md. this 30th day of August 1978.

For the Nuclear Regulatory Commission.

HAROLD R. DENTON,
Director, Office of Nuclear Reactor Regulation.

[FR Doc. 78-24924 Filed 9-5-78; 8:45 am]

[7590-01]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM WPPSS NUCLEAR PLANT NO. 2

[Docket No. 50-397]

Order Extending Construction Completion Date

Washington Public Power Supply System (WPPSS) is the holder of Provisional Construction Permit No. CPPR-93 issued by the Atomic Energy Commission[1] on March 19, 1973, for construction of the WPPSS Nuclear Plant No. 2 (formerly Hanford 2) which is presently under construction at the permittee's site in Benton County, Wash.

On December 28, 1976, Washington Public Power Supply System filed a request for an extension of the completion date because construction has been delayed due to:

(1) A strike from June 1, 1976 to November 15, 1976, and an earlier strike of shorter duration;
(2) New NRC licensing requirements;
(3) Poor labor productivity;
(4) Increased project scope and complexity;
(5) Additional and more stringent design criteria; and
(6) Incorporation of modifications required as a result of operating experience at other plants.

This action involves no significant hazards consideration; good cause has been shown for delay; and the extension is for a reasonable period, the bases for which are set forth in an NRC staff evaluation dated August 29, 1978.

A negative Declaration and an Environmental Impact Appraisal have been prepared and are available, as are the above stated documents for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Richland Public Library, Swift and Northgate Streets, Richland, Wash, 99353. It is hereby ordered That the latest completion date for Provisional Construction Permit No. CPPR-93 is extended from September 1, 1978, to December 1, 1981.

Date of Issuance: August 29, 1978.

For the Nuclear Regulatory Commission.

ROGER S. BOYD,
Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 78-24923 Filed 9-5-78; 8:45 am]

[7590-01]

Negative Declaration Supporting: Extension of Construction Permit No CPPR-93

[Docket No. 50-397]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM NUCLEAR PROJECT NO. 2

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed Washington Public Power Supply System (permittee) request to extend the expiration date of the construction permit for the Washington Public Power Supply System Nuclear Project No. 2 (CPPR-93) which is located in Benton County in the State of Washington. The permittee requested a 39-month extension to the permit through December 1, 1981, to allow for completion of construction of the plant.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal relative to this change to CPPR-93. Based on this appriaisal, the commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the proposed action other than that which has already been described in the Commission's Final Environmental Statement.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room. 1717 H Street NW., Washington, D.C. and at the Government Publications Section Richland Public Library, Swift and Northgate Streets, Richland, Wash.

JAN A. NORRIS,
Acting Chief, Environmental Projects Branch 2 Division of Site Safety and Environmental Analysis.

AUGUST 29, 1978.

[FR Doc. 78-24949 Filed 9-5-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the office of management and budget on August 29, 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 of office.

Requests for extension which appear to raise no significant issues are to be

[1] Effective Jan. 19, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and Permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

ENVIRONMENTAL PROTECTION AGENCY

Survey Farmers' Use of Pesticides, 1977, single-time, 6,000 grain, nut, livestock, and poultry farmers, Ellett, C. A., 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development, Head Start Food Service Questionnaire, single-time, 1,029 all head start Grantees, Human Resources Division, 395-3532.

Office of Education, Captioned Television Evaluation (Deaf), OE-638, single-time, 4,860 deaf and hearing-impaired, Human resources Division, 395-3532.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Lipid Research Clinics Prevention Trail, single-time, study participants, 21,200 responses, 34,300 hours, Office of Federal Statistical Policy and Standard, 673-7956.

EXTENSIONS

VETERANS' ADMINISTRATION

Construction Progress Chart, 08-6159, on occasion, construction contractors, 1,100 responses, 275 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Day Care Requirements for Nonlicensed Institutions (Child Care Food Program), FNS-343, annually, institutions Admin. by FNS, 450 responses, 900 hours, Ellett, C. A., 395-6132,

Econonics, Statistics, and Cooperatives Service, Livestock Slaughter Report (Nonfederally Inspected), monthly, livestock slaughter plants, 24,360 responses, 2,440 hours, Ellett, C. A., 395-6132.

Food and Nutrition Service:

Application for Participation (Child Care Food Program), FNS-341, annually, institutions admin. by FNS, 6,000 responses, 9,000 hours, Ellett, C. A., 395-6132.

Application for Participation and Management Plan for Sponsoring Organization, FNS-342, annually, institutions administered by FNS, 2,000 responses, 6,000 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF DEFENSE

Departmental and Other, Labor Management Data (Expiration Dates, Union Contracts), on occasion, defense contractors over $500K, 400 responses, 100 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, Financial Status Review, semiannually, health profession students receiving Federal loan support, 48,000 responses, 4,800 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Mortgage or Rent Assistance Application for Benefits Under Sec. 226(B), Disaster Relief Act of 1970, HUD-9950, on occasion, victims of Presidentially declared disasters, 25 responses, 12 hours, Caywood, D. P., 395-3443.

Housing Production and Mortgage Credit, Mortgagees Application for Mortgagor Approval and Commitment, Etc., FHA-2004F, 2004G, and 2900, on occasion, individual seeking FHA financing through mortgagee, 1 million responses, 500,000 hours, Caywood, D. P., 395-3443.

Housing Management, Letter Requesting Welfare Agency Verification, HUD-9950.1, on occasion, welfare agency, 10 responses, 5 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration, Report of Inspection Required by Airworthiness Directive (for Safety of Aircraft), FAR 39, on occasion, air carriers, aircraft owners, and repair stations, Strasser, A., 395-6132.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-25063 Filed 9-5-78; 8:45 am]

[3110-01]

PRIVACY ACT

Notice of New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals * * *"

OMB policies implementing this provision require agencies to submit these reports on proposed new or altered systems 60 days prior to the issuance of any data collection forms or instructions, or the issuance of any requests for proposals for computer and communications systems or services to support such systems. OMB procedures permit a waiver of the advance notice requirement only when the agency can show that the delay caused by the 60 day advance notice would not be in the public interest.

The following reports on new or altered systems were received by OMB between July 24 and August 18, 1978. Inquiries or comments on the proposed changes to existing systems or new systems should be directed to the designated agency point-of-contact. It is also requested that a copy of any written comments be provided to OMB. The 60 day advance notice period begins on the report date indicated.

DEPARTMENT OF JUSTICE

System name: Management Information System.

Report date: June 26, 1978.

Point-of-contact: Ms. Bronson Clayton, Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20240.

Summary: The Community Relations Service of the Department of Justice requires its regional offices to report on the cases they handle, for adminstrative purposes. It is now proposed to enter these case reports into the automated Justice Data Management Service and make them retrievable by individuals' names. The reports will thus become subject to the Privacy Act.

GENERAL SERVICES ADMINISTRATION

System name: Federal Information Center Client Case File.

Report date: July 28, 1978.

Point-of-contact: Mr. Philip Schmidt, Director of Management Services, General Services Administration, Washington, D.C. 20405.

Summary: This new system of records is proposed as part of a pilot project for handling citizen complaints about Government agencies. Federal Information Centers will act as liaison between individuals and agencies, communicating citizens' complaints to the agencies so that the problems can be resolved. The files will include information about the complaint, provided by the citizens, and about its resolution. The pilot project will run for 6 months in 11 selected cities, and will then be evaluated to determine whether expansion is warranted.

DEPARTMENT OF THE INTERIOR

Systems names: (1) Youth Conservation Corps (YCC) and Young Adult Conservation Corps (YACC) Enrollee and Corpsmember Records, (2) Youth Conservation Corps (YCC) Enrollee and Young Adult Conservation Corps (YACC) Corpsmember Payroll Records File, (3) Youth Conservation Corps Enrollee and Young Adult Conservation Corps Corpsmember Medical Records.

Report date: August 3, 1978.

Point-of-contact: Mr. Warren Dahlstrom, Department of the Interior, Washington, D.C. 20240.

Summary: The Interior Department's Office of Youth programs proposes to expand these existing systems to include Young Adult Conservation Corps (YACC) Corpsmembers as well as enrollees in the Youth Conservation Corps. The expansion is based on the authority of Pub. L. 95-93, which established the YACC by amendment to the Comprehensive Employment and Training Act.

DEPARTMENT OF THE TREASURY

System names: (1) Employees' Daily Production Record, (2) Personnel Movement Control Record, (3) Identification Files.

Report date: August 4, 1978.

Point-of-contact: Mr. Floyd Sandlin, Department of the Treasury, Washington, D.C. 20220.

Summary: These systems are all maintained by the Bureau of Engraving and Printing. The first system, which is used to measure productivity and evaluate employees and their promotional potential, will be expanded to include all BEP employees rather than just a sample. The second and third systems are being redesigned as part of the development of an electronic, automated access control system which is intended to improve overall security at the Bureau of Engraving and Printing.

SECURITIES AND EXCHANGE COMMISSION

System name: Complaint Processing System.

Report date: August 7, 1978.

Point-of-contact: Mr. Harold Rosenthal, Department of Housing and Urban Development, Washington, D.C. 20510.

Summary. The Department of Housing and Urban Development proposes to establish this system in order to carry out section 14 of the Real Estate Settlement and Procedures Act of 1974, which directs HUD to study the problem of high real estate settlement costs and report to the Congress by June 1980. HUD representatives will conduct interviews with buyers and sellers of residential housing units and with providers of settlement services. The data collected in the interviews will be the basis of the system of records.

DEPARTMENT OF STATE

System name: Security Records.

Report date: August 11, 1978.

Point-of-contact: Mr. William Price, Department of State, Washington, D.C. 20520.

Summary: The State Department proposes to alter this existing system of records by expanding the categories of records to include security violations records of State Department employees and automating that portion of the system.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

System name: Shuttle Training Certification system.

Report date: August 15, 1978.

Point-of-contact: Mr. Thomas G. Thornburg, National Aeronautics and Space, Administration Code AE, Washington, D.C. 20546.

Summary: This report proposes expansion of an existing system, Operations Safety Training Records, which includes records of training and certification of NASA personnel and contractors to perform hazardous tasks associated with Kennedy Space Center programs. The additional records to be included are related to new training requirements associated with the Space Shuttle.

AGENCY FOR INTERNATIONAL DEVELOPMENT

System name: Travel and Transportation Records.

Report date: August 4, 1978.

Point-of-contact: Rhea Johnson, Agency for International Development, Washington, D.C. 20523.

Summary: The proposed amendment adds a new category of records to the system. These records are used for disbursing funds to firms for storage of household effects and personal goods of employees while stationed overseas. A waiver of the 60-day advance notice provision was requested by agencies for the following reports submitted between July 24 and August 18, 1978. It should be noted that a waiver of the 60-day advance notice period does not relieve an agency of the obligation to publish a notice describing the system and to allow 30 days for public comment on the proposed routine uses of the personal information to be collected. Public inquiries or comments on the proposed new or altered systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. Comments on the operation of the waiver procedure should be directed to OMB.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

System name: White House Conference Delegate/Alternative Certification File.

Report date: July 20, 1978.

Point-of-contact: Mr. Alphonse F. Trezza, National Commission on Libraries and Information Science, 1717 K Street NW., Suite 601, Washington, D.C. 20036.

Summary: This system will consist of address and resume information about delegates and alternate delegates to the White House Conference on Library and Information Science. The information will be used in analyzing and allocating the composition of conference delegates.

Waiver request: No action as of August 24, 1978.

FEDERAL TRADE COMMISSION

System names: (1) Consumer Complaint Files, Dallas Regional Office, (2) Assignment Control System, Bureau of Consumer Protection, (3) Consultant Files, Bureau of Competition.

Report date: July 28, 1978.

Point-of-contact: Ms. Karen C. Gabbert, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Summary: The first system is a revival of a system formerly reported under the Privacy Act; retrieval of information by use of individual names had been discontinued and the system notice dropped from FTC's body of Privacy Act notices. The report indicates that the use of personal identifiers was again determined to be necessary. The second system, Assignment Control System, is used to manage and record staff duty assignments. The Bureau of Competition's Consultant files are used for identifying consultants available for use in law enforcement proceedings.

Waiver request: Granted August 21, 1978.

U.S. CIVIL SERVICE COMMISSION

System names: Presidential Management Intern Program Records.

Report date: August 7, 1978.

Point-of-contact: Mr. Andrew W. Boesel, Bureau of Intergovernmental Personnel Programs, U.S. Civil Service Commission, Washington, D.C. 20415.

Summary: This new system of records was formerly part of CSC's Recruiting, Examining, and Placement Records (CSC/GOVT-5). The Commission has separated the PMIP records from the former system in order "to insure full public and participant awareness of the program." The Presidential Management Intern program, established under Executive Order 12008, dated August 24, 1977, is designed to bring into Government annually 250 high-caliber individuals who have graduate degrees in public management.

Waiver request: Granted August 24, 1978.

DAVID R. LEUTHOLD,
Acting Assistant to the Director for Administration.

[FR Doc. 78-25014 Filed 9-5-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket 301-15]

CERTAIN U.S. TELEVISION LICENSEES

On August 29, 1978, the Chairman of the Section 301 Committee received from certain U.S. television licensees a petition alleging certain unfair trade practices by the Government of Canada.

Relief is requested pursuant to section 301 of the Trade Act of 1974 (Pub. L. 93-618, 88 Stat 1978; 19 U.S.C. 2411). The text of the petition is as follows:

BEFORE THE SECTION 301 COMMITTEE OF THE OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS, WASHINGTON, D.C.

Subject: Complaint filed pursuant to section 301 of the Trade Act of 1974.

This submission is made on behalf of the following United States television licensees:

KVOS Television Corp., licensee of station KVOS-TV, Bellingham, Wash.
Buffalo Broadcasting Co., Inc., licensee of station WIVB-TV, Buffalo, N.Y.
WPBN—TV and WTOM-TV, Inc., d.b.a. Midwestern Television Co., licensee of station WPBN-TV, Traverse City, Mich.
WPBN-TV and WTOM-TV, Inc., d.b.a. Midwestern Television Co., licensee of station WTOM-TV, Cheyboygan, Mich.
Eastern Maine Broadcasting System, Inc., licensee of station WVII-TV, Bangor, Maine.
WDAY, Inc., licensee of station WDAZ-TV, Grand Forks-Devils Lake, N. Dak.
Great Lakes Television Co., licensee of station WSEE-TV, Erie, Pa.
Johnson Newspaper Corp. (formerly known as the Brockway Co.), licensee of station WWNY-TV, Watertown, N.Y.
Spokane TV Inc., licensee of station KXLY-TV, Spokane, Wash.
Spokane TV Inc., licensee of station KTHI-TV, Fargo, N. Dak.
KMSO-TV, Inc., licensee of station KCFW-TV, Kalispell, Mont.
Advance Corp., licensee of station KFBB-TV, Great Falls, Mont.
International Television Corp., licensee of station WEZF-TV, Burlington, Vt.
KXMC-TV, Inc., licensee of station KXMD-TV, Williston, N. Dak.
KXMC-TV, Inc., licensee of station KXMC-TV, Minot, N. Dak.

1. The names of the complainants are:

KVOS Television Corp., licensee of station KVOS-TV, Bellingham, Wash., which serves markets in Washington, and is also received in Canadian markets.
Buffalo Broadcasting Co., Inc., licensee of station WIVB-TV, Buffalo, N.Y., which serves markets in New York, and is also received in Canadian markets.
WPBN-TV and WTOM-TV, Inc., DBA Midwestern Television Co., licensee of station WPBN-TV, Traverse City, Mich., which serves markets in Michigan, and is also received in Canadian markets.
WPBN-TV and WTOM-TV, Inc., DBA Midwestern Television Co., licensee of station WTOM-TV, Cheyboygan, Mich., which serves markets in Michigan, and is also received in Canadian Markets.
Eastern Maine Broadcasting System, Inc., licensee of station WVII—TV, Bangor, Maine, which serves markets in Maine, and is also received in Canadian markets.
WDAY, Inc., licensee of station WDAZ-TV, Grand Forks-Devils Lake, N. Dak., which serves markets in North Dakota, and is also received in Canadian markets.
Great Lakes Television Co., Licensee of station WSEE-TV, Erie, Pa., which serves markets in Pennsylvania, and is also received in Canadian markets.
Johnson Newspaper Corp. (formerly known as the Brockway Co.), licensee of station WWNY-TV, Watertown, N.Y., which serves markets in New York, and is also received in Canadian markets.
Spokane TV Inc., licensee of station KXLY-TV, Spokane, Wash., which serves markets in Washington, and is also received in Canadian markets.
Spokane TV Inc., licensee of station KTHI-TV, Fargo, N. Dak., which serves markets in North Dakota, and is also received in Canadian markets.
KMSO-TV, Inc., licensee of station KCFW-TV, Kalispell, Mont., which serves markets in Montana, and is also received in Canadian markets.
Advance Corporation, Licensee of station KFBB-TV, Great Falls, Mont., which serves markets in Montana, and is also received in Canadian markets.
International Television Corp., licensee of station WEZF-TV, Burlington, Vt., which serves markets in Vermont, and is also received in Canadian markets.
KXMC-TV, Inc., licensee of station KXMD-TV, Williston, N. Dak., which serves markets in North Dakota, and is also received in Canadian markets.
KXMC-TV, Inc., licensee of station KXMC-TV, Minot, N. Dak., which serves markets in North Dakota, and is also received in Canadian markets.

The complainants are "interested parties" within the definition of 15 CFR § 2006.0(a) with respect to the foreign practice described in this complaint. The denial of an income tax deduction for Canadian income tax purposes for any entity advertising on a U.S. broadcasting station has injured the complainants by depriving them of substantial advertising revenues which had been derived from the sale of advertising time to Canadian advertisers, and the foreign practice substantially threatens the future ability of these stations to earn Canadian advertising revenues.

2. The foreign act which is the subject of this complaint is the implementation on September 22, 1976, of section 3 of bill C-58 (first session, thirteenth parliament, 23-24 Elizabeth II, 1974-75) following its enactment by the House of Commons and Senate of Canada. Section 3 of bill C-58, which is now section 19.1(1) of the Income Tax Act, denies a deduction for Canadian income tax purposes for the cost of advertising directed primarily to a market in Canada that is broadcast by a foreign broadcasting undertaking. The cost of advertisements placed on Canadian licensed stations are permitted to be deducted as a business in Canada. The measure is generally referred to as "bill C-58."

Bill C-58 is a discriminatory, unreasonable and arguably unjustifiable nontariff barrier which burdens, restricts and discriminates against U.S. commerce as meant by subsection (a)(2) of section 301.

3. Bill C-58 is attached as appendix I to this complaint.

4. The foreign country responsible for the implementation of section 3 of bill C-58 (section 19.1(1) of the Income Tax Act) is Canada.

5. The targets of bill C-58 are the television advertisements broadcast by U.S. stations, the television programs of those U.S. stations, and the combination of these and other elements in the programming schedules of U.S. stations. The services involved are U.S. telecommunications services, consisting of the transmission of television advertisements and programs which are being subjected to unreasonable treatment; such services are covered by section 301(a) of the Trade Act of 1974.

6. Section 3 of bill C-58 discriminates against U.S. commerce, and is an unreasonable and arguably unjustifiable policy.

(a) The denial of a deduction for income tax purposes applies only to the advertisements placed by a Canadian entity on a foreign (non-Canadian) broadcasting station. U.S.-originated advertisements are subject to a higher tax rate than advertisements originating in Canada, solely by reason of being imported. Bill C-58 doubles the cost of U.S.-broadcast advertising to Canadian purchasers. The importation into Canada of advertisements from the United States is thus discriminated against by use of a tax subsidy which has the effect of a substantial tariff barrier.

(b) Section 3 of bill C-58 is unreasonable for four reasons:

(1) Canada should pay for the services it receives. Section 3 of bill C-58 permits Canada to obtain the benefit of U.S. services, while impairing the opportunities of U.S. stations to earn fair compensation in the open, competitive marketplace. Section 3 accomplishes this by blocking the access of U.S. stations to Canadian advertising revenues while retaining for Canada the benefits of the programming provided by those stations. Three benefits have been provided for Canada by U.S. stations. First, Canada viewers have been provided with television programming by U.S. stations which they enjoy. Second, in the absence of bill C-58, Canadian businesses are given the opportunity to advertise their products for sale in Canada on U.S. stations, in order to reach a wider audience in Canada. Finally, Canada has built a viable and advanced cable television industry on the strength of the ability of such systems in Canada to carry the programming of the U.S. stations which are the target of bill C-58.

The direct effect of bill C-58 is to double the cost to a Canadian advertiser of purchasing time on a U.S. station, and provide a tax subsidy to the Canadian television industry. The measure is a strong inducement to advertisers to shift time purchases from U.S. to Canadian stations. The result of bill C-58 is that Canadian viewers obtain U.S. programming without paying for part of its costs through the accompanying advertising by Canadian entities. Accordingly, U.S. broadcasters are not being adequately compensated for their programming, a result which is "unreasonable" under section 301 of the Trade Act of 1974.

(2) Bill C-58, by doubling the cost of U.S.-broadcast advertising, is a discriminatory tax subsidy which has the effect of a prohibitive tariff, is a major nontariff barrier to trade, and is an "unreasonable" impediment to trade in services within the meaning of section 301(a)(1) of the Trade Act of 1974.

(3) The cross-border advertising revenues affected by bill C-58 have not been reinvested in significant amounts in Canadian programming, and are adequate to establish a domestic programming industry.

(4) Bill C-58 is a unilateral policy, unilaterally arrived at, which ignores the bilateral character of the telecommunications problem involved, and which is unreasonable in light of the transnational and transgovernmental relations between Canada and the United States, which have been characterized by bilateral problem-solving.

(c) Section 3 of bill C-58 is arguably unjustifiable.

(1) It can be argued that advertisements are "products." Bill C-58 would thus violate article III, paragraph 1, of the general agreement on tariffs and trade (GATT), which provides that internal taxes should not be applied to imported or domestic products so as to afford protection to domestic production.

(2) Bill C-58 arguably violates Article III, paragraph 2, of the GATT, which provides that imported products should not be subjected to taxes of any kind in excess of those applied to domestic products.

(3) Bill C-58 arguably violates article III, paragraph 4, of the GATT, which provides that imported products should be accorded treatment no less favorable than that accorded to products of national origin with respect to all laws, regulations and requirements affecting their internal sale, offering for sale, purchase transportation, distribution or use.

(4) Bill C-58 arguably violates article IV of the GATT, which provides that if a country wishes to restrict the showing of cinema films, for cultural reasons, it must use domestic screen quotas.

The policy of the GATT is that countries may protect their cultural independence by limiting their importation of foreign cultural products or services through quantitative restraints. Canada, however, not only permits its residents to receive U.S. television service over the air, but affirmatively licenses the importation of that service by its cable systems, permitting them to exploit the value of U.S. service at great profit to themselves and with concomitant benefit to the Canadian economy. What Canada seeks to do, by its tax law and other devices, is to prevent those who render the service from obtaining compensation. That effort is squarely contrary to the objectives of article IV of the GATT.

7. Section 3 of bill C-58 burdens and restricts U.S. commerce.

(a) Total Canadian advertising revenues dropped from $18,885,088 in 1975 (before the passage or implementation of section 3 of bill C-58) to $16,781,230 in 1976 and to $9,175,251 in 1977, according to a survey conducted by Price Waterhouse & Co. This was a drop of more than 50 percent. We estimate that without the interference of bill C-58, total Canadian advertising revenues would have exceeded $20 million in 1978.

(b) The net amounts paid to U.S. broadcasters, when amounts remaining in Canada and paid to Canadian entities are excluded, dropped by more than 50 percent from $14,052,665 in 1975 to $6,133,273 in 1977. the drop from the 1976 level of $12,319,403 when bill C-58 was put into effect, to 1977 when its effect was first fully felt equaled 47 percent—a major drop for a time period of only 2 years.

(c) Canadian advertising revenues will decline further in the future. Bill C-58 (section 19.1(1) of the Income Tax Act) exempted advertising contracts from the tax deduction provisions if they were entered into before the implementation date and if they extended for a term of 1 year or less. the cost of advertising paid to a U.S. border broadcasting station before September 22, 1977, could therefore be deducted.

In 1976, 53 percent of the fourth quarter total advertising revenues were made up of amounts received under these "grandfather contracts" ($2,956,433 of $5,542,652). In 1977, of $9,175,251 in total revenues, $5,046,095 or 55 percent, was received pursuant to these contracts. The amounts of Canadian advertising revenues earned by U.S. stations will decline further in 1978 and succeeding years, as Canadian advertisers can no longer deduct any of the costs of advertising placed on a U.S. station and directed primarily to a Canadian market.

8. The complainants have not filed for other relief under the Trade Act of 1974 or any other statute.

9. Pursuant to section 301(e)(2) of the Trade Act of 1974, public hearings in November 1978, with respect to the matters complained of herein are requested.

10. Accordingly, it is respectfully suggested that the President be advised by the Office of the Special Representative for Trade Negotiations to impose duties or other import restrictions on the products or services of Canada as he deems appropriate, such import restriction to be removed only when the matters complained of are satisfactorily resolved.

Respectfully submitted,

KVOS Television Corp., licensee of station KVOS-TV, Bellingham, Wash., which serves markets in Washington and is also received in Canadian markets.

By MARCUS COHN,
ROY R. RUSSO.

Cohn & Marks, 1920 L Street NW., Washington, D.C. 20036.

Buffalo Broadcasting Co., Inc., licensee of station WIVB-TV, Buffalo, N.Y., which serves markets in New York and is also received in Canadian markets.

By ALFRED C. CORDON,
Counsel for WIVB-TV.

Cordon & Jacob, 2000 L Street NW., Washington, D.C. 20036.

WPBN-TV and WTOM-TV, Inc., d.b.a. Midwestern Television Co., licensee of station WPBN-TV, Traverse City, Mich., which serves markets in Michigan and is also received in Canadian markets.

By ALFRED C. CORDON,
Counsel for WPBN-TV.

WPBN-TV and WTOM-TV, Inc., d.b.a. Midwestern Television Co., licensee of station WTOM-TV, Cheyboygan, Mich., which serves markets in Michigan and is also received in Canadian markets.

By ALFRED C. CORDON,
Counsel for WTOM-TV.

Eastern Maine Broadcasting System, Inc., licensee of WVII-TV, Bangor, Maine, which serves markets in Maine and is also received in Canadian markets.

By EUGENE F. MULLIN,
Counsel for WVII-TV.

Mullin, Connor & Rhyne, P.C., 1000 Connecticut Avenue NW., Washington, D.C. 20036.

WDAY, Inc., licensee of WDAZ-TV, Grand Forks-Devils Lake, N. Dak., which serves markets in North Dakota and is also received in Canadian markets.

By ROBERT A. MARMET,
HAROLD K. MCCOMBS, Jr.

Marmet Professional Corp., 1822 Jefferson Place, Washington, D.C. 20036.

Great Lakes Television Co., licensee of station WSEE-TV, Erie, Pa., which serves markets in Pennsylvania, and is also received in Canadian markets.

By WILLIAM J. POTTS, Jr.

Haley, Bader & Potts, 1730 M Street NW., Suite 700, Washington, D.C. 20036.

Johnson Newspaper Corp. (formerly known as the Brockway Co.), licensee of station WWNY-TV, Watertown, N.Y., which serves markets in New York and is also received in Canadian markets.

By JOHN P. SOUTHMAYD,
Counsel for WWNY-TV.

Fisher, Wayland, Southmayd & Cooper, 1100 Connecticut Avenue, Washington, D.C. 20036.

Spokane TV Inc., licensee of station KXLY-TV, Spokane, Wash., which serves markets in Washington, and is also received in Canadian markets.

By ARTHUR STAMBLER.

Spokane TV Inc., licensee of station KTHI-TV, Fargo, N. Dak., which serves markets in North Dakota, and is also received in Canadian markets.

By ARTHUR STAMBLER.

Stambler & Shrinsky, P.C., Suite 270, 1120 Connecticut Avenue NW., Washington, D.C. 20036.

KMSO-TV, Inc., licensee of station KCFW-TV, Kalispell, Mont., which serves markets in Montana, and is also received in Canadian markets.

By JOHN P. SOUTHMAYD.

Fisher, Wayland, Southmayd & Cooper, 1100 Connecticut Avenue NW., Suite 730, Washington, D.C. 20036.

Advance Corp., licensee of station KFBB-TV, Great Falls, Mont., which serves markets in Montana and is also received in Canadian markets.

By STANLEY B. COHEN.

Cohn & Marks, 1920 L Street NW., Washington, D.C. 20036.

International Television Corp., licensee of station WEZF-TV, Burlington, Vt., which serves markets in Vermont, and is also received in Canadian markets.

By DAVID MEYERS.

Fowler & Meyers, P.C., 1015 20th Street NW., Suite 200, Washington, D.C. 20036.

KXMC-TV, Inc., licensee of station KXMD-TV, Williston, N. Dak., which serves markets in North Dakota, and is also received in Canadian markets.

By MARTIN R. LEADER.

Fisher, Wayland, Southmayd & Cooper, 1100 Connecticut Avenue NW., Suite 730, Washington, D.C. 20036.

KXMC-TV, Inc., licensee of station KXMC-TV, Minot, N. Dak., which serves markets in North Dakota, and is also received in Canadian markets.

By MARTIN R. LEADER.

Fisher, Wayland, Southmayd & Cooper, 1100 Connecticut Avenue NW., Suite 730, Washington, D.C. 20036.

BART S. FISHER,
Of Counsel.

Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.

APPENDIX I

C-58

First Session, Thirtieth Parliament,
23-24 Elizabeth II, 1974-75

THE HOUSE OF COMMONS OF CANADA

BILL C-58

An Act to amend the Income Tax Act

First reading, April 18, 1975

C-58

Première Session, Trentième Législature,
23-24 Elizabeth II, 1974-75

CHAMBRE DES COMMUNES DU CANADA

BILL C-58

Loi modifiant la Loi de l'impôt sur le revenu

Première lecture, le 18 avril 1975

CANADIAN EMBASSY
AMBASSADE DU CANADA
WASHINGTON D. C.
MAY 8 1975
LIBRARY/BIBLIOTHÈQUE

THE MINISTER OF FINANCE

LE MINISTRE DES FINANCES

APPENDIX I

Page 2 of 4

1st Session, 30th Parliament, 23-24 Elizabeth II, 1974-75

THE HOUSE OF COMMONS OF CANADA

BILL C-58

An Act to amend the Income Tax Act

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Subsections 19(1) and (2) of the *Income Tax Act* are repealed and the following substituted therefor:

"19. (1) In computing income, no deduction shall be made in respect of an otherwise deductible outlay or expense of a taxpayer for advertising space in an issue of a non-Canadian newspaper or periodical dated after December 31, 1975 for an advertisement directed primarily to a market in Canada."

2. Subsection 19(4) of the said Act is repealed.

3. The said Act is further amended by adding thereto, immediately after section 19 thereof, the following section:

"19.1 (1) Subject to subsection (2), in computing income, no deduction shall be made in respect of an otherwise deductible outlay or expense of a taxpayer made or incurred after this section comes into force for an advertisement directed primarily to a market in Canada and broadcast by a foreign broadcasting undertaking

(2) Subject to subsection (3), in computing income, a deduction may be made in respect of an outlay or expense for an

1re session, 30e Législature, 23-24 Elizabeth II, 1974-75

CHAMBRE DES COMMUNES DU CANADA

BILL C-58

Loi modifiant la Loi de l'impôt sur le revenu

Sa Majesté, sur l'avis et du consentement du Sénat et de la Chambre des communes du Canada, décrète:

S.R., 1952, c. 148; 1970-71-72, c. 63; 1972, c. 9; 1973-74, cc. 14, 29, 30, 44, 45, 49, 51

1. Les paragraphes 19(1) et (2) de la *Loi de l'impôt sur le revenu* sont abrogés et remplacés par ce qui suit:

Limitation des frais de publicité

«19. (1) Lors du calcul du revenu, il n'est accordé aucune déduction au titre d'un débours ou d'une dépense, déductible par ailleurs, faite ou engagée par un contribuable pour la publication, dans un journal ou un périodique non canadien publié après le 31 décembre 1975, d'annonces intéressant surtout le marché canadien.»

2. Le paragraphe 19(4) de ladite loi est abrogé.

3. Ladite loi est en outre modifiée par l'addition, après l'article 19, de l'article suivant:

Limitation des frais de publicité des entreprises de radiodiffusion

«19.1 (1) Sous réserve du paragraphe (2), lors du calcul du revenu, il n'est accordé aucune déduction au titre d'un débours ou d'une dépense, déductible par ailleurs, faite ou engagée par un contribuable, après l'entrée en vigueur du présent article, pour de la publicité essentiellement dirigée vers le marché canadien et faite par une entreprise étrangère de radiodiffusion.

Exception

(2) Nonobstant le paragraphe (3), lors du calcul du revenu, il peut être accordé une déduction au titre d'un débours ou

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advertisement directed primarily to a market in Canada and broadcast by a foreign broadcasting undertaking pursuant to

(*a*) a written agreement entered into on or before January 23, 1975; or

(*b*) a written agreement entered into after January 23, 1975 and before this section comes into force if the agreement is for a term of one year or less and by its express terms is not capable of being extended or renewed.

(3) No deduction may be made in respect of an outlay or expense made or incurred pursuant to an agreement referred to in paragraph (2)(*a*), or an extension or renewal thereof, when the outlay or expense is made or incurred after twelve months from the commencement of this section.

(4) In this section,

"foreign broadcasting undertaking" means a network operation or a broadcasting transmitting undertaking located outside Canada or on a ship or aircraft not registered in Canada;

"network" includes any operation involving two or more broadcasting undertakings whereby control over all or any part of the programs or program schedules of any of the broadcasting undertakings involved in the operation is delegated to a network operator."

d'une dépense pour de la publicité essentiellement dirigée vers le marché canadien et faite par une entreprise étrangère de radiodiffusion, en application d'un contrat écrit conclu

a) au plus tard le 23 janvier 1975; ou

b) entre le 23 janvier 1975 et l'entrée en vigueur du présent article, et qui ne peut dépasser un an ni, d'après ses modalités expresses, être prolongé ni renouvelé.

(3) Il ne peut être accordé aucune déduction au titre du débours ou de la dépense découlant d'un contrat visé à l'alinéa (2)*a*) ou de la prolongation ou du renouvellement d'un tel contrat, lorsque ce débours ou cette dépense se produit plus de douze mois après l'entrée en vigueur du présent article.

Limites à l'exception prévue à l'alinéa (2)*a*)

(4) Dans le présent article,

Définitions

«entreprise étrangère de radiodiffusion» désigne l'entreprise d'émission de radiodiffusion ou d'exploitation d'un réseau située à l'étranger ou sur un navire ou un aéronef non immatriculés au Canada.

«entreprise étrangère de radiodiffusion»

«réseau» comprend toute exploitation à laquelle participent deux ou plusieurs entreprises de radiodiffusion et où le contrôle de l'ensemble ou d'une partie des émissions ou des programmes d'émission de toute entreprise de radiodiffusion participant à l'exploitation est délégué à un exploitant de réseau.»

«réseau»

4. (1) Sections 1 and 2 shall come into force on the 1st day of January, 1976.

4. (1) Les articles 1 et 2 entrent en vigueur le 1er janvier 1976.

Entrée en vigueur

(2) Section 3 shall come into force on a day to be fixed by proclamation.

(2) L'article 3 entre en vigueur à la date fixée par proclamation.

Idem

ed under authority of the Speaker of the of Commons by the Queen's Printer for Canada

ble from Information Canada, Ottawa, Canada

Publié en conformité de l'autorité de l'Orateur de la Chambre des communes par l'Imprimeur de la Reine pour le Canada

En vente à Information Canada, Ottawa, Canada

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EXPLANATORY NOTES

The purpose of this Bill is to implement the Ways and Means Motion to amend the *Income Tax Act* notice of which was given by the Minister of Finance on April 17th, 1975.

Clause 1 and 2: These amendments would implement paragraph (1) of the Ways and Means Motion relating to the removal from section 19 of the *Income Tax Act* of provisions that permit certain outlays or expenses for advertising space in issues of non-Canadian newspapers or periodicals to be deducted in computing income.

Subsections 19(1), (2) and (4) read as follows:

"19. (1) In computing income, no deduction shall be made in respect of an otherwise deductible outlay or expense of a taxpayer for advertising space in an issue of a non-Canadian newspaper or periodical dated after December 31, 1965 for an advertisement directed primarily to a market in Canada.

(2) An issue or edition of an issue of any newspaper or periodical that is edited in whole or in part in Canada and printed and published in Canada and that was not on April 26, 1965 a Canadian newspaper or periodical shall be deemed, for the purposes of subsection (1), not to be an issue of a non-Canadian newspaper or periodical

(a) throughout the period of 12 months ending April 26, 1965 issues or editions of issues of that publication were being edited in whole or in part in Canada and printed and published in Canada at the usual intervals for issues of that publication and have since that date continued to be so edited, printed and published without interruption except for a reason other than the cessation of the business of publishing that publication; and

(b) in the case of a periodical, the periodical is similar, in content and in respect of the class of readers to which it is directed, to the issues or editions of that periodical that were throughout the period of 12 months ending April 26, 1965 being edited in whole or in part in Canada and printed and published in Canada.

. . . .

(4) Subsection (1) does not apply with respect to an advertisement in

(a) a catalogue, or

(b) any publication the principal function of which is the encouragement, promotion or development of the fine arts, letters, scholarship or religion."

Clause 3: This amendment would implement paragraph (2) of the Ways and Means Motion relating to the deductibility, in computing income, of outlays and expenses for an advertisement directed primarily to a market in Canada and broadcast by a broadcasting undertaking located outside Canada.

NOTES EXPLICATIVES

Le présent bill a pour objet de donner suite à la motion des voies et moyens modifant la *Loi de l'impôt sur le revenu*, dont avis a été donné par le ministre des Finances le 17 avril 1975.

Articles 1 et 2 du bill: Ces modifications donnent suite au paragraphe (1) de la motion des voies et moyens en vue de supprimer, à l'article 19 de la *Loi de l'impôt sur le revenu*, les dispositions qui permettent la déduction de débours faits ou de dépenses engagées pour la publication d'annonces dans un journal ou périodique non canadien.

Les paragraphes 19(1), (2) et (4) se lisent actuellement comme suit:

«19. (1) Lors du calcul du revenu, il n'est accordé aucune déduction au titre d'un débours ou d'une dépense, déductible par ailleurs, faite ou engagée par un contribuable pour la publication, dans un journal ou un périodique non canadien publié après le 31 décembre *1965*, d'annonces intéressant surtout le marché canadien.

(2) Un numéro ou une édition d'un numéro d'un journal ou périodique rédigé en tout ou en partie au Canada et imprimé et publié au Canada, qui n'était pas un journal ou un périodique canadien le 26 avril 1965, est réputé, aux fins du paragraphe (1), ne pas être un numéro d'un journal ou périodique non canadien

a) si, au cours de toute la période de 12 mois se terminant le 26 avril 1965, des numéros ou éditions de numéros de cette publication ont été rédigés en totalité ou en partie au Canada et imprimés et publiés au Canada aux dates habituelles de parution de cette publication et ont depuis cette date continué d'être ainsi rédigés, imprimés et publiés sans interruption, sauf pour une raison autre que la cessation de l'exploitation de l'entreprise d'édition de cette publication; et

b) si, dans le cas d'un périodique, le périodique est semblable, quant à son contenu et à la catégorie de lecteurs auxquels il s'adresse, aux numéros ou aux éditions de ce périodique qui, durant toute la période de 12 mois se terminant le 26 avril 1965, ont été rédigés en totalité ou en partie au Canada et imprimés et publiés au Canada.

. . . .

(4) Le paragraphe (1) ne s'applique pas à une annonce parue dans

a) un catalogue, ou dans

b) toute publication dont l'objet principal est d'encourager, de favoriser ou de développer les beaux-arts, les lettres, les sciences ou la religion.»

Article 3 du bill: Cette modification donne suite au paragraphe (2) de la motion des voies et moyens relatif à la déduction de l'impôt sur le revenu des débours et frais supportés pour la publicité essentiellement dirigée vers le marché canadien et diffusée par une entreprise étrangère.

A hearing has been requested by petitioner, to be held in November. The tentative date of the hearing is November 29, 1978. Further information regarding the public hearing schedule will be published in the FEDERAL REGISTER at least 30 days before any such hearing.

Interested parties are invited to submit views on the petition. Such views should conform to the procedures for section 301 complaints and reviews found in the title 15 of the Code of Federal Regulations, chapter 20, part 2006 and should be sent to the attention of Chairman, Section 301 Committee, Room 715, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506.

SHIRLEY COFFIELD,
Chairman.

[FR Doc. 78-24992 Filed 9-5-78; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[Public Notice 625]
[Delegation of Authority No. 88-1]

ASSISTANT SECRETARY FOR EUROPEAN AFFAIRS

Certification Regarding Certain Controlled Baltic Assets

By virtue of the authority vested in me by section 4 of the Act of May 26, 1949 (22 U.S.C. 2658), I hereby delegate to the Assistant Secretary of State for European Affairs, or in his absence to the officer designated to act for him, the performance of the functions which the Secretary of State is authorized to perform pursuant to and under the authority of section 25(b) of the Federal Reserve Act, as amended (12 U.S.C. 632), insofar as those functions relate to Estonia, Latvia, and Lithuania.

Delegation of Authority No. 88 dated December 13, 1955 (20 FR 9871, Dec. 22, 1955) is hereby rescinded insofar as it relates to Estonia, Latvia, and Lithuania.

Dated: August 15, 1978.

CYRUS VANCE,
Secretary of State.

[FR Doc. 78-24908 Filed 9-5-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[520747]

AMERICAN MANUFACTURER'S PETITION

Extension of Time for Comments Concerning an American Manufacturers's Petition To Reclassify Cotton Denim Trousers Known as "Blue Jeans"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This notice extends the period of time permitted for the submission of comments in response to a recent American manufacturer's petition to the Customs Service to reclassify certain cotton denim trousers for men and women, commonly referred to as "blue jeans." This extension will permit the preparation and submission of more detailed comments by interested members of the public.

DATES: Comments must be received on or before October 4, 1978.

ADDRESS: Comments, preferably in triplicate, should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, Room 2335, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FUTHER INFORMATION CONTACT:

Philip Robins, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5865.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 3, 1978, the Customs Service published in the FEDERAL REGISTER (43 FR 34236) a notice of receipt of an American manufacturer's petition, filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), requesting the reclassification of certain imported men's and women's cotton denim trousers known as "blue jeans." The petitioner contends that, under headnote 3, Schedule 3, Tariff Schedules of the United States (TSUS), the blue jeans are ornamented for tariff purposes, and are properly classifiable under item 380.00, TSUS, if for use by men or boys or item 382.00, TSUS, if for use by either sex or by women, girls, or infants.

COMMENTS

Comments concerning the American manufacturer's petition were to have been received on or before September 5, 1978. The Customs Service has been requested to extend the period of time for submission of comments in order to allow additional time for the preparation of responses to the American manufacturer's petition. Accordingly, the period of time for the submission of comments is extended to October 4, 1978.

Dated: August 30, 1978.

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

[FR Doc. 78-24944 Filed 9-5-78; 8:45 am]

[8240-01]

U.S. RAILWAY ASSOCIATION

[Docket No. 211-18]

CONSOLIDATED RAIL CORP.

Application for a Loan

Subsection (h) of section 211 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 721) (the Act), authorizes the U.S. Railway Association (Association) to enter into loan agreements with the Consolidated Rail Corporation (ConRail), the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of the Act under conditions and for purposes set forth in this subsection. Subsection (b) of section 211 requires that the Association publish notice of the receipt of any application thereunder in the FEDERAL REGISTER and afford interested parties an opportunity to comment thereon.

On March 1, 1976, ConRail submitted a preliminary application for a loan under provisions of section 211(h) in the amount of $230 million. Notice of this application was published in the FEDERAL REGISTER dated March 19, 1976. On March 29, 1976, ConRail supplemented its preliminary application by filing the certification and exhibits required by "Procedures for Applications for Loans to Pay Obligations of Railroads in Reorganization," 49 CFR 922 (Loan Procedures), and requested an initial borrowing of $34,024,000. On April 1, 1976, ConRail and the Association entered into a loan agreement which authorized initial borrowings by ConRail of $34,024,000. On April 12, 1976, ConRail further supplemented its loan application with a request that the aggregate amount of the initial borrowings be increased to $51,157,000. On April 15, 1976, the Board of Directors of the Association approved that request.

On July 12, 1976, ConRail filed a Borrowing Application pursuant to subsection 211(h) of the Act requesting, among other things, new borrow-

ings of $35,778,533.21 and an increase of the maximum amount reserved to $230,000,000. On July 29, 1976, the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $8,182,352.21.

On November 18, 1976, ConRail filed a Borrowing Application pursuant to subsection 211(h) of the Act requesting, among other things, new borrowings of $143,804,396.39 and a request for amendment of § 3.01 of the Loan Agreement to increase the Maximum Borrowing to $203,143,749.60. On December 6, 1976, the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $11,251,396.39.

On February 1, 1977, ConRail filed a Borrowing Application pursuant to section 211(h) of the Act requesting, among other things, new borrowing of $107,761,877.76. On February 17, 1977, the Executive Committee of the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $107,761,877.76.

On March 16, 1977, ConRail filed a Borrowing Application pursuant to section 211(h) of the Act requesting new borrowings of $25,333,400. On March 31, 1977, the Board of Directors of the Association approved an additional loan in the principal amount of $25,333,400.

On April 25, 1977, ConRail filed a Borrowing Application pursuant to section 211(h) of the Act requesting new borrowings of $25,888,400. On April 29, 1977, the Executive Committee of the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $7,825,000, to be effective May 10, 1977.

On June 6, 1977, ConRail filed a Borrowing Application pursuant to section 211(h) of the Act requesting new borrowings of $10,137,739.43. On June 30, 1977, the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $10,137,739.43.

On June 22, 1977, ConRail filed a Borrowing Application pursuant to section 211(h) of the Act requesting new borrowings of $15,060,000. On June 30, 1977, the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $15,060,000.

On July 20, 1977, ConRail filed a new Borrowing Application pursuant to section 211(h) of the Act requesting new borrowings of $18,030,000. On July 28, 1977, the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $18,030,000.

On September 19, 1977, and September 22, 1977, ConRail filed new borrowing applications pursuant to section 211(h) of the Act requesting new borrowings of $8,086,537.31 and $18,643,403, respectively. On September 28, 1977, the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $8,086,537.31, and approved, subject to the availability of section 211(h) funds, an additional loan in the principal amount of $18,643,403.

On January 17, 1978, ConRail filed a new Borrowing Application pursuant to section 211(h) of the Act requesting new borrowings of $11,935,000. On January 19, 1978, the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $11,350,000, subject to the availability of section 211(h) loan funds.

In its Borrowing Application filed, pursuant to section 211(h) of the Act, on August 29, 1978, ConRail states that certain obligations for which funds were requested in previous ConRail Borrowing Applications, and approved by the Association Board of Directors, have not matured as anticipated, while other obligations have matured or will mature shortly for which no loan funds are available. Consequently, ConRail requests that the following borrowing applications be amended to decrease the funds previously committed in the categories shown:

Application Dated June 22, 1977, Reading RR.	*Amount*
Category:	
F.E.L.A.	$533,000
Suppliers	1,295,000
Shippers	426,000
Railroads	2,745,000
Nonemployee injuries	772,000
Total	5,771,000
Application Dated July 20, 1977, Lehigh Valley RR.	
Suppliers	922,000
Shippers	201,000
Railroads	1,029,000
Nonemployee injuries	156,000
Total	2,308,000
Application Dated Sept. 22, 1977, Penn Central Transportation Co.	
Shippers	3,215,000
Railroads	56,000
Total	3,271,000
Grand total	11,350,000

The application includes the certification and exhibits required by the Loan Procedures.

ConRail states that it will reallocate the $11,350,000 as follows:

1. $3,350,000 to the payment of certain Federal Employers' Liability Act claims of the Erie Lackawanna Railway Co.

2. $8 million to the payment of certain employee obligations of the Penn Central Transportation Co. of which $500,000 will be allocated to wage claims and $7,500,000 will be allocated to Federal Employers' Liability Act claims.

Interested parties are invited to submit written comments relevant to this application. Any such submissions must identify, by its Docket No., the application to which it relates, and must be filed with the Office of General Counsel, U.S. Railway Association, 955 L'Enfant Plaza North SW., Washington, D.C. 20595, Room C500, on or before September 15, 1978, to enable timely consideration by USRA. The docket containing the original application shall be available for public inspection at that address Monday through Friday (holidays excepted) between 8:30 a.m. and 5 p.m.

Dated at Washington, D.C., this 30th day of August 1978.

PETER J. GALLAGHER,
Assistant Secretary,
U.S. Railway Association.

[FR Doc. 78-24942 Filed 9-5-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

MEDICAL RESEARCH SERVICE MERIT REVIEW BOARDS

Meetings

The Veterans Administration gives notice pursuant to Pub. L. 92-463 of meetings of the following Merit Review Boards.

Merit review board	Date	Time	Location
Surgery	Sept. 24, 1978	7 to 11 p.m	Caucus Room, Holiday Inn.[1]
Do	Sept. 25, 1978	8 a.m. to 5:30 p.m	Do.
Endocrinology	Sept. 28, 1978	do	Room A53, VA Central Office.[2]
Infectious diseases	Oct. 4, 1978	8:30 a.m. to 5 p.m	Tower Suite No. 18 Peachtree Plaza.[3]
Neurobiology	Oct. 5, 1978	7 to 11 p.m	Cumberland Room, Holiday Inn.[4]
Do	Oct. 6, 1978	8 a.m. to 5:30 p.m	Do.
Gastroenterology	do	do	Room A53, VA Central Office.
Hematology	Oct. 13, 1978	8:30 a.m. to 5 p.m	Do.
Respiration	do	do	Conference Room 101, Ramada Inn.[5]
Behavioral sciences	Oct. 16, 1978	8 a.m. to 5:30 p.m	Cumberland Room, Holiday Inn.
Do	Oct. 17, 1978	do	Do.
Cardiovascular studies	Oct. 20, 1978	8 a.m. to 5 p.m	Room A53, VA Central Office.
Nephrology	Oct. 23, 1978	8:30 a.m. to 5 p.m	Do.
Alcoholism and drug dependence (clinical pharmacology)	Oct. 24, 1978	do	Do.
Oncology	Oct. 27, 1978	do	Do.
Immunology	Oct. 30, 1978	7 to 11 p.m	Cumberland Room, Holiday Inn.
Do	Oct. 31, 1978	8 a.m. to 5 p.m	Do.
Basic sciences	Nov. 3, 1978	7 to 11 p.m	La Duquesa Room, Hilton Palacio del Rio.[6]
Do	Nov. 4, 1978	8 a.m. to 5 p.m	Do.

[1]Holiday Inn, 1501 Rhode Island Ave., NW., Washington, D.C. 20005.
[2]VA Central Office, 810 Vermont Avenue NW., Washington, D.C. 20420.
[3]Peachtree Plaza, Peachtree at International Blvd., Atlanta Ga. 30343.
[4]Holiday Inn, Massachusetts Ave, at Thomas Circle, Washington, D.C. 20005.
[5]Ramada Inn, 303 South Grand, St. Louis Mo. 63103.
[6]Hilton Palacio del Rio, 200 South Alamo, San Antonio, Tex. 78206.

These meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Veterans Administration investigators working in Veterans Administration hospitals and clinics.

The meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. In accordance with the provision set forth in section 552b(c)(6), Title 5, United States Code, all of the Merit Review Board meetings will be closed to the public after approximately one-half hour from the start, for the review, discussion and evaluation of initial, and renewal research projects.

The closed portion of the meetings involve: Discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents which are exempt from disclosure under section 552b(c)(6), of Title 5, United States Code. During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Because of the limited seating capacity of the rooms, those who plan to attend should contact Jane S. Schultz, Ph.D., Chief, Program Development and Review Division, Medical Research Service, Veterans Administration, Washington, D.C., 202-389-5065, at least 5 days prior to each meeting. Minutes of the meeting and rosters of the members of the Boards may be obtained from this source.

Dated: August 29, 1978.

MAX CLELAND,
Administrator.

[FR Doc. 78-24850 Filed 9-5-78; 8:45 am]

[8320-01]

VETERANS' ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on September 28, 1978, at 9 a.m., the Fargo Veterans Administration Center Station Committee on Educational Allowances shall at Room 140, Veterans' Administration Center, 21st and Elm Street, Fargo, N. Dak., conduct a hearing to determine whether Veterans' Administration benefits to all eligible persons enrolled in Loveland Lodge, at Bottineau, N. Dak. 58318, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: August 28, 1978.

IRVIN D. NOLL,
Director, Veterans Administration Center, Fargo N. Dak.

[FR Doc. 78-24962 Filed 9-5-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 710]

ASSIGNMENT OF HEARINGS

AUGUST 31, 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 published notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 113678 (Sub-741F), Curtis, Inc., now being assigned for hearing on October 2, 1978 (3 days), at New York, N.Y., in a hearing room to be later designated.

MC 140511 (Sub-5), Autolog Corp, now being assigned for hearing on October 5, 1978 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC 120822 (Sub-3), Industrial Freight System, Inc., now assigned October 11, 1978, at Los Angeles, Calif., is canceled and application dismissed.

MC 19311 (Sub-40), Central Transport, Inc., now assigned for September 11, 1978, at Lansing, Mich., is postponed to October 16, 1978 (1 week), at Lansing, Mich., in a hearing room to be later designated.

I & S M 27312, restructed rates and charges, central states territory, now assigned September 6, 1978, at Washington, D.C., is postponed to October 23, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 143884 (Sub-2), Personalized Agent Service, Inc. now assigned November 1, 1978 (3 days) at Atlanta, Ga., in a hearing room to be later designated.

MC 134035 (Sub-22F), Douglas Trucking Co., now assigned September 25, 1978 (1 day) at Dallas Tex. and will be held at Room 5A15-17 Federal Office Building, 1100 Commerce Street.

MC 140768 (Sub-13), American Trans-Freight, Inc., now assigned September 6, 1978 at Washington, D.C. is canceled and transferred to modified procedure.

MC 19311 (Sub-41F), Central Transport, Inc., now assigned September 18, 1978, at Lansing, Mich. is postponed to November 14, 1978 (3 days), at Lansing, Mich., in a hearing room to be later designated.

MC 139482 (Sub-35), New Ulm Freight Lines, Inc., now assigned for September 6, 1978, at Chicago, Ill. is postponed indefinitely.

MC 124711 (Sub-51), Becker Corp., now assigned September 6, 1978, at Lincoln, Nebr., will be held at the Lincoln Hilton Hotel, 9th and P Streets.

MC 143445 (Sub-2), Mmar Transportation, Inc., now assigned September 27, 1978, at Washington, D.C. is canceled and transfered to modified procedure.

MC 135728 (Sub-2), Richard J. Franks, now assigned September 11, 1978, at Buffalo, N.Y. is canceled and transfered to modified procedure.

MC 139482 (Sub-35F), New Ulm Freight Lines, Inc., now assigned September 6, 1978, at Chicago, Ill. is postponed indefinitely.

MC 143376 (Sub-1F), Lake Erie Trucking Co., now assigned November 2, 1978, at Washington, D.C. is canceled and transfered to modified procedure.

MC 116280 (Sub-20F), W. C. McQuaide, Inc., now assigned November 1, 1978, at Washington, D.C. is canceled and transfered to modified procedure.

MC 112989 (Sub-61F), West Coast Truck Lines, Inc., now assigned October 2, 1978, at Salem, Oreg. is postponed to October 11, 1978 (3 days), at Olympia, Wash., Greenwood Inn, 2300 Evergreen Park Drive.

MC-F 13336, Rio Grande Motor Way, Inc-Purchase-Englewood Transit Co. and MC 60012 (Sub-98), Rio Grande Motor Way, Inc. is assigned for hearing September 18, 1978 at Denver, Colo., and will be held at Courtroom 1718 Prudential Plaza Building, 1050-17th Street.

MC 143249 (Sub-2), Mid-Eastern Transportation, Inc., now assigned for hearing on September 6, 1978, at Nashville, Tenn., is postponed to November 29, 1978 (3 days), at Nashville, Tenn., in a hearing room to be later designated.

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

[FR Doc. 78-25010 Filed 9-5-78; 8:45 am]

[7035-01]

[Exception No. 9 to Corrected Service Order No. 1304]

CONSOLIDATED RAIL CORP.

Decision

AUGUST 24, 1978.

The Consolidated Rail Corp. (CR) owns 5,213 jumbo covered hopper cars subject to corrected service order No. 1304. On August 22, 1978, 1,168, or 22.4 percent of these cars were being used in unit-grain-train services, 2,972 for general grain traffic, and 1,073 for transporting commodities other than grain.

On July 26, 1978, CR reported that it had a surplus of jumbo covered hopper cars available for general grain traffic but that because of the provisions of corrected service order No. 1304 limiting to twenty percent (20%) of ownership the number of jumbo covered hopper cars it may use in unit-grain-train services, it is unable to furnish an additional 100-car unit-grain-train for five trips as requested by one of its shippers. Use by CR of an additional one hundred (100) of its cars in unit-grain-train service will not impair its ability to furnish jumbo covered hopper cars to general grain shippers at the present level of orders for these cars.

It is ordered, Pursuant to the authority vested in the Railroad Service Board by section (a)(6) of corrected service order No. 1304, the Consolidated Rail Corporation (CR) is authorized to place an additional one hundred (100) jumbo covered hopper cars in unit-grain-train service for five trips regardless of the provisions of section (a)(5) of this order.

By the Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Robert S. Turkington not participating.

Effective August 25, 1978.

Expires October 31, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-25009 Filed 9-5-78; 8:45 am]

[7035-01]

[Ex Parte No. MC-43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

Decision

AUGUST 21, 1978.

Charles Zumstein, d.b.a. C. E. Zumstein Co. (MC 134183 and two subs), has filed an application for approval of contract carrier rental contract No. 2-3051 with Henwood Feed Additives, Inc., of Lewisburg, Ohio, lessee, under paragraph (b) of § 1057.6 of the lease and interchange of vehicles regulations (49 CFR 1057).

Findings: 1. The contract does not contain any guaranteed minimum annual rental agreement.

It is ordered: 1. Applicant's request for approval of the contract carrier rental contract No. 2-3051 is denied.

By the Commission, Motor Carrier Leasing Board, Board members Joel E. Burns, Robert S. Turkington, and W. F. Sibbald, Jr. Board member Turkington not participating.

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

[FR Doc. 78-25008 Filed 9-5-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 33011; Order 78-8-164]

AEROVIAS NACIONALES DE COLOMBIA, S.A. (AVIANCA)

Statement of Tentative Findings and Conclusions and Order To Show Cause

Aerovias Nacionales de Colombia, S.A. (Avianca) is the holder of a foreign air carrier permit [1] which authorizes (a) foreign air transportation of persons, property, and mail over three routes between a point or points in Colombia via specified intermediate points to Miami, Fl.; New York N.Y.; Los Angeles or San Francisco, Calif.; and San Juan, P.R.; and beyond San Juan to specified points in Europe; and (b) the performance of charter trips in foreign air transportation under part 212 of the Board's economic regulations.

By application filed July 10, 1978, Avianca requests amendment of one of its routes [2] so as to add Rome and Milan, Italy, as intermediate points.

Avianca also requests a waiver of the requirements of part 312 of the Board's procedural regulations.[3]

The route for which this amendment is requested is among those in annex II (para. B.2) of the United States-Colombia Air Transport Services Agreement of October 24, 1956, as amended on October 23, 1968, and Avianca's designation has been expanded by the Government of Colombia to include the intermediate points of Rome and Milan. In granting

[1] Issued pursuant to order 71-4-177, Apr. 24, 1971, as amended by order 78-5-8, May 2, 1978.

[2] Route 2 now reads: Between a point or points in Colombia; the intermediate points Caracas, Venezuela; San Juan, P.R.; The Azores; Lisbon, Portugal; Madrid, Spain; London, England; Paris, France; Zurich, Switzerland; and the terminal point Frankfurt, Germany.

[3] We will grant this request, since amendment of Avianca's permit involves only two new European points on an existing route, and the net environmental impact is de minimis.

Avianca routes to the United States, the Board has found that it was substantially owned and effectively controlled by Colombian nationals; that it met the fitness standards of the Federal Aviation Act; and that its services were in the public interest.

In view of the foregoing and all the facts of record, the Board tentatively finds:

1. That it is in the public interest to amend the foreign air carrier permit held by Aerovias Nacionales de Colombia, S.A. so as to authorize it on its route 2 to engage in foreign air transportation of persons, property, and mail between a point or points in Colombia; the intermediate points Caracas, Venezuela; San Juan, P.R.; The Azores; Lisbon, Portugal; Madrid, Spain; London, England; Rome and Milan, Italy; Paris, France; Zurich, Switzerland; and the terminal point Frankfurt, Germany;

2. That the public interest requires that the exercise of the privileges granted by the amended permit be subject to the terms, conditions, and limitations contained in the specimen form attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board;

3. That Aerovias Nacionales de Colombia, S.A. is substantially owned and effectively controlled by nationals of Colombia;

4. That Aerovias Nacionales de Colombia, S.A. is fit, willing, and able properly to perform the air transportation proposed in its application, and to conform to the provisions of the act and the rules, regulations, and requirements of the Board;

5. That the public interest does not require an oral hearing on the application;

6. That the amendment of Aerovias Nacionales de Colombia, S.A.'s foreign air carrier permit is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in § 313.4(a)(1) of the Board's regulations; and

7. That, except to the extent granted, the application of Aerovias Nacionales de Colombia, S.A. in docket 33011 should be denied.

It is therefore ordered that: 1. All interested persons are directed to show cause why the Board should not (1) make final its tentative findings and conclusions, and (2) issue an amended foreign air carrier permit to Aerovias Nacionales de Colombia, S.A. in the specimen form attached, subject to the approval of the President;

2. Any interested person having objection to the issuance of an order making final the Board's tentative findings and conclusions and issuing the proposed amended foreign air carrier permit shall, no later than September 14, 1978, file with the Board and serve on the persons named in paragraph 5 a statement of objections specifying the part or parts objected to, including a summary of testimony, statistical data, and concrete evidence to be relied upon in support of the objections. If an oral evidentiary hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts would be expected to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board and the Board may proceed to enter an order in accordance with its tentative findings and conclusions set forth in this order if it determines that there are no factual issues present that warrant the holding of an oral evidentiary hearing; [4]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Secretary shall enter an order which (1) shall make final the Board's tentative findings and conclusions set forth in this order, and (2) shall issue an amended foreign air carrier permit to the applicant, subject to the approval of the President, in the specimen form attached; and

5. Copies of this order shall be served upon Aerovias Nacionales de Colombia, S.A., Braniff Airways, Inc., the Ambassador of Colombia in Washington, D.C. and the Departments of State and Transportation.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,[5]
Secretary.

UNITED STATES OF AMERICA CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

Aerovias Nacionales de Colombia, S.A. (Avianca) is authorized, subject to the provisions set forth below, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations under it, to engage in foreign air transportation with respect to persons, property, and mail as follows:

1. Between a point or points in Colombia; the intermediate point Panama City, Panama; an intermediate point in Jamaica, and the coterminal points Miami, Fla., and New York, N.Y.

2. Between a point or points in Colombia; the intermediate points Caracas, Venezuela; San Juan, P.R.; the Azores; Lisbon, Portugal; Madrid, Spain; London, England; Rome and Milan, Italy; Paris, France; Zurich, Switzerland; and the terminal point Frankfurt, Germany.

3. Between a popint or points in Colombia; the intermediate points Panama City, Panama, and Mexico City, Mexico; and the terminal point Los Angeles or San Francisco, California; *Provided*, That the right to serve Los Angeles shall automatically terminate upon the initiation of service to San Francisco.

The holder shall not serve San Francisco, Calif. on segment 3 until the Government of Colombia has notified the United States through diplomatic channels that it has selected San Francisco as the point to be served in lieu of Los Angeles.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by part 212 of the Board's economic regulations.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Colombia for Colombian international air service.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Colombia shall be parties.

The holder shall keep on deposit with the Board a signed counterpart of CAB agreement 18900, an agreement relating to the liability limitations of the Warsaw Convention and the Hague protocol approved by Board order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreements which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the docket section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation of persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB agreement 18900, and unless there is on file with the docket section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The holder shall not commence any service authorized, except pursuant to an initial tariff setting fourth rates, fares, and charges no lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation; *However*, this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or

[4] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[5] All members concurred.

after the introduction of the authorized service.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on ———. Unless otherwise terminated at an earlier date pursuant to the terms of any treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment which shall have the effect of eliminating the routes authorized from the routes which may be operated by airlines designated by the Government of Columbia (or in the event of the elimination of any part of a route or routes authorized, the authority granted shall terminate to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Colombia in lieu of the holder, or (3) upon the termination or expiration of the Air Transport Services Agreement between the Government of the United States and the Government of Colombia, effective January 1, 1957, as last amended by an exchange of notes dated Octobe 23, 1968: *However*, clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject to any treaty, convention, or agreement to which the United States and Colombia are or shall become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed the seal of the Board on ————.

———————————————

Secretary.

Issuance of this permit to the holder approved by the President of the United States on ———— in Order ————.

[FR Doc. 78-25000 Filed 9-5-78; 8:45 am]

[6320-01]

[Docket Nos. 31147, 31837, 32495; Order 78-8-163]

EVERGREEN INTERNATIONAL AIRLINES, INC. AND DHL AIRWAYS, INC.

In the matter of application of Evergreen International Airlines, Inc. for a certificate of public convenience and necessity for foreign supplemental air transportation. Docket 31147. Application of Evergreen International Airlines, Inc. for a certificate of public convenience and necessity to engage in overseas and foreign supplemental air transportation. Docket 31837. Application of DHL Airways, Inc. for a certificate of public convenience and necessity to engage in supplemental air transportation. Docket 32495.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of August, 1978.

On July 15, 1977, Evergreen International Airlines filed an application in docket 31147 for authority to engage in supplemental air transportation between any point in the domestic United States and points in certain countries in Central and South America. On August 15, 1977, Evergreen filed a motion for a hearing on this application.

On December 15, 1977, Evergreen filed a second application in docket 31837 for a certificate of public convenience and necessity to engage in (1) supplemental air transportation of persons and their personal baggage between the United States and certain U.S. territories, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia as far east as (and including) India, on the other hand; and, (2) supplemental air transportation of persons and property between the United States, on the one hand, and American Samoa, Guam, Johnston Island, the Marshall Islands, Okinawa, Wake Island, and points in Australasia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing, on the other hand.[1] On December 16, 1977, Evergreen filed a motion requesting expeditious consideration of both applications in a consolidated proceeding.

In support of its requests, Evergreen alleges that it is operationally and financially fit; that it has total assets of $8 million, a net worth of $2.4 million as of June 1977, and average monthly revenues of $3.3 million; that there is a clear need for its proposed service as evidenced by the numerous ad hoc exemptions it has been granted to operate in these markets; and that most of its business will be newly generated or diverted from foreign air carriers, and thus, should have a minimal, if any, impact on incumbent U.S. flag carriers. Evergreen also argues that the additional authority will add to its overall strength by permitting longer haul operations, greater fleet utilization, and the spread of indirect expenses over a larger service area.[2] It views this strengthening as essential to offset the effects of the recent deregulation of domestic cargo service and the Board's liberalization of the route carriers' off-route charter authority, which threatens its competitive position in its currently authorized markets.

Answers in opposition to Evergreen's motions were filed by Pan American, Trans International Airlines, Flying Tiger, and jointly by various trunkline carriers.[3] These parties argue that Evergreen has failed to demonstrate a need for priority consideration of its applications under the Board standards of order 77-11-126; and that its growth as a supplemental does not warrant a complete retrial of the *Supplemental Renewal Proceeding* for its benefit, particularly since the Board then stated that those awards would not be reviewed for 5 years. The trunk carriers add that the recent deregulation of domestic cargo service and the Board's liberalization of the route carriers' off-route charter authority do not compromise Evergreen's competitive position or justify the relief sought. TIA argues that the *Transatlantic Cargo Service Investigation* (docket 30789) should have priority over Evergreen's applications, since that case has been pending for over 15 years and all supplementals potentially would benefit from its resolution. Pan American challenges the assertion of a need for Central/South American service, claiming that its service with B-707 equipment, which is comparable to Evergreen's proposed DC8 service, is adequate. Flying Tiger argues that evergreen's proposed service is so minimal that there will be no benefits of "maximum competitive interplay." The parties contend that if Evergreen's applications are heard its proposal to serve Japan, Australia, and New Zeland should be severed from the case for the reasons given by the Board in the *Supplemental Renewal* case.

On April 21, 1978, Senator Howard Cannon filed a motion requesting the Board to act expeditiously on Evergreen's applications either by issuing an order to show cause why the requested authority should not be granted, or, alternatively, by setting its applications for immediate hearing. Four answers supporting Senator Cannon's motion were filed.[4]

On July 3, 1978, DHL Airways, Inc., filed a motion to consolidate its application in docket 32495 with the Evergreen application in docket 31837. Evergreen filed an answer in opposition.

Tentative Findings and Conclusions

We have tentatively decided, on the basis of the pleadings submitted in this docket and our general review of

[1] This application includes a request for the right to operate within and between the U.S. Trust Territories and possessions located in the Pacific, and between such points and other points in the transpacific area described.

[2] A summary of Evergreen's service proposal is attached as an appendix.

[3] Delta, National, Pan American, TWA, and Western.

[4] Answers have been received from the Philadelphia parties (city of Philadelphia, and the Greater Philadelphia Chamber of Commerce), Evergreen, Senator Dennis DeConcini, and Senator Mark O. Hatfield.

international charter authority in the *Supplemental Renewal Proceeding*, that the public convenience and necessity require Evergreen's certification in the requested markets and that it is fit, willing, and able to perform the transportation it proposes.

Two years ago, following a comprehensive examination of international charter authority, the Board decided, among other things, to reject the concept of "area specialization" which had been a feature of its international charter licensing program since 1966. Area specialization is where we grant exclusive geographic areas to only a few of the possible competitors. We pointed out that such specialization had resulted in half-hearted promotion of some geographic areas and had denied certain supplemental airlines access to markets that could lend stability to their operations by offsetting the extremes of transatlantic peaking. We stated that the "protection of the supplementals from themselves" was based on a false analogy to the scheduling competition that had often developed between route carriers, and that to maximize competitive interplay among supplemental carriers, rather than to rely upon area specialization, would encourage the development of an efficient supplemental industry and promote passenger and cargo charter service. See *Supplemental Renewal Proceeding*, order 77-1-98, approved by the President January 14, 1977, appendix I.[4a]

We nevertheless concluded that geographic limitations for certificated supplemental airlines had validity insofar as those limitations were tied to the operational capability of the applicants.[5] We noted our experience that the financial fitness of a supplemental carrier is to a degree dependent upon its marketing opportunities, and that an air carrier cannot remain financially stable if the market for its service is too meager to support an adequate capital structure; we concluded that, by and large, supplemental airlines should be permitted to decide for themselves the precise scope of their transportation activity as long as we are satisfied that they have the requisite financial and operational fitness to undertake an expansion into new markets. We recently reaffirmed that principle in connection with grant of new authority to an all-cargo carrier. See *U.S.-Latin America All-Cargo Service Investigation*, order 78-4-44, approved by the President April 7, 1978. These considerations lead us to award Evergreen the new charter authority it seeks.

[4a] Appendix filed as part of original document.

[5] We also observed that geographic limits may be proper for foreign relations reasons, a consideration not involved in our tentative conclusions here.

Evergreen's ability to provide the service proposed is not challenged by any party, and there is no factual dispute concerning its ability to meet the statutory fitness tests as outlined in our *Supplemental Renewal* and *U.S.-Latin America* opinions. Evergreen's fitness has been investigated twice in the past 3 years—in 1975 during the *Evergreen-Johnson Acquisition* case,[6] and again in 1976 during the *Supplemental Renewal* proceeding. In both cases the Board found Evergreen fit, willing, and able to provide the supplemental service for which it sought authority. The Board's June 1976 decision limited Evergreen's authority to domestic markets, Canada, Mexico, and the Caribbean because that was all the applicant sought and because, at the time, Evergreen had only recently acquired Johnson Flying Service, had no jets, and was only a small charter operator. Since that time, it has expanded its aircraft fleet, acquired jet equipment, and steadily increased its operations in its currently authorized markets.[7] It also increased its operating revenues six fold and its net worth by 59 percent (from $2.2 million in 1976 to $3.5 million in 1977); turned a substantial 1976 operating loss into an operating profit in 1977; and changed a decrease in 1976 working capital into an increase in 1977. In sum, Evergreen has done precisely what it said it would do when it sought to acquire Johnson in 1975 and we have no doubt that it can make good on its current plan to acquire additional aircraft to be used in its proposed operations. In these circumstances, a retention of its existing geographical restriction is inconsistent with governing Board policy.

We see no factual issues presented by Evergreen's application which require an oral evidentiary hearing to resolve. Our tentative determination that the public convenience and necessity require certification flows logically and inevitably from our policy enunciated in the *Supplemental Renewal* proceeding and reiterated in the *U.S.-Latin America* case. Evergreen's fitness is uncontested. Our decision does not require a careful examination of any of the particulars of Evergreen's proposal nor need we find that Evergreen will play a major role in contributing to a more competitive environment in areas in which it seeks authority. It is enough that the proposal has the potential for some public service contribution and that, just as important, the carrier's extension to new markets can help its development.

[6] See orders 75-10-23/24, served October 7, 1975.

[7] It now operates two DC-8-52's, two DC-8-33's, three DC-9's, five Convair 580's, two Lockheed Electra's and one C-46. It has just purchased a DC-8-61CF for $7 million and has other equipment acquisitions under active consideration. It operates passenger charters throughout the United States and in U.S.-Caribbean/Mexico/Canada markets. It has conducted transatlantic and transpacific passenger charter operations under Board exemption. Evergreen is also heavily engaged in cargo charter service, provides Logair service for the U.S. Air Force, and operates a variety of international cargo charter movements, including flights to South America and Europe, under Board exemption.

Other Matters, Terms, Conditions, and Limitations

We will not consider at this time the question of new authority for Evergreen to serve Japan, Australia and New Zealand. Because these countries' Governments impose stringent restrictions on charter operations, we refused in the *Supplemental Renewal* case to grant additional authority to serve them.[8] We have nonetheless included this authority in the *Former Large Irregular Carrier* case, docket 32327, where it can be reexamined on a full record, and Evergreen (and DHL) can pursue this authority in that case.

We disagree with the opposing parties' suggestion that consideration of Evergreen's applications now is inconsistent with our decision to review the overseas and international awards we made in the *Supplemental Renewal* case at the end of a 5-year experimental period. We limited the initial duration of those awards because we did not know whether our multiple award system of international operating rights would be accepted by all of the foreign nations involved, and, thus, whether the economic benefits we expected from increased competition in the supplemental industry would materialize. We concluded that it was necessary to retain the flexibility to reevaluate our system of international charter operating rights if it appeared that the general acceptance of supplemental air transportation might be jeopardized. Our decision to review the awards after a 5-year period was not intended to foreclose any supplemental carrier from seeking additional authority if its experience demonstrated that it was capable of performing additional service.

We have tentatively concluded that the duration of Evergreen's Central/South American and Transpacific authorities should coincide with the duration of the authority it received in the *Supplemental Renewal* case, and the duration of its transatlantic passenger authority should coincide with our review of the awards made in the *Transatlantic Route Proceeding*. Both

[8] See our discussion on our refusal to make new awards to these same three countries in the *Supplemental Renewal Proceeding*, order 77-1-98, June 3, 1976, appendix I, pp. 27-28.

cases were decided simultaneously and are scheduled for review in 1982, after the 5-year experimental periods. By then Evergreen will have nearly 3 years experience in the markets we propose to authorize it to serve. This period will provide a sufficient record on which to review Evergreen's new awards, together with other authority held by it and other supplemental carriers. More importantly, it is more efficient for us to review these new awards with those of the other supplementals since Evergreen's operation in the proposed markets will have a direct bearing on our general review of the awards granted in both the *Supplemental Renewal* and *Transatlantic* cases. In these circumstances, no purpose would be served by reviewing Evergreen's Central/South American, Transpacific and Transatlantic awards in a separate proceeding.[9]

We will not consolidate other applications for supplemental authority to the geographic areas sought by Evergreen. This would not be conducive to the proper dispatch of the Board's business and would unduly delay the disposition of Evergreen's application.[10] The authority we have tentatively awarded to Evergreen is not exclusive. In fact, the premises which form the basis of our decision compel that conclusion. All persons seeking new charter rights in these or any other markets are free to submit applications which we will process in due course.[11]

ENVIRONMENTAL CONSIDERATIONS

We tentatively conclude that the proposed issuance of the new authority to Evergreen is not a major Federal action significantly affecting the environment within the meaning of the National Environmental Policy Act of 1969, and is consistent with the fuel conservation and efficiency goals of the Energy Policy and Conservation Act of 1975 (EPCA).

Since the operations of supplemental carriers are widespread and irregular, the extent to which Evergreen's new service will affect specific sites is highly uncertain. However, since charter operations by supplementals represent only a tiny fraction of the revenue aircraft miles of the total certificated industry, the level of proposed operations will not result in a significant increase in operations at any particular airport. Its proposed service involves an average of less than 10 flights per month into each of the requested geographic areas.

The superior fuel efficiency of charter carriage means that expanded marketing authority for the supplementals is consistent with the fuel conservation and efficiency goals of EPCA.

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. If an oral evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered that:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated above and amending, subject to the approval of the President under section 801 of the act, the certificate of public convenience and necessity of Evergreen International Airlines, Inc., so as to authorize it:

(1) To engage in supplemental air transportation of persons and property between any point in any State of the United States or the District of Columbia, on the one hand; and:

(i) Points in Central and South America; and

(ii) American Samoa, Guam, Johnston Island, the Marshall Islands, Wake Islands, points in Australia, Indonesia, and Asia as far west as longitude 70 degrees east via a Transpacific routing, excluding service to and from Japan, Australia, and New Zealand, but including the right to operate within and between the U.S. Trust Territories and possessions located in the Pacific and between such points and other points in the Transpacific as described above, on the other hand; and

(2) To engage in supplemental air transportation of persons and their personal baggage between any point in any State in the United States, the District of Columbia, Puerto Rico, or the Virgin Islands, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia as far east as (and including) India, on the other hand.

2. Any interested persons having objections to the issuance of an order making final any of the tentative findings, conclusions or certificate amendments set forth here, shall, no later than October 2, 1978, file with the Board and serve upon all persons listed in paragraph 8, a statement of objections together with a summary of testimony, statistical data and other material expected to be relied upon to support the stated objections. Replies to objections shall be filed no later than October 12, 1978.[12]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board.

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth here.

5. To the extent not tentatively granted in ordering paragraphs 1 through 4, Evergreen's motion for hearing in dockets 31147 and 31837 be denied and its applications in those same dockets be dismissed.

6. The motion of U.S. Senator Howard Cannon in docket 31837 be granted insofar as it requests the issuance of an order to show cause why the authority requested by Evergreen should not be granted; in all other respects, Senator Cannon's motion be denied.

7. DHL Airways, Inc.'s motion to consolidate its application in docket 32495 with the Evergreen application in docket 31837 be denied.

8. This order shall be served upon Evergreen International Airlines, Inc., Pan American World Airways, Inc., The Flying Tiger Line Inc., Delta Air Lines, Inc., Trans World Airlines, Inc., Western Air Lines, Inc., National Airlines, Inc., DHL Airways, Inc., the Philadephia parties, and U.S. Senators Howard Cannon, Dennis DeConcini, and Mark O. Hatfield.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,[13]
Secretary.

[FR Doc. 78-25001 Filed 9-5-78; 8:45 am]

[9] We do not imply that we will consider applications for supplemental authority in the future only in large area cases. On the contrary, to the extent our resources permit, we intend to adjudicate all properly supported applications as expeditiously as possible.

[10] The motion to consolidate of DHL Airways, filed on July 3, 1978, will be denied. DHL suggests that the approval of Evergreen's application for authority in the transpacific will be exclusive because of the limited authority awarded to supplemental carriers by foreign governments. We have excluded consideration of the Japan, Australia, or New Zealand markets, however, and DHL has not suggested that other countries in the Pacific basin will restrict the entry of supplementals. See also our discussion on the non-exclusivity of supplemental authority in order 77-2-75, February 16, 1977.

[11] We recently instituted the *Former Large Irregular Carrier Service Investigation*, docket 32327, in order to hear the applications for supplemental authority in foreign and domestic markets. More than 60 applicants for charter rights have filed applications in that proceeding. See order 78-7-106, July 21, 1978.

[12] Since provision is made for filing of objections to this order, petitions for reconsideration will not be entertained.

[13] All Members concurred.

[6320-01]

[Docket 33216]

LOUISVILLE-KANSAS CITY NONSTOP ROUTE INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on September 26, 1978, at 9:30 a.m. (local time), in room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the judge of: (1) Proposed statements of issues, including issues in addition to those set out at ordering paragraph 2 of order 78-8-94; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before September 12, 1978, and the other parties shall do the same on or before September 19, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Pricing and Domestic Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing. The parties are encouraged to communicate among themselves in preparation for the conference with a view toward expediting the proceedings.

Dated at Washington, D.C., August 30, 1978.

MARVIN H. MORSE,
Administrative Law Judge.

[FR Doc. 78-25002 Filed 9-5-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket Nos. 33112, 33283]

TEXAS INTERNATIONAL—NATIONAL ACQUISITION CASE, PAN AMERICAN—ACQUISITION OF CONTROL OF, AND MERGER WITH NATIONAL

Postponement of Prehearing Conference and Notice of Prehearing Conference

Notice is hereby given that the prehearing conference in the Texas International—National Acquisition Case, Docket 33112, now assigned to be held on September 6, 1978, is hereby postponed to September 14, 1978, at 10 a.m. (local time) in room 1003, hearing room A, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C.

Notice is hereby given that a prehearing conference in the Pan American—Acquisition of control of, and merger with national case, docket 33283, is assigned to be held on September 14, 1978, at 10 a.m. (local time), in room 1003, hearing room A, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned judge.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the judge of: (1) Proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before September 6, 1978, and the other parties on or before September 11, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Pricing and Domestic Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., September 1, 1978.

WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc. 78-25148 Filed 9-5-78; 8:45 am]

[6320-01]

TRANSCONTINENTAL LOW-FARE ROUTE PROCEEDING

Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on September 28, 1978 at 10 a.m. (local time), in room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Secretary, in writing, on or before September 13, 1978, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., August 30, 1978.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25003 Filed 9-5-78; 8:45 am]

[6320-01]

[Docket 33217]

ST. LOUIS-LITTLE ROCK-NEW ORLEANS SERVICE INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on October 4, 1978, at 9:30 a.m. (local time), in room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Stephen J. Gross.

Dated at Washington, D.C., August 30, 1978.

STEPHEN J. GROSS,
Administrative Law Judge.

[FR Doc. 78-25004 Filed 9-5-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 961-4]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the offical recipient for environmental impact statements (EIS's) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from August 21, 1978, through August 25, 1978. The date of receipt for each statement is noted in the statement summary. Under the guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days; the date of submission of comments is October 16, 1978. The thirty (30) day period for each final statement begins the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: September 1, 1978.

PETER L. COOK,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Upper Rogue planning unit, Rogue Rover National Forest, Douglas, Jackson, and Klamath Counties, Oreg., August 24: The proposed action is to develop a land management plan for 208,355 acres of national forest land in the Upper Rogue planning unit. There are 6,375 acres of other ownership within the unit boundary. The planning unit occupies parts of Douglas, Jackson, and Klamath Counties, Oreg. Five alternatives are considered, each of which offer a different combination of land alloca-

tions. Management direction for the allocations yield outputs for wood, forage, wildlife habitat, and outdoor recreation opportunities. (USDA-FS-R6-DES-(ADM)-78-14.) (EPA Order No. 80919.)

Final

Diamond Creek Unit, Caribou National Forest, Caribou and Bear Lake Counties, Idaho, August 22: The statement concerns management alternatives for the 204,029-acre Diamond Creek planning unit in Caribou National Forest. The four alternatives included range from high levels of resource use which would have major effects on wildlife, fisheries, and roadless areas to emphasis of the natural environment which would have a major negative effect upon grazing and timber harvest and significant beneficial effects on wildlife and fisheries. Soil and water resources are less impacted by any of the alternatives than by the mining levels. (USDA-FS-FES(ADM)-R4-76-15.) Comments made by: DOI, HUD, State agencies, individuals and businesses. (EPA Order No. 80907.)

Waterville unit plan, White Mountain National Forest, Grafton and Carroll Counties, N.H., August 24: Proposed is a land use plan for 57,000 acres of national forest land located in Grafton and Carroll Counties, N.H. Major points under the proposed action include: No recommendation for wilderness study, MAIV designation of 4,500 acres, timber sales producing approximately 3.4 million board feet per year, 1,700 acres of timber stand improvement, 15 miles of new hiking trails—deletion of 1.5 miles, and construction of 21 miles of timber access roads. Major impacts include production and harvest of wood fiber on approximately 6,100 acres, and construction of 24 miles of permanent roads. Comments made by: AHP, DOI, EPA, FEA, State and local agencies, groups, individuals, and businesses. (EPA Order No. 80915.)

Umpqua National Forest, timber plan, Douglas, Lane, and Jackson Counties, Oreg., August 21: Proposed is the implementation of a revised 10-year timber management plan for the Umpqua National Forest. The proposed sell level of 348.5 million board feet per year is based on a level of intensive management that can be realistically programed during the plan period. Adverse effects include the temporary baring of soil to erosive forces through timber harvest and road construction activities. (USDA-FS-R6-FES(ADM)-77-8.) Comments made by: USDA, DOC, COE, HEW, DOI, HUD, EPA, AHP, State and local agencies, groups, individuals, and businesses. (EPA Oder No. 80900.)

Sabine Unit Plan, Sabine National Forest, several Counties in Texas, August 25: proposed is the implementation of a 10-year management plan for the Sabine unit. The unit includes the entire Sabine National Forest, comprising 187,081 acres in Jasper, Newton, Sabine, Shelby, and San Augustine Counties, Tex. Major actions proposed include timber harvest and site preparation; increased diversity of wildlife habitat with emphasis on tree squirrels; road construction and reconstruction; and establishment of special interest areas. Adverse effects include temporary shifts in wildlife populations, temporary increases in soil movement, and removal of land from timber production. (USDA-FS-R8-FES-ADM-77-01) comments made by: EPA, AHP, FPC, USDA, DOI, State agencies and groups and individuals. (EPA order No. 80930.)

SOIL CONSERVATION SERVICE

Final

Roosevelt Water Conservation District Floodway, Maricopa and Pinal Counties, Ariz., August 21: proposed is the construction of a structural measure for watershed protection and flood prevention located in Maricopa and Pinal Counties, Ariz. The flood prevention purposes will be achieved by installing 27.36 miles of floodway. The floodway will provide an outlet for flood flows, for existing and planned floodwater structures, through the Gila River Indian Reservation to the Gila River. It will also provide an outlet for the coordinated system of floodwater drains that will be installed between the existing and planned floodwater retarding structures and the floodway. (USDA-SCS-EIS-WS-(ADM)-76-3-(F)-AZ.) Comments made by: USDA, USAF, COE, DOI, EPA, AHP, State and local agencies, groups, individuals and businesses. (EPA order No. 80899.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attention: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Texas City and vicinity hurricane-flood protection, Galveston County, Tex., August 22: The Proposed action is the completion of the authorized Texas City and vicinity hurricane-flood protection projects in Galveston County, Tex. Completion of the system involves incorporating 4.3 miles of reservoir and canal containment levees into the project at the northwest terminus and incorporating, by enlargement and extension, a locally constructed levee at the southwest terminus of the project. (Galveston District.) (EPA Order No. 80904.)

Lake Wichita, Holliday Creek flood control, Archer County, Tex., August 22: This proposal concerns the Lake Wichita Dam located in Archer County, Tex., which wil be raised, and strengthened with an earthen dam approximately 16,000 feet long. The project will consist of a 50-foot-wide grass-lined channel that will extend from the spillway to the mouth of Holliday Creek, a distance of 9.4 miles, a 10 by 2 foot low flow channel, and the lowering of the elevation of the existing conservation pool. (Tulsa District.) (EPA Order No. 80906.)

Final

Mermentau River-Gulf of Mexico navigation channel, Louisana, August 23: Proposed is the maintenance dredging of the Mermemtau River-Gulf of Mexico navigation channel to its design cross section, 15 by 100 feet. Also included in the proposal are the maintenance of jetties at the entrance of the channel in the gulf and the disposal of dredged materials in a manner that would least alter the existing ecological conditions and would create new tidal marsh. Annual dredging would result in destruction of benthic habitiat and dredged material dumped on existing disposal banks would destroy vegetation and existing wildlife habitat. (New Orleans District.) Comments made by: DOI, EPA DOC, USDA, DOT, HEW, AHP, State agencies, and groups. (EPA Order No. 80910.)

Burnett, Crystal, and Scott Bays, and vicinity, Harris County, Tex., August 23: The statement concerns legislative action to permanently evacuate the Burnett, Crystal, and Scott Bays and vicinity in Baytown, Tex. The project also calls for the removal of the evacuated dwellings on the 50-year frequency flood plain and conversion of the land to a nature area. Adverse effects of the project include emotional and social strains on the 1,550 persons to be evacuated and a small effect on business located near the area. (Galveston district.) Comments made by: USDA, HEW, HUD, DOC, DOI, DOT, EPA, AHP, State and local agencies (EPA Order No. 80911.)

Draft Supplement

Mamaroneck, Sheldrake, Byram River Basins, Westchester County, N.Y. and Fairfield County, Conn., August 25: The purpose of this statement is to assess the impacts of the proposed flood control plans for the (1) Mamaroneck and Sheldrake Rivers at the village and town of Mamaroneck, Westchester County, N.Y. and for the (2) Byram River at the village of Port Chester, Westchester County, N.Y. and the town of Greenwich, Fairfield County, Conn. The overall flood control plan will include channel modification, retaining walls, bridge replacement, river diversion, channel excavation, floodwalls, and levees. (Chief of Engineers.) (EPA Order No. 80932.)

Final Supplement

Cedar River, Waterloo local protection project (S-2) Black Hawk County, Iowa, August 27: Proposed is the remaining construction of approximately 5 miles of levee averaging 15 feet high, 1.8 miles of concrete floodwall, and a 375-acre storm water detention basin on Virden Creek. The completion of this system will provide 100-year flood protection to 4,200 acres of residential, commercial, and industrial property within Waterloo, Iowa. Borrow of approximately 1,500,000 cubic yards of material for levee and dam construction and the commitment of approximately 130 acres for construction and right-of-way purposes will result. (Rock Island District.) (EPA Order No. 80905.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Department of Commerce, Washington, D.C. 20230 202-377-4335.

ECONOMIC DEVELOPMENT ADMINISTRATION

Draft Supplement

Humboldt Bay Harbor Marina, Woodley Island, Humboldt County, Calif., August 25: This statement supplements a final EIS filed in August 1976 concerning the proposed release of financial assistance to the Humboldt Bay Harbor, Recreation and Conservation District for the construction of a 237-Berth Marina on Woodley Island, Eureka, Humboldt County, Calif. The proposed marina would provide berthing space for commercial fishing vessels currently based in Humboldt Bay and some recreational vessels. Five alternate sites are considered. A phased, multi-site marina development program incorporating reduced sizes at some alternate sites is also considered, in addition with no action. (EPA Order No. 80925.)

NATIONAL OCEANIC AND ATMOSPERIC ADMINISTRATION.

Draft Supplement

Northwest Atlantic Mackeral fishery, August 25: This statement supplements a final EIS filed in may 1978 and concerns the management unit for the plan, which is defined as all Atlantic mackeral under U.S. jurisdiction. The objectives of the plan are to: (1) Increase domestic recreational and commercial catch: (2) Maximize economy contribution; (3) maintain spawning stock size at or above 1978 size; (4) Provide efficient allocation of capital and labor; and minimize cost of development, research, management, and enforcement. (DOE-EIS-0005-DS-L.) (EPA Order No. 80929.)

DEPARTMENT OF ENERGY

Contact Mr. Robert Stern, Office of NEPA Affairs, Department of Energy, 1200 Pennsylvania Avenue, Room 7119, Washington, D.C. 20461, 202-566-9760.

Final

Capline Group Salt Domes—Strategic Petroleum Reserve, Assumption, Iberville, and Iberia Counties, La., August 25: Proposed are five candidate sites for early storage reserve (ESR) facilities for the strategic petroleum reserve (SPR) program. The sites comprise the Capline group of Salt Domes located in the gulf coast region of south-central Louisiana. Adverse effects include short term, construction related pollution; hydrocarbon emissions associated with tanker loading and offloading; impact on water quality from possible oil and brine spills; impact of brine disposal to the Gulf of Mexico; and resultant impact to the flora and fauna which would be affected by such oil or brine spills. (DOE-EIS-0024.) Comments made by: COE, USDA, DOC, EPA, NRC, AHP, State agencies and businesses. (EPA Order No. 80924.)

Contact: Mr. Herb Pennington, Office of NEPA Affairs, Department of Energy, 1200 Pennsylvania Avenue, Room 7119, Washington, D.C. 20461, 202-566-9760.

Wind Turbine Generator System, Washington County, N.Y., August 25: The proposed action is an experimental wind turbine generator (WTG), designated MOD-OA, will be installed on a Knoll in New Meadow Hill Swamp, electrically integrated with the adjacent Block Island Power Co. (BIPC) Powerplant and operated to supply up to 200 kilowatts of electricity to the existing utility network for a field test period of 2 to 4 years. The test program will help determine performance characteristics, operating and maintenance needs, and economics of a wind energy system interconnected with a conventional powerplant and used to supply power through existing utility lines. (DOE-EIS-0006.) Comments made by: DOI, HEW, EPA, State agencies. (EPA Order No. 80922.)

BONNEVILLE POWER ADMINISTRATION

Draft

BPA's 1979 Wholesale Rate Increase, August 23: Proposed is the increase of approximately 90 percent in BPA's wholesale power rates in the States of California, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming. This action will involve a restructuring of existing rate schedules. Alternatives considered rates such as: (1) Average cost, (2) longrun incremental cost, (3) share-the-savings rates of energy sales to California, (4) time-differentiated average cost, (5) conservation, (6) industrial rates with availability credits and inclusion of a variable charge in capacity rates. (EPA Order No. 80913.)

BPA 1979 Facility locaiton, Wallowa, Umatilla, and Washington Counties, Oreg., August 25: This is a site specific statement under the proposed BPA 1979 program. Proposed is a 6-mile 500KV tap line with a 6-acre expansion of the Sacajawea substation located in Walla Walla County, Wash. and Umatilla County, Oreg. This line would connect the BPA lower monamental-John Day 500KV line with the Sacajawea substation near Ice Harbor Dam. The tap point would require 3 acres of land. Expansion of the substation would involve a 500/115KV transformer and terminal facility. (EPA Order No. 80931.)

FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-6569.

Draft

Kerckhoff Project No. 96, Fresno County, Madera, Calif., August 25: Considered in this proposal is an application by the Pacific Gas & Electric Co. for a license to modify, operate and maintain the Kerckhoff Project, Ferc No. 96, located on the San Joaquin River in Fresno and Madera Counties, Calif. The modified project would utilize the existing reservoir, powerhouse, and transmission facilities in addition to proposed new facilities. Alternatives include, denial of application for license, alternative forms of power generation, methods of construction, facilities, and operational modes. (FERC-EIS-0005-D) (EPA, Order No. 80923.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

The Highlands Planned Unit Development, Arapahoe County, Colo., August 25: Proposed is the issuance of HUD home mortgage insurance for a portion of the Highlands planned unit development located in Arapahoe County, Colo. The developer proposes to build 199 single-famliy detached units on 247 acres of land, the master plan provides for 10.3 acres for a school site and 24.1 acres of open space. (HUD-I.O.-8-EIS-77-X-D.) (EPA Order No. 80926.)

Disposition of Fay Apartments, Cinncinati, Hamilton County, Ohio, August 21: Proposed is the disposition of HUD-owned property known as Fay Apartments which consist of 79.643 acres of hilltop land, 120 buildings and 1,025 rental housing units. The Fay Apartments are located in Cinncinati, Hamilton County, Ohio. Alternatives to this project include various land uses which consider total, limited or nonclearance. Also considered are methods of disposition which include: (1) No disposition, (2) public offering as all cash as is or with significant conditions, and (3) by negotiated sale. (HUD-RO5-EIS-78-04(D).) (EPA Order No. 80898.)

Plaza Renacimiento, Stage 3, San Juan, P.R., August 21: The proposed action involves development of 42.61 cuerdas of land in Rio Piedras, San Juan, P.R. The complete project consists of 10 towers providing 2,500 apartments, approximately, for low-and moderate-income families. This statement addresses the third stage of the project which includes construction of four towers, a recreational plaza, a swimming pool, a passive park and a cultural center. Application has been made for home mortgage insurance funding through HUD. (EPA Order No. 80914.)

Keegans Glen Development, Harris County, Tex., August 22: The proposed action is for HUD to accept for home mortgage insurance purposes some 345 acres of land located in the southwest section of Harris County, Tex. It is proposed that this tract of land be developed into a subdivision composed primarily of single-family residences, patio homes, multi-family, and commercial reserves. The expected population of the subdivision, known as Keegans Glen, will be around 9,500. (HUD-RO6-EIS-78-36D.) (EPA Order No. 80902.)

Final

Tallow Wood Subdivision, Harris County, Tex., August 21: The proposed action is for the department of HUD to accept some 224 acres of land located in the northwestern portion of Harris County, Tex., for HUD-FHA home mortgage insurance under section 203(b) of title II of the National Housing Act of 1943. It is proposed that this tract of land be developed into a subdivision composed primarily of single-family dwellings (approximately 1,000 units). (HUD-RO6-EIS-78-27F.) Comments made by: USDA, EPA, COE, DOT, AHP, State agencies, and groups. (EPA Order No. 80897.)

Chimney Hill Subdivision, Harris County, Tex., August 22: Proposed is the development of 291 acres into a planned community composed of single-family homes located in Harris County, Tex. The proposed project will provide housing for appoximately 4,000 people. Adverse effects include increased loading of solid waste disposal sites; increased ground water consumption, and increased demand for fossil fuels through heavy dependence upon the automobile for transportation. (HUD-RO6-EIS-78-28F) Comments made by: AHP, COE, DOT, EPA, and State agencies. (EPA Order No. 80903.)

SECTION 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate executive. Copies are not available from HUD.

Lincoln Park Neighborhood revitalization, Denver County, Colo., August 24: Proposed is the intensive, housing-oriented revitalization of Lincoln Park neighborhood located in Denver County, Colo., with the use of HUD/UDAG funds. Activities of the project feature: (1) Elimination of blighting industrial uses, business encroachment, and speculation in the neighborhood, (2) discouraging out-migration of middle-income households through near downtown development, (3) improvement of shopping services and living environment, and (4) conserveration of the existing housing stock. (EPA Order No. 80916.)

Final

Rochester circulation, central business district, Monroe County, N.Y., August 25: The proposed action is a request by the city of Rochester for HUD block grant funds for a circulation plan for the city of Rochester's central business district, Monroe County, N.Y. The action involves the conversion of three-tenths of a mile of Main Street into a pedestrian/transit with widened sidewalks. Main Street between St. Paul Street and Chesnut Street will become a two-lane curbed roadway section with bus lanes at stops. To accomodate traffic volume, reclassification of key throughfares will be made in the core retail area, and new street construction will be required. Comments made by: EPA, State and local agencies, groups, individuals, and businesses. (EPA order No. 80927.)

Church Street and Huntersville II redevelopment, Chesapeake County, Va., August 23: Proposed is request by the city of Norfolk for community development block grant funds from HUD. This statement describes two projects which are segments of the urban ring project for redevelopment and conservation of the urban core of the city of Norfolk, Chesapeake County, Va. The two projects described and considered are the Church Street and Huntersville II project. The actions involved include acquistion of property; relocation of business, individuals, and families, clearance of deteriorated structures; upgrading, of certain public improvements, and rehabilitation of privately owned buildings. Cleared land would be available for redevelopment or public use within the project scope. Comments made by: EPA, USDA, DOI, State and local agencies, groups and business. (EPA Order No. 80908.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

GEOLOGICAL SURVEY

Draft

Coal Creek Mine, Mining and Reclamation Plan, Campbell County, Wyo., August 24: Proposed is the approval of the surface mining and reclamation plan for the Coal Creek Mine, Campbell County, Wyo. The plan proposes mining about 330 million tons of coal at a production rate of 4.5 million tons during the first two years and 10 million tons during the following thirty-two years. Mining operations will occur on State, private, and 5,800 acres of federally owned land. The coal will be used for electric power generation in the midwest and in the south. (DES-78-35) (EPA Order No. 80918.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Final

Cedar Rapids Municipal Airport Runway Construction, Linn County, Iowa, August 25: This project involves the acquisition of 1,077 acres of land, construction of a 950 foot extension to the northwest end of runway 13-31, construction of two new 4,000 foot general aviation runways (8R-26L and 13R-31L), including taxi ways and lighting, addition to air carrier terminal and related improvements to the Cedar Rapids Municipal Airport located in Linn County, Iowa. The principal impacts include the removal of approximately 295 acres of prime farmland from production and relocation of 8 families. Comments made by: USDA, DOI, DOT, GSA, COE, EPA, HUD, State and local agencies, individuals. (EPA order No. 80921.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Centennial Parkway Project, CO-470, several counties in Colorado, August 23: This proposal involves right-of-way acquisition and construction of approximately 25.6 miles of roadway which will connect I-25 with I-170 to be known as centennial parkway, CO-470. The parkway will be constructed within a minimum of 300 feet of right-of-way with use permitted by trucks and buses. The no-build alternative is considered for purposes of comparison. (FHWA-COLO—EIS-78-02-D.) (EPA order No. 80912.)

Riverdale Avenue Arterial, Yonkers, Westchester County, N.Y., August 21: This proposal is part of a long range improvement program in Yonkers City, Westchester County, N.Y. The project begins on Riverdale Avenue at the New York City line, and continues in a northerly direction for 1.6 miles to Manor House Square. The improvements proposed are, widening, resurfacing, construction of raised medians, separation of sanitary and storm sewers, signalization, channelization and installation of traffic signs. (FHWA-NY-EIS-77-04D.) (EPA Order No. 80901.)

Final

U.S. 95, Ferdinand—Craigmont, Idaho and Lewis Counties, Idaho, August 23: Proposed is the construction of U.S. 95 between the cities of Ferdinand and Craigmont in north-central Idaho, alternatives range from no major improvement, to several major improvements on, or realignment possibilities from, the present facility. Beginning about 0.6 mile southeast of Ferdinand, the improvement would continue northwest, terminating approximately 0.3 mile west of Craigmont. ID-64 would be extended along Main Street to Division Avenue in Craigmont, then south along Division Avenue to connect with U.S.-95. (FHWA-IDA-EIS-77-02-F). Comments made by: USDA, DOI, State and local agencies. (EPA Order No. 80909.)

State Route 1201 at Salter Path, Carteret County, N.C., August 24: The proposed action is the improvement of an approximately one mile section of NC-1201 in the area of the community of Salter Path and the town of Indian Beach, Carteret County, N.C. NC-1201, east and west of Salter Path, has received approval for the construction of a two-lane road with shoulders. This action will serve as the connecting link between the improved sections of NC-1201. The new curbs and gutter roadway will be contained within a 60 foot wide right-of-way. (FHWA-NC-EIS-78-02-F.) Comments made by: USDA, EPA, HEW, COE, AHP, DOI, DOC, State and local agencies. (EPA Order No. 80917.)

Tarrant and Parker Counties, Tex. August 25: The proposed project calls for the construction of I-20 from the proposed junction with I-30, 1.0 miles west of the Tarrant-Parker County Line, southeasterly to a junction with I-820 in the southwest area of the city of Fort Worth, Adjacent to Benbrook, Tex. The proposed project will be a basic four-lane freeway, eight miles in length, with controlled access features. Adverse effects include the acquisition of 900 acres of land, disruption of wildlife, and construction-related pollution. (Region 6) (FHWA-TEX-EIS-77-03-F). Comments made by: DOT, COE2, DOI, EPA, USDA, State and local agencies and individuals. (EPA Order No. 80928.)

OFFICIAL RETRACTION

It has come to EPA's attention that the following EIS's were not distributed to the public at the same time the official filing was made by the originating agency. Therefore Notice of Availability is hereby republished and the thirty day review period for final EIS's will begin on the new date as specified below.

CORP OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, ATTN: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Final

Hahn Shopping Center, Corte Madera, Marin County, Calif., August 23: The project involves the filling of 45 acres of grasslands and marsh with 500,000 cubic yards of dry fill, including both fill and surcharge. This acreage in addition to 17 acres of previously filled land is to be used as a site for the Hahn Shopping Center, a regional shopping center situated in the Corte Madera, Marin County. Adverse impacts include a decrease in water quality from project runoff, increases in air and noise pollution, the loss of 45 acres of wildlife habitat, and an increase in local traffic. (San Francisco District). Comments made by: EPA, DOT, State and local agencies, groups, individuals and businesses. (EPA Order No. 80822.)

Originally filed with EPA on July 28, 1978 and published in the FEDERAL REGISTER dated August 7, 1978.

VETERANS ADMINISTRATION

Contact: Mr. Lyman T. Miller, Assistant Director for Construction and Evaluation, Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, 202-389-2691.

Final

VA Cemetery at Riverside, Calif., Riverside County, Calif., August 23: Proposed is the development of a new cemetery for the interment of veterans at Riverside, Calif. The 750-acre site will include approximately 500 burial acres with a capacity of 437,000 burials, plus additional space for columbariums. Initial construction will supply burial sites for 40,000 interments, an administration building, maintenance center, and a water impoundment area which will serve a dual function not only as a focal point of landscape, but as storage for irrigation water. Adverse impacts include additional traffic generated by funeral processions and visitors to the site. Comments made by: USDA, USAF, EPA, HUD, DOI, DOT, and State Agencies. (EPA Order No. 80597.)

Originally filed with EPA on June 2, 1978, and published in the FEDERAL REGISTER dated June 9, 1978.

[FR Doc. 78-25175 Filed 9-5-78; 9:35 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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[6320-01]

1

CIVIL AERONAUTICS BOARD.

Notice of change of time and deletion to the August 31, 1978, agenda.

TIME AND DATE: 1:45 p.m., August 31, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT (Deletion): 12. Dockets 32635, 32686, 32694, 32700, 32825—Exemption of applications of World Airways; Trans International Airlines; DHL Airways; Continental Airlines; Northwest Airlines to serve Transpacific points (BIA, OCCR, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The Legal Division of the Bureau of International Aviation requests that Item 12 be deleted from the August 31, 1978, agenda because of insufficient time to review the order and coordinate it with the Office of the General Counsel. Considering the short time frame involved (scheduled for Thursday's calendar meeting), the staff and the Board would not have sufficient time to review and make corrections to the order. Accordingly, the following Members have voted that agency business requires the deletion of Item 12 and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1781-78 Filed 9-1-78; 3:56 pm]

[6320-01]

2

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the August 31, 1978, agenda.

TIME AND DATE: 1:45 p.m., August 31, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 7. Docket 30332, IATA agreements proposing increases in North Atlantic cargo rates to compensate for cost increases. Pan Am and TWA support the agreements in their entirely while Seaboard supports the increases with some exceptions. Both the Air Freight Forwarder Association and the Ad Hoc Committee for the Development of Air Freight (MSP Shippers) oppose some of the structural aspects of the agreements (BPDA, BIA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff requests that Item 7 be deleted from the August 31, 1978, agenda in order to afford more time for Board/staff review. Accordingly, the following Members have voted that agency business requires the deletion of Item 7 and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1782-78 Filed 9-1-78; 3:56 pm]

[6320-01]

3

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., September 7, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 31189, Petition of Connecticut Air Freight, Inc. for review of staff action denying its request for a name change (Memo 8156, BPDA, OGC).

3. Docket 22388, Application of REA Express, Inc., for interstate air freight forwarder operating authorization (Memo 6582-C, BPDA).

4. Docket 32327, *Former Large Irregular Air Service Investigation*, (1) redesignation of hearing phases and (2) disposition of motions to consolidate (Memo 7690-d, BPDA, BALJ).

5. Docket 30699, *Oakland Service Case* (Memo 7922-D, BPDA).

6. Docket 32674, Application of Aeromerica for exemption to permit it to engage in scheduled air transportation between Seattle and Spokane, Wash., during and after the pilots' strike against Northwest (Memo 8162, BPDA, BCP, OGC).

7. Docket 32373, Frontier's application for a certificate amendment for authority between and among Rapid City, Fargo and Grand Forks (Memo 5405-E, BPDA).

8. Dockets 32738, 32739, 32740, 32587, and 32834, Eastern's application for temporary suspension of service at Roanoke, Va.; Piedmont's application for amendment of its certificate to permit service between Roanoke and Pittsburgh; Piedmont's application for temporary exemption to permit service between Roanoke and Pittsburgh; Allegheny's application for amendment of its certificate to permit service between the terminal point, Pittsburgh, the intermediate points Roanoke and Raleigh-Durham, and the terminal point Charlotte; Allegheny's application for temporary exemption to permit service between Roanoke and Pittsburgh (BPDA, BALJ, OGC).

9. Docket 31496, Piedmont's motion for hearing on Miami Entry Authority (Memo 8160, BPDA).

10. Docket 29430, Foreign air carrier permit issued to Empresa Guatemalteca de Aviacion. Pan American World Airways, Inc. filed an objection to a Show Cause Order (Memo 3849-C, BIA, OGC).

11. Empresa "Ecuatoriana de Aviacion" (Ecuatoriana) application for renewal of Ecuador-Nassau blind sector traffic authorization (Memo 6141-B. BIA).

12. Docket 32708, *Houston-Phoenix/Tucson Case*—Order granting petition and clarifying scope of proceeding (Memo 7314-F. OGC).

13. Dockets 30679 and 32121, *Florida-Atlanta Competitive Nonstop Service Case; Application of North Central (Memo 8151, OGC).*

14. Revised section 302.908 (Memo 7488-B, OGC, BPDA, BIA, OS).

15. Delegation of authority to Director, BIA, to waive a 30-day advance filing requirement of Part 213 and to handle certain

foreign carrier requests for authority to operate additional flights (Memo 6644-A, OGC, BIA).

16. Docket 32427, Proposal to amend Part 380 to allow banks to issue security agreements to charter operators (Memo 8094-A, OGC).

17. Docket 31403 (In the Matter of Executive Cabin Service in Foreign Air Transportation), petition for review of BOE decision dismissing a third-party complaint alleging Pan Am, British Airways, Sabena, KLM and Air India violated § 404(b) by reserving a portion of the economy section of their wide bodied aircraft for full fare economy passengers or "Frequent Travelers" (Memo 8157, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-1783-78 Filed 9-1-78; 3:56 pm]

[6351-01]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 4 p.m., September 5, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1780-78 Filed 9-1-78; 3:31 pm]

[6351-01]

5

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 171, page 39214.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., September 6, 1978.

CHANGES IN THE MEETING: Deleted from the closed meeting: Rule Enforcement Review.

[S-1779-78 Filed 9-1-78; 3:31 pm]

[6714-01]

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF CHANGES IN TIME AND PLACE OF AGENCY MEETINGS

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given of following changes in the time and place of the meetings of the Corporation's Board of Directors scheduled for September 6, 1978:

The closed meeting, originally scheduled to be held at 10 a.m. in Room 6135 of the FDIC Building, will be held instead at 10:30 a.m. in the Board Room on the sixth floor of the FDIC Building, 550 17th Street NW., Washington, D.C.

The open meeting, originally scheduled to be held at 10:30 a.m., will be held instead at 10 a.m. at the same location, viz., the Board Room on the sixth floor of the FDIC Building.

The agenda for the two meetings remain unchanged.

Dated: September 1, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1773-78 Filed 9-1-78; 1:27 pm]

[6720-02]

7

FEDERAL HOME LOAN MORTGAGE CORPORATION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 166, page 38166, Friday, August 25, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:30 p.m., August 31, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202-624-7107.

CHANGES IN THE MEETING: The meeting was rescheduled for 3:30 p.m., August 31, 1978.

No. 178, August 31, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-1776-78 Filed 9-1-78; 3:31 pm]

[6210-01]

8

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11:30 a.m., Monday, September 11, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-432-3204.

Dated: September 1, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1778-78 Filed 9-1-78; 3:31 pm]

[6115-02]

9

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION.

TIME AND DATE: 10 a.m., Monday, September 11, 1978.

PLACE: Board Room, 712 Jackson Place NW., Washington, D.C. 20006.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Call meeting to order. Check quorum.
2. Adoption of proposed agenda.
3. Approval of minutes of April 10, 1978 meeting.
4. Report of the Chairman.
   a. Introduction of new trustee.
   b. Remarks on annual report, September 30, 1978.
   c. Discussion of ETS.
   d. Discussion of communications services (Doremus).
   e. Discussion of Work-Experience Program.
   f. Status of Awards Ceremony, Sunday, May 6, 1979 at Harry S. Truman Library in Independence.
   g. Remarks on White House Commission on Small Business.
   h. Resolution commemorating Mrs. Richard Bolling.
5. Introduction of Executive Secretary, Malcolm McCormack.
6. Report of Executive Secretary.
7. New business.
8. Adjournment.

CONTACT PERSON FOR MORE INFORMATION:

James C. Craten, Administrative Officer, telephone 202-395-4831.

MALCOLM C. MCCORMACK,
Executive Secretary.

Approved:

JOHN W. SNYDER,
Chairman,
Board of Trustees.

[S-1771-78 Filed 9-1-78; 11:19 am]

[7020-02]

10

[USITC SE-78-44]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, September 14, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Fishing tackle (Inv. TA-201-34)—Vote on remedy (if necessary).
6. Sugar (Invs. AA1921-Inq. 20, 21, and 22)—Briefing and vote.
7. Consideration of an appeal filed by Myron Solter, Esq., with respect to a denial of access to information received in connection with Investigations TA-406-2, 3, and 4 (clothespins from the People's Republic of China, the Polish People's Republic, and the Socialist Republic of Romania).
8. Any items left over from previous agenda.
9. Presentation of service awards to certain staff members.

Portions closed to the public:

10. Status report on the MIN study.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1774-78 Filed 9-1-78; 1:27 pm]

[7550-01]

11

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, September 6, 1978.

PLACE: Board Hearing Room, 8th floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by notation voting during the month of August 1978.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary, telephone 202-523-5920.

Date of notice: August 24, 1978.

[S-1769-78 Filed 9-1-78; 10:13 am]

[7555-01]

12

NATIONAL SCIENCE BOARD.

DATE AND TIME: Sept. 21, 1978, 1 to 5 p.m., open session. Sept. 22, 1978, 8 to 9 a.m., conclusion of open session, if necessary; 9 a.m. to 1 p.m., closed session.

PLACE: Room 540, 1800 G Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSION:

1. Minutes—Open session—200th meeting.
2. Chairman's report.
3. Director's report:
   a. Report on grant and contract activity—August 17-September 20.
   b. Organizational and staff changes.
   c. Congressional and legislative matters.
   d. NSF budget for fiscal year 1979.
   e. Ad Hoc Group on Support of Mathematics.
   f. Young Investigators Postdoctoral Program.
4. Board Committees—Reports on meetings:
   a. Executive Committee.
   b. Planning and Policy Committees.
   c. PPC Subcommittee on International Science Activities.
   d. Programs Committee.
   e. Joint meeting of Committee on Budget and Policy and Planning Committee.
   f. Committee on 11th NSB Report.
   g. Committee on Minorities and Women in Science.
   h. Committee on Science and Society.
   i. Ad Hoc Committee on Audit and Oversight.
   j. Committee on 12th NSB Report.
5. NSF Advisory Groups and Annual Review—Report on NIAC Review and Board Representation at Future Meetings.
6. Grants, contracts, and programs.
7. Other business.
8. Next meetings: (a) National Science Board—November 16-17, (b) NSB Committees.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:

A. Minutes—Closed session—200th meeting.
B. Grants, contracts and programs.
C. Report on NSB Nominees.
D. NSB annual reports.
E. NSF budgets for fiscal year 1980 and subsequent years.

CONTACT PERSON FOR MORE INFORMATION:

Miss Vernice Anderson, Executive Secretary, 202-632-5840.

[S-1777-78 Filed 9-1-78; 3:31 pm]

[7590-01]

13

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, September 7, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

10 a.m.: 1. Meeting with Risk Assessment Review Group (approximately 2 hours, public meeting).
2:30 p.m.: 1. Discussion of review of Three Mile Island (ALAB-486) (tentative, approximately 1 hour—exemption 10). 2. Discussion of personnel matter (approximately 1 hour, closed—exemption 6).

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

AUGUST 31, 1978.

[S-1775-78 Filed 9-1-78; 1:27 pm]

[8010-01]

14

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 37833, August 22, 1978.

STATUS: Closed meetings.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

TIME AND DATE PREVIOUSLY ANNOUNCED: Wednesday, August 30, 1978 and Thursday, August 31, 1978.

CHANGES IN THE MEETINGS: The following additional item was considered by the Commission at a closed meeting scheduled for Wednesday, August 30, 1978:

Regulatory matter bearing enforcement implications.

The following additional item was considered by the Commission at an open meeting scheduled for Thursday, August 31, 1978:

Consideration of whether or not to send a letter to Senator Lowell Weicker, in response to his request for comments on S. 3320. This bill would amend the Internal Revenue Code of 1954 to provide a credit for investment in original issue stock of small or medium-sized corporations. For further information, please contact Katherine A. Malfa at 202-376-3310.

The following additional items were considered at the closed meeting, fol-

lowing the 10 a.m. open meeting, on Thursday, August 31, 1978:

Access to investigative files by Federal, State or Self-Regulatory authorities.
Consideration of amicus participation.
Disclosure matter bearing enforcement implications.
Formal order of investigation.
Freedom of Information Act appeal.
Freedom of Information Act and Privacy Act request.
Regulatory matters bearing enforcement implications.
Settlement of injunctive action.
Subpoena enforcement action.
Personnel security matter.
Other litigation matter.

Chairman Williams and Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

AUGUST 31, 1978

[S-1770-78 Filed 9-1-78; 10:13 am]

[4410-01]

15

UNITED STATES PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Tuesday, September 12, 1978 at 9:30 a.m.

PLACE: Room 338, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 25 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-1772-78 Filed 9-1-78; 1:27 pm]

federal register

WEDNESDAY, SEPTEMBER 6, 1978
PART II



ENVIRONMENTAL PROTECTION AGENCY

■

REGISTRATION OF PESTICIDES IN THE UNITED STATES

Proposed Guidelines; Economic Impact Analysis

[6560-10]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 162]

[FRL 960-4; OPP-30022A]

ECONOMIC IMPACT ANALYSIS

Proposed Guidelines for Registering Pesticides in the United States

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

ACTION: Publication of economic impact analysis relating to the proposed guidelines.

SUMMARY: The proposed guidelines for registering pesticides in the United States (hereafter referred to as "guidelines") were published in the FEDERAL REGISTER on July 10, 1978 (43 FR 29696). On page 29705 of that document, interested persons were advised that copies of the economic impact analysis developed in conjunction with subparts B, D, E, and F of the guidelines would be available upon request, However, in order to reach as wide an audience as possible, it has been decided to publish the entire text of the analysis in the analysis in the FEDERAL REGISTER. Comments are welcomed and will serve as input to the analysis for the guidelines when finalized. The comment period regarding the analysis has also been extended as indicated below; however, the comment period for the proposed guidelines (subpart B, D, and E) will terminate on September 8, 1978, published.

DATES: Comments concerning the economic impact analysis should be received on or before December 5, 1978.

ADDRESS: Written comments should be sent to the Federal Register Section, Office of Pesticide Programs (WH-569), EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Comments should bear the identifying notation OPP-30022A, to distinguish them from comments on the proposed guidelines. All written comments will be available for public inspection in the office of the Federal Register Section at the address above from 8:30 a.m. to 4 p.m., Monday through Friday.

FOR ADDITIONAL INFORMATION CONTACT:

Gary Ballard, Office of Pesticide Programs (WH-568), EPA, Washington, D.C. 20460, 703-557-7335.

SUPPLEMENTARY INFORMATION: On July 10, 1978, the EPA published in the FEDERAL REGISTER three subparts of the guidelines: Subpart B, Introduction; Subpart D, Chemistry Requirements; and Subpart E, Hazard Evaluation: Wildlife and Aquatic Organisms. Subpart F, Hazard Evaluation: Humans and Domestic Animals, will be proposed shortly. These are the four subparts of the guidelines expected to generate significant economic impacts. Two other subparts to be published, Subpart G, Product Performance, and Subpart H, Label Development, are not expected to add significantly to economic impacts; however, when these subparts have been prepared, an analysis will be conducted and reported, if significant impacts are indicated.

An economic impact analysis of subpart B, D, E, and F of the guidelines was prepared in accordance with Executive Orders 11821 and 11949, OMB Circular No. A-107, and EPA Administrator's guidelines for conducting economic impact analyses on regulator proposals. This economic analysis was also prepared insofar as possible in accordance with Executive Order 12044 which was signed quite recently (March 23, 1978) and does not apply "in rulemaking proceedings pending at the time this order is issued, if an economic impact statement has already been prepared in accordance with Executive Orders 11821 and 11949." Although strict adherence to the provisions of Executive Order 12044 is not legally required for the proposed guidelines, the economic analysis did incorporate the spirit of those requirements where possible.

This analysis of economic impacts of proposed sections of the guidelines on data requirements for registering pesticides is not in as much detail as is anticipated for the analysis of guidelines finally adopted by the Administrator; this report reflects the best available data on economic impacts. Additional analysis is in the process and will be available by the time final guidelines are adopted. In addition, substantive comment is anticipated on economic impacts of the guidelines as proposed. The thrust of additional analysis will be in the direction of more detailed investigation with respect to the broad spectrum of groups impacted by the guidelines, directly and indirectly. These groups include basic presticide producers, pesticide formulators, pesticide users, and consumers.

Dated: August 28, 1978.

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

ECONOMIC IMPACT ANALYSIS OF GUIDELINES FOR REGISTERING PESTICIDES IN THE UNITED STATES

UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT, AS AMENDED

SUBPART B: INTRODUCTION; SUBPART D: CHEMISTRY REQUIREMENTS; SUBPART E: HAZARD EVALUATION: WILDLIFE AND AQUATIC ORGANISMS; SUBPART F: HAZARD EVALUATION: HUMANS AND DOMESTIC ANIMALS

OFFICE OF PESTICIDE PROGRAMS, ENVIRONMENTAL PROTECTION AGENCY

MAY 31, 1978.

I. INTRODUCTION

A. AUTHORITY FOR ECONOMIC IMPACT ANALYSIS

This report contains an analysis of the economic impacts that would occur if the Environmental Protection Agency (EPA) were to implement four proposed subparts of the guidelines for registering pesticides in the United States (guidelines) published under the authority of sections 3(c)(2), 8, and 25 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. The subparts are Introduction, Subpart B; Chemistry Requirements, Subpart D; Hazard Evaluation: Wildlife and Aquatic Organisms, Subpart E; and Hazard Evaluation: Humans and Domestic Animals, Subpart F. These are the four subparts of the guidelines expected to generate significant economic impacts. Two other subparts to be published, Subpart G, Product Performance, and Subpart H, Label Development are not expected to add significantly to economic impacts. If they do, this analysis of economic impacts would be amended appropriately.

This economic impact analysis was prepared in accordance with Executive Orders 11821 and 11949, OMB Circular No. A-107, and the EPA Administrator's guidelines for conducting economic impact analyses (EIA's) on regulatory proposals. This analysis was also prepared in accordance with Executive Order 12044 insofar as possible under the circumstances. This order was signed by the President only recently (March 23, 1978) and does not apply "in rulemaking proceedings pending at the time this order is issued, if an economic impact statement has already been prepared in accordance with Executive Orders 11821 and 11949" (see Executive Order 12044, Section 3).

The major additional requirement in Executive Order 12044 is for an explicit analysis of regulatory alternatives. As indicated above, this is not legally required for this proposed rulemaking. Neither would it be necessary because

all stages of development and review of the guidelines have involved consideration of alternatives. Specifically, in drafting the guidelines, the Agency devoted a great deal of resources to evaluating alternative types of data and tests and alternative levels of requirements for each type. In making such evaluations, EPA has carefully considered the numerous comments received from experts outside the Agency, which often contained suggested alternative levels of requirements (see discussion below, p. 5).

Two major alternatives considered in the area of human hazard evaluation were (1) to require chronic and subchronic testing on inert ingredients in pesticide products as well as the pesticidal active ingredients, and (2) to require chronic and subchronic testing for formulated products as well as technical chemicals. The intent for both of these alternatives was to determine the effects of all ingredients in products. The first alternative would have doubled the testing required in this area and the second alternative would have increased the number of tests required by twenty-fold. Appendix E contains excerpts from the preamble to subpart F giving further details of the issues involved and the reasons why the alternatives were rejected. The preamble to subparts B, D, E, and F contain other examples of alternative approaches considered in preparation of the proposed guidelines. The Agency will continue to consider alternatives in its process of reviewing public comments on the proposed guidelines and on this economic analysis. Also, to develop a meaningful and explicit analysis of alternatives would require more time and resources than the Agency has available, and thus would be impractical in meeting the legislative mandate to issue guidelines.

B. BACKGROUND: PURPOSES OF THE REGISTRATION GUIDELINES

Under FIFRA, EPA is responsible for registering pesticide products, thereby permitting the registrant to market his product in commerce. The statute requires EPA to register a product only if its use does not cause "unreasonable adverse effects on the environment." In order to determine whether to register a pesticide, EPA generally requires the applicant to submit data on the potential effects of the pesticide on human health and environmental quality.

The statute specifically directs EPA to put its data requirements for registering pesticides in written form. FIFRA § 3(c)(2) states that: "The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of pesticide and shall revise such guidelines from time to time." Thus, to satisfy this statutory requirement, EPA has developed guidelines which state the conditions under which specific data woud be required to support the registration of a product, specify the standards for acceptable testing, provide references to test protocols in the scientific literature, and describe the format for reporting data.

In addition, based on its experience over recent years, EPA has found that written guidelines are necessary for an effective pesticide registration program. The 1972 amendments to FIFRA imposed a major task on EPA, the task of reregistering all currently registered pesticides. Under reregistration, the registrants of a currently registered product must supply or cite all data which would be required if it were a new product. Thus, to reregister products, EPA must be able to inform registrants of what data would be required. Without written guidelines, this is difficult to do and EPA encounters many problems on such matters.

The Agency has had difficulty in stating the specific data requirements which currently apply to registered products. Staff reviewers often have failed to provide requirements which were consistent for similar kinds of products. Reviewers also have failed to set standards for the satisfactory performance of new tests, including, for example, not identifying the substance to be tested. Reviewers also have failed to specify clearly how data from a test should be submitted. As a result, on occasion, registrants have had to repeat tests or supply data not originally called for. Similar problems have occurred in the registration of new products and have often caused lengthy delays in reaching registration decisions.

The problems with reviewing data submitted to the Agency were aggravated by absence of written guideline requirements. EPA has made several attempts to determine which data would not be required for reregistration, because valid data had already been submitted. Each attempt has failed because EPA found that it needed to conduct a more intensive review than originally believed necessary. It was not sufficient to determine only whether a set of test data had been submitted. Nor was it sufficent to review a registrant's summary of test results to determine whether apparent problems existed. The Agency has finally concluded that nothing less than an indepth review of each aspect of each test report, together with auditing of test laboratories, is necessary to determine whether any set of data is valid and satisfies reregistration requirements.

In view of its experience during recent years, EPA has concluded that specific, written guidelines are necessary to resolve these problems. In particular, the guidelines should significantly reduce the problems of consistency in establishing requirements and reviewing data.

These guidelines have been developed over the past 10 years. Initial drafting began in 1969, and the guidelines were initially proposed in the FEDERAL REGISTER in June 1975. Since then, drafts of the guidelines have been carefully and extensively reviewed by Agency staff and members of the public. EPA has held at least seven public meetings on the guidelines at which environmental, industry, academic, and Federal and State regulatory groups have participated. Each meeting has involved close review of each draft provision with particular consideration of the regulatory reasonableness of each requirement. The underlying question in each review has been: Is the cost of a particular requirement justified by the value of the data which EPA would receive? While there have been many comments and divergent opinions on the reasonableness of particular requirements, these proposed guidelines have received a highly affirmative endorsement from the scientific community. Industry, environmental, academic, and regulatory scientists generally agree that these proposed guidelines require the kinds of data which are minimally necessary to evaluate the safety of a pesticide. Moreover, there is a general agreement that the standards for acceptable testing are appropriate for generating the required data.

C. SCOPE OF ANALYSIS

The proposed guidelines for subparts B, D, E, and F would, to a considerable extent, merely state in one place and in formal fashion the data requirements which now are being imposed on firms wishing to register new pesticide products. However, some new data requirements are proposed in the guidelines. Identifying the cost of these proposed new requirements is a major purpose of this analysis. This analysis also provides estimates of the cost of satisfying existing data requirements.

Data submission may be required when a pesticide product is first registered, when a registration is amended (e.g., to add uses of the product), or when the product is reregistered. The 1972 FIFRA amendments require that all currently registered products be reregistered if they are to be marketed, and that applicants for reregistration supply or cite all data which would be required if it were a new product. Because many products were

registered before some current data requirements were imposed, many current product registrations are not supported by all the types of data which now would be required for a new product registration. Additionally, some previously submitted data were generated by methods which would be unacceptable today.

There are about 1,000 different active ingredients contained in presently registered pesticide products now being produced and marketed. The total number of active ingredients presently registered is about 1,460, of which about 460 are not in production. This analysis focuses upon the application of guidelines requirements to products containing the 1,000 active ingredients currently being produced. EPA assumes that the remaining 460 active ingredients will not be placed in production. (If they are not now economically viable, they are not likely to be viable in the foreseeable future.) The analysis also covers the cost of data required for registration of new products in the future. EPA assumes that approximately 15 new active ingredients will be introduced each year.

For both reregistration and new registrations, this analysis breaks these totals down into the cost of current data requirements and the incremental (added) cost of the new data requirements which would be imposed by the proposed guidelines. The incremental cost is defined as the difference between what is now required for new registrations (current practice costs) and guidelines requirements costs. The costs are translated into annual costs to producers and users of pesticides and to consumers in general. The magnitudes of annual costs (and projected economic impacts) are highly dependent on how soon the requirements are imposed.

The Agency plans to apply the data requirements in the final guidelines immediately to new registrations of new chemicals, but over a period of years to currently registered products. Once the final guidelines have been promulgated, most applications for new registrations will be required to satisfy all applicable provisions of the guidelines. (If a conditional registration program is approved in the legislation pending before Congress, some new products may be conditionally registered, even though they do not satisfy all data requirements.) EPA, however, would not expect all currently registered products to satisfy all of the guidelines data requirements as soon as the guidelines were finally adopted. The process of generating data for reregistration and making reregistration decisions simply cannot be done immediately. Because of the size of the task, EPA projects that it will require a period of more than 10 years to reregister the products containing the 1,000 active ingredients now in production. Currently registered products would become subject to the guidelines data requirements at different times during this period.

This analysis contains two scenarios which describe possible schedules for imposing the guidelines requirements on currently registered products. In both cases, the schedules are closely related to EPA's proposed program of establishing generic standards. Generally, a generic standard is a comprehensive discussion of the data available to the Agency on products containing a specific active ingredient and a delineation and explanation of the Agency's regulatory actions respecting those products. Both scenarios assume that each year EPA will establish 50 generic standards on currently registered products per year for a period of 10 years and beyond. Both scenarios also assume that the large-volume active ingredients used in agriculture and food production would be covered by generic standards before EPA establishes standards for the remaining active ingredients. Scenario No. 1 assumes that each standard would identify the schedule for submittal of missing data to obtain reregistration and that data gaps would be filled some years after the standard is established. Scenario No. 2 assumes that EPA establishes a program to identify data deficiencies for products before a generic standard is issued covering those products. EPA would then inform registrants of the missing data and require them to submit the data when the standard is published. This early notification program would expedite initiation of testing to determine potential hazard.

An analysis is presented of the benefits which the guidelines are expected to generate. Published guidelines are projected to have substantial benefits in connection with both reregistration and initial pesticide registration. It is of increasing importance to specify data requirements clearly to insure that human health and environmental risks are minimized while at the same time give registrants a "fixed target" for planning their R. & D. activities. Industry, agency staff, and the general public could all benefit from formal printed guidelines specifying data required for registrations. There are increasing concerns about the credibility of data necessitating not only guidelines for such data but also programs to check and insure the integrity of such data, which have been found wanting in some instances.

D. COST METHODOLOGY

To determine the incremental cost of the new data requirements in the guidelines, estimates were first made

of the number of times each test would be required and then of the cost per test, under both current practice and the proposed guidelines. Totals were computed by multiplication and the difference between them gave the incremental cost of the proposed guidelines.

EPA considered and rejected several methods of estimating the numbers of tests which would be required for reregistration. A complete review of all 34,000 registered products would provide the most reliable and precise estimates of the number of tests which would be required to complete reregistration. However, even with projected growth in resources, the Agency does not expect to complete this review task for 10 to 20 years or possibly longer. Consequently, this approach was not practical for purposes of this analysis. EPA considered another method, review of a sample of products and extrapolation from the results. This method was also dismissed, because, even a thorough review even of a small sample would be very resource intensive. A typical active ingredient appears in several products, each of which would have to be reviewed. Several person-months of effort would be required to adequately review the data for one product. In addition, the variability across pesticidal chemicals, due to chemical structures and use patterns indicate that the sample would have to be very large. Finally, EPA considered the use of outside experts as consultants or contractors to help in review of a sample. This method was also rejected since it would have required providing the consultants with data which are considered proprietary trade secrets. Futhermore, while this method would have reduced the number of Agency staff involved, it would still have required significant resources, as discussed above.

The approach selected for determining the number of tests which would be required was to use panels of experts from the Registration Division and the Criteria and Evaluation Division of the Office of Pesticide Programs. Panel members were selected because of their knowledge of the guidelines and their broad familiarity with pesticides and pesticides registrations. One panel was formed for each of the major areas: Environmental chemistry, product chemistry, fish and wildlife hazard, and human and domestic animal hazard. The product chemistry panel also provided the estimates for the special chemistry requirements on pesticide residues on tobacco.

These panels reviewed the sections of the proposed guidelines and estimated the number of times a particular test would be required. In addition, on the basis of their knowledge of pesticide registrations, they estimated the number of times a particular test would be required under current practice without the written proposed guidelines. Within two to four iterations, the individual panels reached consensus on the estimates. Finally, rough estimates were also obtained on data already in the Agency files which might satisfy the proposed guidelines requirements.

The estimated cost, both under current practice and under the proposed guidelines, of conducting each kind of test and submitting the data to the Agency was calculated using estimates from several sources. These sources included pesticide companies, private laboratories, governmental laboratories, and OPP personnel. (See appendix A for the sources of cost estimates for each test.) The cost estimates are based on a typical product. When more than one figure was available, an average cost was used. The cost of a particular test would vary, depending on the product tested. The reliability of the cost estimate varies with degree of standardization of the test. In addition, if one laboratory were commissioned to do a series of tests on a product or group of products, the cost per product of each test would likely be lower than the figures contained in this analysis. The costs of all tests were estimated using 1977 prices.

In order to estimate the cost of new registration and reregistration under current practice and under the standards proposed in these guidelines, it was necessary to make certain assumptions:

(1) That the number of applications for new registrations which will be submitted to the Agency annually can be projected from past experience.

(2) That applications for new products generally will be distributed into the same types of use patterns and chemical classes as currently registered products; accordingly the data requirements for new products would be imposed on new products with the same frequency as on currently registered products.

(3) That, if data are required to support more than one application for new registration or reregistration, in accordance with section 3(c)(1)(D) of FIFRA, the data will be submitted only once to the Agency and subsequently will be cited by the applicant or registrant; and that the costs of producing the data will be shared by all applicants and registrants required to submit or cite the data.

There are also some practical limitations to this analysis. Although the proposed guidelines attempt to state the data requirements for registration and the standards for acceptable testing, there may be variations from

these requirements. As is discussed in greater detail in the preamble to the guidelines, the proposed guidelines provide for waiver of data requirements and for deviation from the standards for acceptable testing. Moreover, additional data not specified in the guidelines may be required if the required data are not sufficient to evaluate the safety of the pesticide. All of these procedures would be administered on a case-by-case basis as the Agency reviews the data presently in its files and reviews applications for new registration and reregistration. No estimates were made of the impacts of these decisions.

In addition, no estimates were made of the economic impact of the proposed guidelines on amended registrations. A registration is amended if certain changes are proposed to its labeling or composition. Many amended registrations require none of the data which would be required by the subparts of the guidelines which are the subject of this analysis. Information is not available to estimate the number of amended registrations which would be affected by these proposed guidelines. Any impacts would be minor, however. Accordingly, the impacts on amended registrations are not included in this analysis.

This analysis includes estimates of the impacts expected under proposed § 163.40-5, "Retention and Submission of Raw Data, Specimens, and Samples of Test Substances." The cost of the data retention is included in the cost of performance of the kinds of tests described in subpart D, E, and F. Consequently, the impact of the data retention requirements are not separately estimated.

Congress is presently considering amendments to FIFRA which would change the procedures for registration and effect the economic impact of the proposed guidelines. If FIFRA is amended permitting use of generic standards, the 10-year reregistration scenarios are relevant and suggestive of economic impacts of the guidelines.

II. Summary of Findings

A major task faces EPA and the pesticide industry, to reregister existing pesticides under FIFRA. The 1972 amendments to FIFRA require that currently registered products be reregistered, if they are to continue to be marketed as pesticides. This task is far behind schedule; even though it was to have been completed by 1976, little progress has been made to date. EPA is now proposing to publish formal guidelines to make the process of reregistering pesticides and registering new pesticides more efficient. Under FIFRA § 3(c)(2), the Agency is required to publish such guidelines for registration data requirements and to update them from time to time. Guideline requirements must be the same for existing pesticides and new ones.

Four subparts of the guidelines have been drafted and are being proposed to facilitate programs to reregister pesticide products (if submitted for reregistration) and to register new pesticide products. These subparts (B, D, E, and F concerned with introduction, chemistry, wildlife hazards and human hazards respectively) contain the requirements which are expected to have the most significant economic impacts.

These proposed subparts of the guidelines are projected to generate significant benefits to the pesticide regulatory program in the United States. They would also have economic impacts of varying significance on pesticide producers, formulators, and users. This analysis focuses on economic impacts during the decade of the 1980's. This is the period during which the major portions of data requirements for these four subparts of the guidelines would be satisfied.

The principal findings of the analysis are:

1. A distinct need exists for printed guidelines on data requirements for registration of pesticides. The complexities and importance of data requirements for registration of new pesticides indicate that it would be useful to have formal printed guidance available for use by registrants, agency staff, and the general public. Also, printed guidelines are needed to facilitate determining whether currently registered pesticide products now in use are adequately tested by today's scientific standards so that they may be reregistered. Most products now registered do not appear to have sufficient data on file to support reregistration under current practice requirements (or the proposed guidelines). In some cases, existing data appear to be completely unreliable or invalid. As indicated below, substantial benefits to the Agency, industry and the public can be obtained by use of printed guidelines in pesticide registration programs.

2. The data requirements specified in the guidelines would reduce human health and environmental risks from pesticide use through better data for decision making on pesticide registrations. With more complete and reliable data, pesticides which present unreasonable risks would be more easily identified so that they would not be registered. In the process, health and environmental risks of pesticides would be reduced, while allowing benefits to be obtained from use of those pesticides which do not present such risks. Indications are that exposure to toxic chemicals such as pesticides is

taking a heavy toll in terms of human health losses and costs of treatment. Reduced risks are indicated particularly with respect to the guidelines because of increased data requirements on product chemistry and human hazards. The guidelines subpart on product chemistry would lead to reduced risks of exposure to highly dangerous and toxic contaminants or impurities in pesticides. The human hazard subpart would improve registration decisionmaking by providing critical acute, subchronic, and chronic toxicology data.

3. Issuance of the guidelines would produce significant benefits for EPA's registration process. Better specification of data requirements, together with specification of test standards and uniform data reporting formats, would make the process more efficient. Program costs would be lowered and reviews would be expedited thus producing decisions more quickly.

4. Printed guidelines would benefit the pesticide industry in several ways. Applicants for registration or reregistration would need to make fewer submissions to obtain EPA decisions. Presently, an average of 3.4 submissions are required per registration. This could be reduced significantly by the guidelines. In the process, the applicant could get his product on the market sooner, in competition with other firms. Better specification of the data requirements to support a pesticide registration would lead to better scheduling of data development activities, both for new pesticides and for currently registered products. This reduces risk of the nonregisterability of candidate pesticides as firms have a better base for decisionmaking, as does EPA. Fewer pesticide industry resources would be wasted on the development of "losers". Reduced risk of investing in such "losers" would bring forth additional incentives to invest in the development of more effective and environmentally acceptable pesticides.

5. The guidelines would increase the cost of data for registration of an average active ingredient as follows:

[Dollars in thousands]

Subpart	Current practice	Guidelines	Incremental	Percent change
Product chemistry	$57	$67	$10	18
Environment and special chemistry	132	132	0	0
Fish and wildlife hazard	9	12	3	33
Human and domestic animal hazard	90	169	79	88
Total	289	381	92	32

The major incremental cost is in the area of human health/domestic animal hazard data, where the increase is nearly 90 percent. The overall increase for the four subparts is about one-third (32 percent).

6. Data requirements for large volume active ingredients with potential for high exposure to humans and environmental systems are much greater than for the average active ingredient. For a large volume active ingredient, data costs for the four subparts of the proposed guidelines would be increased as follows:

[Dollars in thousands]

Subpart	Current practice	Guidelines	Incremental	Percent change
Product chemistry	$57	$67	$10	18
Environment and special chemistry	225	225	0	0
Fish and wildlife hazard	50	75	25	50
Human and domestic animal hazard	350	600	250	71
Total	682	967	285	41

The percentage increase in incremental costs for such major active ingredients of 41 percent is greater than for the average active ingredient (32 percent, as noted in item 5 above).

7. The guidelines would increase the cost of data for registration of an average formulation of a pesticide as follows:

Subpart	Current practice	Guidelines	Incremental	Percent change
Product chemistry	$2,950	$5,200	$2,250	77
Environment and special chemistry	1,712	1,712		0
Fish and wildlife hazard	520	703	183	36
Human and domestic hazard	3,041	4,317	1,276	42
Total	8,223	11,932	3,709	46

These costs vary greatly among formulations. For most (90 percent of formulations), the guidelines cost would be $8,900, compared with $5,100 for current practice (increment of $3,800). These costs reflect the level of data most often required of the formulator. However, for some formulations (0.5-1.0 percent), the costs of meeting the guidelines requirements are much higher, e.g., $200,000 of which about 90 percent is required under current practice. Incremental costs of the guidelines would generally be nominal in such cases. The data costs for such formulations would normally be incurred by the basic manufacturers of the active ingredient, or would be substantially shared with (or among) formulators.

8. The incremental costs of the proposed four subparts of the guidelines would be $12 million per year for 15 new active ingredients and their formulations, which have projected to be registered per year in the future. This cost would be in addition to a base of $27 million under current practice, bringing total costs of compliance for new registrations to $39 million per year.

9. For reregistration of an existing product under the guidelines, the registrant would be required not only to meet the incremental requirements of the guidelines over current practice, but also to fill any data gaps to meet current practice requirements. The data gaps would be substantial for most registered products. For the average active ingredient, and all of its formulations, the data gap costs and other costs are as follows:

	Now in production		Not now in production	
	Dollars	Percent	Dollars	Percent
Current practice:				
Acceptable, data on file	125	15	54	22
Data gap	474	57	146	58
Subtotal	599	72	200	80
Guidelines	834	100	250	100
Incremental	235	28	50	20
Number of active ingredients	1,000		460	

This table demonstrates that the costs of meeting current practice requirements (those now required for new active ingredients) are a far more important factor in reregistration of existing products than are the incremental costs of the guidelines.

10. Economic impacts of the guidelines were estimated assuming that imposition of data requirements would be coordinated with the new generic standards registration program. Annual costs were projected for the period 1980-89 for meeting the incremental requirements of the guidelines and for meeting current practice requirements (including those not met already, i.e., "data gaps"). Two scenarios were projected, each assuming generic standards are applied to 50 existing active ingredients and 15 new chemicals (including their formulations) per year. The scenarios further assume:

Scenario No. 1—Data gaps would not be identified and filled until after a standard covering the product had been issued.

Scenario No. 2—Registrants of 100 chemicals per year are given early notification of data deficiencies in existing registrations and are required to submit satisfactory data at the time the standard is being developed.

Scenario No. 2 is representative of many other possible reregistration scenarios involving an early notification program. Over the period 1980-89, the annual costs would vary depending on the specific notification schedule, but the overall costs would be comparable over the decade.

11. The number of reregistered active ingredients scheduled to be brought under guidelines requirements during the first 10 years of implementation by issuance of generic standards would be 500 for scenario No. 1 and 750 for scenario No. 2. These active ingredients account for most of the active ingredient volume used.

12. Under scenario No. 1, products of 395 active ingredients would probably be reregistered during the 1980's, while those of 105 other active ingredients scheduled for reregistration probably would not. Projected actual outlays to meet guidelines requirements for reregistration for those products are $322 million ($222 million data gap and $100 million incremental costs).

13. Under scenario No. 2, products of 525 active ingredients probably would be reregistered during the 1980's while those of 225 other active ingredients scheduled for reregistration probably would not. Projected actual outlays to meet guidelines requirements for registration of these products are $376 million ($262 million data gap and $114 million incremental costs).

14. The number of active ingredients in production under EPA registrations

would be about the same at the end of the 1980's as now (about 1,000). Though 105 to 225 active ingredients now in production probably would not be reregistered, there would be about 150 new ones added, if historical trends continue. By the end of the 1980's, there would still be a relatively large number of active ingredients now in production (250 to 500) which had not undergone reregistration. About one-half of these chemicals probably would not be submitted for reregistration under generic standards to be issued during the 1990's.

15. Under each of the scenarios, the 460 registered active ingredients not in production during recent years are not projected to be submitted for reregistration. In general, generic standards for these would not be planned during the 1980's, if at all. The economic impact of the guidelines and/or filling data gaps on these active ingredients is of limited economic significance for the foreseeable future.

16. Projected annual costs of the two scenarios for reregistration and new registrations are in the following ranges during the 1980's:

[In millions of dollars]

	Current practice *	Incremental	Total
Scenario No. (50 standards per year for old chemicals plus 15 new)	$36-$60	$15-$29	$53-$89
Scenario No. 2 (scenario No. 1 plus 100 notices for old chemicals per year)	33- 80	14- 38	47-118

* Including data gaps.

The annual costs peak out for both scenarios in 1983 and decline through the remainder of the 1980's. The annual costs peak out at higher levels for scenario No. 2 due to the early notification program, and accordingly are lower than scenario No. 1 by the end of the decade.

17. Under the two scenarios, the costs of the guidelines would add slightly to the sales value of pesticides at the basic producer level. The increases would be as follows:

[In percent]

	Current practice*	Incremental	Total
Scenario No. 1 (50 standards per year for old chemicals plus 15 new)	1.3-2.2	0.4-1.1	1.7-3.3
Scenario No. 2 (scenario No. 1 plus 100 notices for old chemicals	1.0-3.0	0.4-1.4	1.4-4.4

*Including data gaps.

18. Costs of implementing the guidelines would result in significant increases in projected total basic pesticide R. & D. expenditures, as follows:

[In percent]

	Current practice*	Incremental	Total
Scenario No. (50 standards per year for old chemicals plus 15 new)	17.8-32.1	6.3-15.5	24.1-47.6
Scenario No. 2 (scenario No. 1 plus 100 notices for old chemicals)	13.9-42.8	5.9-20.3	19.8-63.1

*Including data gaps.

Basic R. & D. is generally conducted by the large manufacturers of active ingredients (and large formulators) and includes all such costs, of which only about one-third are registration related (see item 19).

19. Costs of implementing the guidelines would amount to a very large increase in projected basic registration-related pesticide R. & D. as follows:

[In percent]

	Current practice*	Incremental	Total
Scenario No. 1 (50 standards per year for old chemicals plus 15 new)	61.7-111.1	22.1-53.7	83.8-164.8
Scenario No. 2 (scenario No. 1 plus 100 notices for old chemicals)	48.5-148.1	20.6-70.4	69.1-218.5

* Including data gaps.

These costs would be borne largely by the larger firms, e.g., basic manufacturers, but would be borne by others as well, more than at the present time. This point is discussed further below (see item 27).

20. Costs of implementing the guidelines, if passed directly to users of pesticides, would add slightly to such projected expenditures during the 1980's as follows:

[In percent]

	Current practice *	Incremental	Total
Scenario No. 1 (50 standards per year for old chemicals plus 15 new)	0.6-1.1	0.2-0.5	0.8-1.6
Scenario No. 2 (scenario No. 1 plus 100 notices for old chemicals)	0.5-1.4	0.2-0.7	0.7-2.1

* Including data gaps.

21. Projected actual outlays to reregister products containing currently registered active ingredients (under the guidelines) are $473 million over the 1980's and early 1990's. This is about one-half of the estimated total data cost if all products containing all 1,460 active ingredients were reregistered under the guidelines ($949 million). The breakdown of this total cost figure is as follows:

[In millions]

	Scenario No. 1	Scenario No. 2
Reregistration during 1980's	$322	$376
Reregistration later	151	97
Total reregistration	473	473
Acceptable data on file	150	150
Data for products not reregistered	326	326
Total	949	949

In other words, about one-half of the total would not be incurred because of data already on file and products not submitted for reregistration.

22. Producers and users of major active ingredients would be affected quite nominally by implementation of the guidelines. These major active ingredients, which number about 200 out of the 1,000 in production, account for up to 90 percent of total active ingredient volume.

23. Implementation of the proposed guidelines requirements with respect to the remaining 800 active ingredients with smaller volume current production is of more potential significance. Of the 800 smaller volume active ingredients now in production, 300 to 550 would come under guideline/generic standards during the 1980's of which 105 to 225 would become uneconomical unless specific waivers or other similar actions are taken. (Provisions in legislation pending before Congress direct the Administrator to consider the potential cost impacts on industry incentives to incur the costs when establishing registration data requirements for minor use pesticides.) The number expected to be withdrawn is only slightly greater if the guidelines are implemented as compared to implementation of current practice requirements (25 to 35 active ingredients depending on the scenario). When reregistration of existing active ingredients is completed, products containing about 645 active ingredients are projected to be eventually reregistered. These 645 active ingredients comprise an estimated 95 percent of the volume of pesticides currently produced.

24. Under scenario No. 1, agricultural pesticide user expenditures would be increased proportionately somewhat more than other sectors. This is due to the emphasis on reregistration of large volume and agricultural pesticides in that scenario. The early notification aspect of scenario No. 2 tends to equalize the impacts among the sectors. The percentage increases in pesticide user expenditures during the 1980's are as follows:

[In percent]

Sector	Scenario No. 1	Scenario No. 2
Agriculture	1.4	1.3
Individual, community, government	0.7	1.0
Home/garden	1.0	1.4
All users	1.2	1.3

25. Currently there is a significant problem on the registration of pesticides for many minor uses (small volume uses) in agriculture and elsewhere in the economy. Manufacturers often cannot justify incurring the data costs for registering products for such uses, whether they are formulated from large or small volume active ingredients. Indications are that the "minor use problem" would not be added to greatly during the foreseeable future due to the incremental costs of the guidelines. Provisions for directing EPA to consider the cost impacts of data requirements for minor use registrations are included in amendments to FIFRA pending before Congress. Many of the small volume active ingredients, from which some minor use products are formulated, would not be brought under generic standards for several years, thus allowing time for data to be generated or alternatives found. Minor use problems can be minimized by programs presently available, for example, the IR-4 program.

26. Basic R. & D. and production of pesticides is quite oligopolistic (highly concentrated). The oligopoly core of major firms in most cases can readily accommodate the increased requirements of the proposed guidelines. The major impact of the guidelines on competition in the industry is to add barriers to future potential competitors and to make it more difficult for smaller firms to compete effectively.

27. Formulators, who have traditionally not directly incurred much of the registration data costs, would incur more of such R. & D. costs under the guidelines. Large-scale formulators would be able to accommodate such costs quite readily by sharing them with basic manufacturers to a considerable extent. However, small volume formulators, many of whom are not now operating on a large-scale commercial basis, might choose not to formulate some of their products. In instances where small volume active ingredients are no longer available for formulation into products, firms may choose to shift to formulations with other active ingredients. Short-term adjustment problems would be caused in such instances. Pending amendments to FIFRA would alleviate some of the impacts of the proposed guidelines on formulators who purchase registered manufacturing-use products. Inadequate data presently exist to fully evaluate impacts upon smaller firms in the long term. This is under further analysis by EPA, with contractor support to be added in the near future.

28. Overall consumer costs of the guidelines (direct and indirect) would be minimal ($0.10 to $0.35 per capita on an annual basis during the 1980's for incremental and total costs respectively.)

29. No significant employment, output, inflation, or other macroeconomic impacts are projected from implementing the guidelines, e.g., $50-125 million per year, equal to 0.004-0.01 percent of current GNP. Significant impacts are limited to the sector level and parts of the pesticide industry.

30. In the pesticide industry, some employment dislocation could occur (total of 38-75 jobs per year; 8-15 jobs per year due to incremental requirements). The significance of these job dislocations is expected to be minimized due to projected growth in output in the industry.

31. No significant energy impacts are projected from implementing the guidelines.

32. There could be constraints on implementation of the guidelines during the early 1980's due to shortages of expertise and facilities for certain R. & D. areas, e.g., toxicology due to increasing testing requirements under FIFRA and other statutes. The Agency is exploring this matter in detail to determine its full significance to the overall chemical industry, of which pesticides are a small but important part.

33. The Administrator of EPA is mandated by FIFRA to revise the published guidelines from time to time as appropriate. Such revisions would be made when a data requirement is found to not be cost effective, e.g., it does not add sufficient information to justify costs and/or impacts on registrants and users of pesticides.

III. Benefits of the Guidelines

The proposed guidelines, if implemented, would generate benefits as well as costs. The purposes of this section are to identify the benefits and to provide a qualitative analysis of these benefits to pesticide producers, users, and the general public. Following the benefit analysis, the remainder of this report concerns costs and economic impacts of the guidelines, against which the benefits must be weighed.

The analysis of benefits covers direct benefits which would be generated by improving the pesticides regulatory function as it impacts upon registration applicants in industry and elsewhere. It also concerns indirect benefits generated as a result of a more efficient registration program, which impact upon pesticide users, consumers, and the general public.

A. Direct Benefits

The direct benefits of the guidelines to industry can be put into two classes—those derived from reducing uncertainty of the pesticide producer as to the data requirements for registering a pesticide, and those derived from reducing the time required to register a pesticide.

1. *Reduced uncertainty of registerability of pesticides.* Investments must be viewed with respect to expected level of returns and the risk associated with the expected return. Pesticide producing companies search for investment opportunities which have not only a high expected return but a low variance, i.e., low risk. The lower the variance about the expected average of returns, the more desirable is the venture; uncertainty, or the threat of uncertainty, retards investment funding.

The guidelines would have a direct and perceptible impact upon reducing the uncertainty surrounding a given research and development (R. & D.) venture as perceived by pesticide producers. They have expressed the view that EPA, in the past, inconsistently applied data requirements for pesticides. They have also charged that delays attributable to EPA's requests for additional data to support registration not only have absorbed early profits which would have been obtained if the product had been on the market, but that these delays have added to the uncertainty which surrounds the registration process with unwritten guidelines (EPA, 1975).

2. *Reduced time to obtain registrations.* The guidelines minimize problems related to registration uncertainty by specifying the data requirements a candidate pesticide must meet in order to be registered. Once the proposed registration guidelines have become familiar to users of these guidelines, there would be two immediate benefits: The review time within EPA to process a registration would decline and, as a result, the pesticide would be able to enter the market at an earlier date. In fact, the drafting of the guidelines and their informal use during recent years may have already contributed to reduced EPA review time on pesticide applications. In 1976, the elapsed time from discovery to registration for newly registered products declined sharply (from 93 months in 1975 to 74 months) (NACA, 1976).

It is of critical importance to registrants of new chemicals to place the new products on the market ahead of upcoming products competing for the same market. The first product to be placed effectively on the market for a given use has a good chance of main-

taining a permanent advantage over later arrivals. The reasons relate to market establishment (set up of distribution channels and contacts; advertising and promotion; user allegiance, etc.) and to economies of scale in production. The first large scale plant is likely to enjoy cost advantages for an extended period which other firms cannot overcome because of the larger established production of the first firm to obtain registration. The benefit in this case is a long run phenomenon whereby firms are more encouraged to invest to "beat the competition to market", and in the process expand industry R. & D. of pesticides in competition for the consumer's dollar.

3. *Lower R. & D. costs.* Producers of pesticides would tend to benefit from the guidelines because, after the guidelines take effect, fewer R. & D. resources would be wasted on "losers". Fewer resources would be misspent on the development of products thought to be registerable but upon further closer preregistration testing are screened out. The guidelines would effect a reduction in these cases and, as a result, eliminate the dead weight burden of R. & D. expense which is undertaken simultaneously with registration and which, via a more thorough screening process, can be eliminated. The expenses which would be eliminated include those related to establishment of a production process and a pilot plant. Eliminating these costs alone can result in savings from two to three million dollars per product via early detection of unregisterable pesticides.

Better use of scarce laboratory facilities and expertise is possible due to the publication of the guidelines, since data requirements are more explicit, thus facilitating large scale operations, advance planning, and efficient scheduling. This could be quite significant during reregistration of existing pesticides, which could stretch capacity to the limit. Such a situation could occur due to increased demand for such work on chemicals to meet requirements under various Federal statutes.

4. *Reduce costs of registration review.* The guidelines would reduce EPA pesticide program costs as less time and resources would be needed to process applications for registration. Fewer applications would need to be returned to applicants for resubmission with additional data. During fiscal year 1977, the average number of submissions is 3.4 per application granted. The guidelines are expected to reduce this number substantially.

B. INDIRECT BENEFITS

Presented below are some of the indirect longer term benefits which can be attributed to the issuance of the guidelines.

1. *Fewer RPAR's and hearings.* One long term benefit to industry, EPA, users, and the economy in general is a reduction in the probability Agency issuance of rebuttable presumptions against registration (RPAR's) and cancellations/suspensions. Pesticide R. & D. based on today's standards for registration may not be relevant in the future, and products which have been registered may have RPAR's issued against them in the future. The improved data called for in the guidelines, compared to current practice, and the improved perception of registration requirements by industry, Agency staff, and the general public, would reduce the chances of products being registered and marketed for a time, only to end up being RPAR'd or canceled/suspended.

2. *Lower long term prices of pesticides due to shift in supply curve.* As a result of reduced uncertainty, lower costs, and other efficiencies noted above from the guidelines, the long run supply curve for pesticides would shift toward the right (increasing supply), apart from cost effects of the guidelines which shift the supply curve in the opposite direction. Therefore, since there is no a priori reason to expect the guidelines to cause a shift in demand, there would be a tendency for the equilibrium price of pesticides to decline, apart from the cost impacts of the guidelines which are discussed later in this report. This supply effect means that the supply price for a given quantity of pesticides would be less, due to such benefits of the guidelines, than would be the case without them.

3. *Reduced costs due to reduced health and environmental risks of pesticides.* The guidelines, due to information they would require to be submitted and the efficiencies involved in making risk/benefit decisions on pesticide registration applications, would reduce risks of health and environmental impact in a cost effective fashion, to the benefit of current and future generations. Indications are that human health costs due to chemical pollution at this time are still mounting with increasing cancer rates, especially in areas heavily impacted with chemical pollution (CEQ, 1977).

One of the findings that the Administrator is required to make in order to register a pesticide, is that the pesticide will not generally cause unreasonable adverse effects on the environment when used with widespread and commonly recognized practice. The data to be obtained under the proposed guidelines is to provide a better basis for scientific determination of the likely effects on man and the environment of pesticides for which registrations are sought. Registration applicants submit data identifying the components of their products, both intentional and unintentional, the fate of these components in the environment under likely use conditions, and the potential hazard to man, wildlife, and the environment associated with the product. In effect, the costs of data under the proposed guidelines buy data to improve determination of potential risks. The increased data requirements in the guidelines and the specificity obtained by printed guidelines combine to reduce the potential for future human and environmental risks when used in EPA registration programs.

Benefits of the intended use of the data requirements can be shown by examples. First, there are registered pesticides which are now known to contain impurities thought to be potential carcinogens. Within the last 2 years, much study has been done on a group of impurities called nitrosamines which have been found in registered pesticide products and are possible carcinogens. The proposed guidelines in the area of product chemistry, including "Discussion of Unintentional Ingredients" and "Product Analytical Methods," are designed to identify impurities such as the nitrosamines. The type and level of impurities identified would be used to assess the risks of acute or chronic toxicity to man or the environment.

Second, additional emphasis is being placed on the long term or chronic exposure effects of pesticides. The closely related pesticides aldrin and dieldrin were registered and used for several years before they were found to be carcinogens in test animals. These two pesticides have since been cancelled by EPA. The data from tests under the proposed guidelines including "Chronic Feeding" and "Oncogenicity" would be expected to better identify potential or actual carcinogens.

Subpart D, Chemistry contains two broad areas of requirements, one covering product chemistry and the other covering environmental chemistry. In addition, Subpart D contains several sections devoted to special chemistry data requirements; this latter area primarily concerns data on pesticide residues in tobacco.

The product chemistry guidelines would require data on the composition of a pesticide product and a commitment from registrants that the composition of the product, when manufactured and distributed, would not vary from the composition evaluated at the time of the registration application. The product chemistry guidelines would require a significant amount of supporting information which would explain how the registrant prepared his statement of composition.

The environmental chemistry guidelines in subpart D would require data on the fate of a pesticide product once it enters the environment. These data requirements generally woud apply to pesticides intended for "outdoor application" as that term is defined in 40 CFR § 162.3(cc) of the registration regulations. The term includes any pesticide application that occurs outside or whose consequences would be used to define what chemical substances remain in the environment after a pesticide is used, how long and at what levels the residues persist in the environment, and where the residues are likely to be found in relation to where the product has been used.

The environmental studies, from which data would be required, are divided generally into physical and chemical degradation, metabolism, mobility, field dissipation, and accumulation. Physico-chemical degradation studies identify residues which are formed through the action of water or sunlight on a product and determine the fate of those residues. Metabolism studies identify pesticide residues formed when the product is placed in water, activated sludge, or various kinds of soil. Mobility studies predict the movement of a pesticide and its residues outside the treated area, through leaching, volatility, adsorption, or dispersal by water. Field dissipation studies are conducted under actual use conditions at several sites to confirm data generated by required laboratory studies. Accumulation studies measure the propensity of a pesticide or its residues to collect in rotational crops, fish, and irrigated crops.

These environmental chemistry data would be collected and evaluated together with toxicity data to assess the potential hazards to man, fish, wildlife, or other nontarget organisms resulting from use of a pesticide. These data would indicate the levels of a pesticide and its residues to which man or other nontarget organisms might be exposed. Toxicity data would then be used to determine the nature of the risk created by exposure to those levels. The environmental chemistry data would also indicate whether the environmental behavior of a pesticide or its residues could lead to loss of land and water resources or could adversely affect important microbial populations.

Subpart E contains requirements for data on the toxicity of pesticides to various wildlife and aquatic organisms. EPA would use these data to evaluate the effects on nontarget species which potentially could result from use of a pesticide product. EPA has chosen to require testing of a few species which are representative of the vast number of species likely to be exposed to a pesticide. Subpart E also includes a wide variety of tests which are designed to evaluate the diverse ways in which a pesticide could affect fish or wildlife species. Virtually all pesticides would be tested for short term toxic effects resulting from high levels of exposure. Many others would be examined for their effects on a species' reproduction. Finally, some chemicals would be studied under actual use conditions in the field, and all indications of toxicity would be carefully evaluated.

Subpart F contains tests designed to predict the harmful, or toxic, effects which pesticides might have on humans. The guidelines contain a series of data requirements based on animal testing which would evaluate a number of different toxic effects including: acute lethality by various routes of exposure; skin and eye irritation; nervous system effects; general toxicity from subchronic and lifetime exposure; oncogenic, teratogenic, mutagenic, and reproductive effects.

Appendix D contains a more detailed discussion of the benefits to be obtained or use of the data that the test results on data submissions under the proposed guidelines will provide.

IV. Incremental Cost of the Guidelines

The purpose of this section of the report is to provide basic cost data for the economic impact analysis reported in later sections of the report. Specifically, this section includes: (1) Unit cost estimate for each test/data requirement under current practice, guidelines and difference, i.e., incremental cost; (2) the number of times that such unit costs would be incurred and aggregate costs if all products now with registrations were reregistered, which is not expected to be the case (33,750 registrations involving 1,460 active ingredients are now on file); (3) the number of times that unit costs would be incurred and aggregate costs per year for new registrations (2,800 registrations, involving 15 new active ingredients, assuming one manufacturing-use product per new active ingredient.[1]

A. Product Chemistry

Table 1 provides a compilation of the number and cost of tests or data submissions which would be required by the product chemistry guidelines, and under current practice, for comparison. The incremental costs for all tests or submissions are calculated to be $89.9 million. Under the product chemistry guidelines, the Agency would receive a precise statement of the composition of the product, including active ingredients, intentionally added inerts, and impurities. The type of data required in the proposed guidelines for product chemistry is not greatly different from current practice. New areas for which data are now required that would reflect increased costs include a theoretical discussion of the components which either occur or might occur in a product, and a certification of the limits of the proportions for which the components in the product will likely be found. The requirement that the results of a sample analysis be submitted has been increased by requiring that five separate samples be analyzed as compared to one in current practice. This extension, along with the new items, account for approximately $50 million of the $90 million incremental costs. A more detailed description of the manufacturing process for formulations adds $23 million because of the large number of products involved.

Table 2 provides estimates of the costs of providing data on product chemistry under current practice and the guidelines for an average new active ingredient. The cost per active ingredient is $10,013 higher under the guidelines than under current practice. This represents a 17.5 percent increase in cost over current practice. Therefore, under the assumption that products containing 15 new active ingredients will be registered each year, the increase in total cost would be $150,195 per year for the requirements associated with the active ingredients.

Table 3 provides estimates of the costs of providing product chemistry data for a new formulation under current practice and the guidelines. These data are in addition to data required for the active ingredient. The incremental cost of the product chemistry data requirements of the proposed guidelines for a new formulated product would be $2,250 in comparision to current practice. This increases the cost for product chemistry by 75 percent current practice. Assuming these data requirements are imposed on the expected 2,800 new formulations per year, a cost increase of $6.3 million each year would result, in addition to costs of meeting the requirements associated with the active ingredient.

Appendix D contains a tabular presentation of the Agency's rationale for changing the data requirements for those of current practice to those in the proposed guidelines.

B. Environmental Chemistry

The environmental chemistry guidelines describe test requirements which would generate data on the fate of pesticide in the environment. The proposed guidelines for environmental

[1] From 1967 to 1975, the number of new registrations containing new active ingredients averaged 15 per year (range of 5 to 20, with no strong trend). In the past 4 years, the Agency has issued 11,140 new registrations, or about 2,800 per year.

chemistry reflect the current requirements in that area. Therefore, as shown in table 4, there are no incremental costs attributable to the proposed guidelines as compared to current practice. The products affected and the cost of performing a particular test are the same under current practice and the guidelines for environmental chemistry.

Under the asumption that the percentage of new active ingredients and new formulated products requiring a particular test would be the same as for currently registered ingredients and products, tables 5 and 6 compute the cost of the environmental chemistry requirements for new active ingredients and new formulated products, respectively. Again, there are no incremental costs attributable to the proposed guidelines.

Appendix D contains a tabular presentation of the Agency's rationale for changing the data requirements from those for current practice to those in the proposed guidelines.

C. SPECIAL CHEMISTRY REQUIREMENTS

Tolerance Clearance—A pesticide whose use may result in residues in food or feed is required to have a tolerance or an exemption from a tolerance. This requirement is established in the Federal, Food, Drug, and Cosmetic Act. There would be no economic impacts attributable to the guidelines as a result of this requirement. The guidelines merely note that residue data may be required to support the application for a new use of pesticide.

Pesticides on Tobacco—Tobacco, unlike food or feed crops, does not require a tolerance or exemption from tolerance. Data requirements have been developed to determine human exposure to pesticide residues which may result from the pesticide use on tobacco. The special chemistry guidelines codify these requirements. Table 7 provides estimates of the number and cost of tests to be required during reregistration by the guidelines. Since the guidelines reflect the Agency's current practice in this area, the number and cost of tests are the same under both current practice and the guidelines. As can be seen in the table, there would be no incremental costs attributable to the guidelines as compared to current practice.

Given the assumption that new products will be similar to currently registered products, table 8 shows the percentage of active ingredients requiring data under these special chemistry guidelines. The cost of data for an average new active ingredient is computed for both current practice and the guidelines. Again, there would be no incremental costs attributable to the guidelines as compared to current practice.

Appendix D contains a tabular presentation of the Agency's rationale for changing the data requirements from those for current practice to those in the proposed guidelines.

D. FISH AND WILDLIFE HAZARD

The guidelines subpart E Hazard Evaluation: Wildlife and Aquatic Organisms describes test requirements which would generate data to evaluate the hazards that pesticides may pose to birds, wildlife, fish, and other aquatic organisms. The standards for conducting the required tests described in the guidelines are similar to the standards used under current practice. The guidelines would, however, require certain data more frequently than under current practice. Table 9 provides estimates for the number and costs of the tests required for reregistration under current practice and the guidelines. For reregistration the incremental costs attributable to the guidelines would be $11.4 million for the fish and wildlife hazard requirements, given the assumptions of this report.

Table 10 provides estimates of the percentage of new active ingredients which would require the tests as described in the guidelines. For comparison, estimates are provided under current practice also. For a new active ingredient it would, on the average, cost $3,449 more to submit the fish and wildlife data required under the guidelines than under current practice. Under the assumption that 15 new manufacturing-use products would be registered each year, the incremental annual cost for new active ingredients under the proposed guidelines would be $51.7 thousand.

Table 1

Number and Cost of Tests/Submissions for Product Chemistry:
Comparison of Current Practice with Proposed Guidelines
Applied to Reregistration

Proposed Guidelines Requirement	Material[1]	Number Tests/Submissions		Cost Per Test/Submission		Totals		Difference
		Current Practice	Guidelines	Current Practice (Dollars)	Guidelines (Dollars)	Current Practice ($000's)	Guidelines ($000's)	($000's)
Description of Manufacturing Process	MUP	1,610	1,610 + 800[2]	250	1,000 + 100[2]	403	1,690	1,287
Description of Manufacturing Process	Form	31,195	31,195	250	1,000	7,799	31,195	23,396
Discussion of Unintentional Ingredients	MUP	0	1,610 + 800[2]	0	100 + 25[2]	0	181	181
Discussion of Unintentional Ingredients	Form	0	31,195	0	100	0	3,120	3,120
Product Analytical Methods	MUP	1,610	1,610 + 800[2]	55,000	60,000 + 2,000[2]	88,550	98,200	9,650
Product Analytical Methods	Form	2,700	2,700	10,000	10,000	27,000	27,000	0
Product Analytical Methods Formulated Products Produced by Integrated System	Form	100	100	55,000	60,000	5,500	6,000	500
Product Analytical Data	MUP	1,610	1,610 + 800[2]	300	1,600 + 1,600[2]	483	3,856	3,373
Product Analytical Data	Form	31,195	31,195	300	1,600[3]	9,359	49,912	40,553
Declaration/Certif. of Limits	MUP	0	1,610	0	100[3]	0	161	161
Declaration/Certif. of Limits	Form	31,195	31,195	0	100[3]	0	3,120	3,120
Physical/Chemical Properties	MUP	1,610	1,610 + 800[2]	1,500	1,600 + 1,600[2]	2,415	3,856	1,441
Physical/Chemical Properties	Form	31,195	31,195	1,500	1,600	46,793	49,793	3,119
						188,302	278,203	89,901

1/ MUP - manufacturing-use-product
Form - formulated product

2/ For product chemistry it is assumed that there will be 1,610 materials for which data will be needed. This number includes the 1,463 active ingredients plus an additional 10% added to account for those materials which may have more than one distinctive form of the manufacturing-use products which are technical grade. It is further assumed that there are 800 registrations (containing one or more of the 1,610 materials) which are modified technicals or concentrates. These products would require additional data. The cost figures are therefore given in terms of the cost for the material included in the 1,610 materials plus the additional cost if the registration is one of the 800 modified technicals or concentrates.

3/ Data for this submission would be generated under Product Analytical Methods and Product Analytical Data.

Note: Not all existing products with registrations will be reregistered. For this reason, the total costs in the above table are not a good indication of total projected future costs. Such projections are provided later in this report, i.e., Section IV.

Table 2

Comparison of the Cost of Product Chemistry Requirements for New Active Ingredients 2/ Under Current Practice and Proposed Guidelines

Proposed Guidelines Requirement	Percent 1/ of A.I.'s Requiring Data Submission		Cost of Data Submission		Cost Per Average A.I. 2/		
	Current (%)	Guidelines (%)	Current ($)	Guidelines 3/ ($)	Current ($)	Guidelines ($)	Difference ($)
Description of Manufacturing Process	100.0	100.0	250	1,050	250	1,050	800
Discussion of Unintentional Ingredients	0.0	100.0	0	113	0	113	113
Product Analytical Methods	100.0	100.0	55,000	61,000	55,000	61,000	6,000
Product Analytical Data	100.0	100.0	300	2,400	300	2,400	2,100
Declaration/Certification of Limits	0.0	100.0	0	100	0	100	100
Physical/Chemical Properties	100.0	100.0	1,500	2,400	1,500	2,400	900
				Totals	57,050	67,063	10,013

1/ The percentage of new A.I.'s requiring a test is assumed to be the same as for the A.I.'s in currently registered products.

2/ The product registered would be a manufacturing-use product or formulation. The material requiring test or data submission could be a manufacturing-use product or form of an active ingredient.

3/ These costs are weighted to reflect the fact that some manufacturing-use products are different from the technical grade of the active ingredient and hence additional data may be needed.

Table 3

Comparison of the Cost of Product Chemistry Requirements for New Formulated Products Under Current Practice and Proposed Guidelines

Proposed Guidelines Requirement	Percent 1/ of A.I.'s Requiring Data Submission		Cost of Data Submission		Cost Per Average A.I.		
	Current (%)	Guidelines (%)	Current ($)	Guidelines ($)	Current ($)	Guidelines ($)	Difference ($)
Description of Manufacturing Process	100.0	100.0	250	1,000	250	1,000	750
Discussion on Unintentional Ingredients	0.0	100.0	0	100	0	100	100
Product Analytical Methods	9.0	9.0	10,000	10,000	900	900	0
Product Analytical Data	100.0	100.0	300	1,600	300	1,600	1,300
Physical/Chemical Properties	100.0	100.0	1,500	1,600	1,500	1,600	100
				Totals	2,950	5,200	2,250

1/ The percentage of new formulations requiring a test is assumed to be the same as for the formulations currently registered.

Table 4

Number and Cost of Tests for Environmental Chemistry:
Comparison of Current Practice with Proposed Guidelines
Applied to Reregistration

Proposed Guidelines Requirement	Material Tested[1]	Number of Tests		Cost Per Test		Totals		Difference ($000's)
		Current Practice	Guidelines	Current Practice ($)	Guidelines ($)	Current Practice ($000's)	Guidelines ($000's)	
Hydrolysis	Tech[5]	1,463	1,463	12,000	12,000	17,556	17,556	0
Photodegradation	Tech[5]	1,045	1,045	20,000	20,000	20,900	20,900	0
Aerobic Soil Metabolism	Tech[5]	975	975	29,000	29,000	28,275	28,275	0
Anaerobic Soil Metabolism	Tech[5]	975	975	2,900[2]	2,900[2]	2,828	2,828	0
Anaerobic Aquatic Metabolism	AI	125	125	25,000	25,000	3,125	3,125	0
Aerobic Aquatic Metabolism	AI	125	125	25,000	25,000	3,125	3,125	0
Effects of Microbes on Pesticides	Tech[5]	980	980	28,000	28,000	27,440	27,440	0
Effects of Pesticides on Microbes	Tech	980	980	28,000	28,000	27,440	27,440	0
Activated Sludge Metabolism	AI	1,000	1,000	15,000	15,000	15,000	15,000	0
Leaching	Tech[5]	995	995	10,000	10,000	9,950	9,950	0
Volatility	Tech	100	100	7,500	7,500	750	750	0
Adsorption/Desorption	Tech[5]	1,010	1,010	7,500	7,500	7,575	7,575	0
Water Dispersal	Form	188	188	16,000	16,000	3,008	3,008	0
Field Dissipation-Soil	Form	1,363	1,363	29,000	29,000	35,527	35,527	0
Field Dissipation-Water	Form	150	150	21,000	21,000	3,150	3,150	0
Forest Dissipation	Form	56	56	50,000	50,000	2,800	2,800	0
Combination and Tank Mix	Form	150	150	9,000[3]	9,000[3]	1,350	1,350	0
Long Term Accumulation Study	Form	155	155	20,000[3]	20,000[3]	3,100	3,100	0
Rotational Crop	AI	500	500	20,000[4]	20,000[4]	10,000	10,000	0
Irrigated Crops	Form	50	50	20,000	20,000	1,000	1,000	0
Fish Accumulation	Tech[5]	905	905	20,000	20,000	18,100	18,100	0
						241,999	241,999	0

1/ Tech - technical grade of active ingredient
AI - active ingredient which may be radioactive-labeled
Form - representative formulated product
2/ In addition to aerobic soil metabolism
3/ In addition to Field-Dissipation-Soil Test
4/ Assume 4 crops
5/ These tests may also be conducted with a radioactive-labeled active ingredient.

Note: Not all existing products with registrations will be reregistered. For this reason, the total costs in the above table are not a good indication of total projected future costs. Such projections are provided later in this report, i.e., Section IV.

Table 5

Comparison of the Cost of Environmental Chemistry Requirements for New Active Ingredients[2/] Under Current Practice and Proposed Guidelines

Proposed Guidelines Requirement	Percent[1/] of A.I.'s[2/] Requiring Test		Cost of Test		Cost Per Average A.I.[2/]		
	Current (%)	Guidelines (%)	Current ($)	Guidelines ($)	Current ($)	Guidelines ($)	Difference ($)
Hydrolysis	100.0	100.0	12,000	12,000	12,000	12,000	0
Photodegradation	71.0	71.0	20,000	20,000	14,200	14,200	0
Aerobic Soil Metabolism	67.0	67.0	29,000[3/]	29,000[3/]	19,430	19,430	0
Anaerobic Soil Metabolism	67.0	67.0	2,900[3/]	2,900[3/]	1,943	1,943	0
Anaerobic Aquatic Metabolism	8.5	8.5	25,000	25,000	2,125	2,125	0
Aerobic Aquatic Metabolism	8.5	8.5	25,000	25,000	2,125	2,125	0
Effects of Microbes on Pesticides	67.0	67.0	28,000	28,000	18,760	18,760	0
Effects of Pesticides on Microbes	67.0	67.0	28,000	28,000	18,760	18,760	0
Activated Sludge Metabolism	68.0	68.0	15,000	15,000	10,200	10,200	0
Leaching	68.0	68.0	10,000	10,000	6,800	6,800	0
Volatility	6.8	6.8	7,500	7,500	510	510	0
Adsorption/Desorption	69.0	69.0	7,500	7,500	5,175	5,175	0
Rotational Crop	34.0	34.0	20,000	20,000	6,800	6,800	0
Fish Accuumulation	62.0	62.0	20,000	20,000	12,400	12,400	0
				Totals	131,228	131,228	0

1/ The percentage of new A.I.'s requiring a test is assumed to be the same as for the A.I.'s in currently registered products.
2/ The product registered would be a manufacturing-use product or formulation. The material used in the testing would be either technical grade of the active ingredient, the active ingredient, or radiolabelled active ingredient.
3/ In addition to aerobic soil metabolism test.

Table 6

Comparison of the Cost of Environmental Chemistry Requirements for New Formulated Products Under Current Practice and Proposed Guidelines

Proposed Guidelines Requirement	Percent[1/] of Products Requiring Test		Cost of Test		Cost Per Average Product		
	Current (%)	Guidelines (%)	Current ($)	Guidelines ($)	Current ($)	Guidelines ($)	Difference ($)
Water Dispersal	0.6	0.6	16,000	16,000	96	96	0
Field Dissipation-Soil	4.4	4.4	29,000	29,000	1,276	1,276	0
Field Dissipation-Water	0.5	0.5	21,000	21,000	105	105	0
Forest Dissipation	0.1	0.1	50,000	50,000	50	50	0
Combination and Tank Mix	0.5	0.5	9,000	9,000	45	45	0
Long Term Study	0.5	0.5	20,000[2/]	20,000[2/]	100	100	0
Irrigated Crops	0.2	0.2	20,000	20,000	40	40	0
				Totals	1,712	1,712	0

1/ The percent of new formulations requiring a test is assumed to be the same as for currently registered formulations.
2/ In addition to Field Dissipation-Soil Test.

Table 7

Number and Costs of Tests for Special Chemistry:
Comparison of Current Practice with Proposed Guidelines
Applied to Reregistration

Proposed Guidelines Requirement	Material Tested[1/]	Number of Tests		Cost Per Test		Totals		Difference ($000's)
		Current Practice	Guidelines	Current Practice ($)	Guidelines ($)	Current Practice ($000's)	Guidelines ($000's)	
Residue Analysis on Green Tobacco	A.I.	21	21	50,000	50,000	1,050	1,050	0
Residue Analysis on Dry Tobacco	A.I.	3	3	20,000[2/]	20,000[2/]	60[2/]	60[2/]	0
Residue Analysis in Smoke Including Pyrolysis Products	A.I.	1	1	80,000[3/]	80,000[3/]	80[3/]	80[3/]	0
						1,190	1,190	0

1/ A.I. - Active Ingredient
2/ In addition to residue analysis on green tobacco
3/ In addition to residue analysis on green and dry tobacco

Note: Not all existing products with registrations will be reregistered. For this reason, the total costs in the above table are not a good indication of total projected future costs. Such projections are provided later in this report, i.e., Section IV.

Table 8

Comparison of the Cost of Special Chemistry Requirements for Active Ingredients[2/]
Under Current Practice and Proposed Guidelines

Proposed Guidelines Requirement	Percent[1/] of A.I.'s[2/] Requiring Test		Cost of Test		Cost Per Average A.I.[2/]		
	Current (%)	Guidelines (%)	Current ($)	Guidelines ($)	Current ($)	Guidelines ($)	Difference ($)
Residue Analysis on Green Tobacco	1.4	1.4	50,000	50,000	700	700	0
Residue Analysis on Dry Tobacco	0.2	0.2	20,000	20,000	40	40	0
Residue Analysis in Smoke Including Pyrolysis Products	0.07	0.07	80,000	80,000	56	56	0
				Totals	796	796	0

1/ The percentage of new active ingredients requiring a test is assumed to be the same as for the active ingredients in currently registered products.
2/ The product registered would be a manufacturing use product or a formulation. The material used in testing would likely be a radio-labelled active ingredient.

Table 9

Number and Cost of Tests for Fish and Wildlife Hazard:
Comparison of Current Practice with Proposed Guidelines
Applied to Reregistration

Proposed Guidelines Requirement	Material Tested 1/	Number of Tests		Cost Per Test		Totals		Difference ($000's)
		Current Practice	Guidelines	Current Practice ($)	Guidelines ($)	Current Practice ($000's)	Guidelines ($000's)	
Avian Single Dose LD50	Tech	1,463	1,463	1,500	1,500	2,195	2,195	0
Avian Dietary LC50	Tech	1,463	1,463	2,000	2,000	2,926	2,926	0
Mammalian Acute Toxicity	Tech	60	95	1,000	1,000	60	95	35
Avian Reproduction	Tech	112	167	24,000	24,000	2,688	4,008	1,320
Small Pen Study	Form	61	126	12,000	12,000	732	1,512	780
Large Pen Study	Form	15	60	25,000	25,000	375	1,500	1,125
Field Test	Form	27	29	50,000	50,000	1,350	1,450	100
Fish Acute LC50	Tech	1,463	1,463	750	750	1,097	1,097	0
Fish Acute LC50	Form	236	2,502	750	750	177	1,877	1,700
Acute Toxicity to Aquatic Invertebrates	Tech	1,463	1,463	360	360	527	527	0
	Form	236	2,502	360	360	85	901	816
Acute Toxicity to Estuarine & Marine Organisms	Tech	198	270	1,450	1,800	287	486	199
Acute Toxicity to Estuarine & Marine Organisms	Form	220	502	1,450	1,800	319	904	585
Fish Reproduction or Invertebrate Life-cycle	Tech	185	185	11,500	11,500	2,128	2,128	0
Fish Embryo-larvae Test	Tech	39	92	40,000	40,000	1,560	3,680	2,120
Aquatic Organism Toxicity & Residue Study	Tech	18	90	20,000	20,000	360	1,800	1,440
Simulated or Actual Field Testing for Aquatic Organisms	Form	64	70	200,000	200,000	12,800	14,000	1,200
						29,666	41,086	11,420

1/ Tech - Technical Grade of Active Ingredient
Form - Formulated Product

Note: Not all existing products with registrations will be reregistered. For this reason, the total costs in the above table are not a good indication of total projected future costs. Such projections are provided later in this report, i.e., Section IV.

Table 10

Comparison of the Cost of Fish and Wildlife Hazard Requirements for New Active Ingredients[2/] Under Current Practice and Proposed Guidelines

Proposed Guidelines Requirement	Percent[1/] of A.I.'s[2/] Requiring Test		Cost of Test		Cost Per Average A.I.[2/]		
	Current (%)	Guidelines (%)	Current ($)	Guidelines ($)	Current ($)	Guidelines ($)	Difference ($)
Avian Single Dose LD50	100.0	100.0	1,500	1,500	1,500	1,500	0
Avian Dietary LC50	100.0	100.0	2,000	2,000	2,000	2,000	0
Mammalian Acute Toxicity	4.1	6.5	1,000	1,000	41	65	24
Avian Reproduction	7.7	11.4	24,000	24,000	1,848	2,736	888
Fish Acute LC50	100.0	100.0	750	750	750	750	0
Acute Toxicity to Aquatic Invertebrates	100.0	100.0	360	360	360	360	0
Acute Toxicity to Estuarine & Marine Organisms	13.5	18.5	1,450	1,800	196	333	137
Fish Reproduction or Invertebrate Life-Cycle	12.7	12.7	11,500	11,500	1,460	1,460	0
Fish Life Cycle Test	2.7	6.2	40,000	40,000	1,080	2,480	1,400
Aquatic Organism Toxicity & Residue Study	1.2	6.2	20,000	20,000	240	1,240	1,000
				Totals	9,475	12,924	3,449

1/ The percentage of new active ingredients requiring a test is assumed to be the same as for the active ingredients in currently registered products.

2/ The product registered would be a manufacturing-use product or formulated product. The material used in the testing would be a technical grade of the active ingredient.

Table 11

Comparison of the Cost of Fish and Wildlife Hazard Requirements for New Formulated Products Under Current Practice and Proposed Guidelines

Proposed Guidelines Requirement	Percent[1/] of Products Requiring Test		Cost of Test		Cost Per Average Product		
	Current (%)	Guidelines (%)	Current ($)	Guidelines ($)	Current ($)	Guidelines ($)	Difference ($)
Small Pen Study	0.2	0.4	12,000	12,000	24	48	24
Large Pen Study	0.05	0.2	25,000	25,000	13	50	37
Field Test	0.087	0.093	50,000	50,000	44	47	3
Fish Acute LC50	0.8	8.0	750	750	6	60	54
Acute Toxicity to Estuarine & Marine Organisms	0.7	1.6	1,450	1,800	10	29	19
Acute Toxicity to Aquatic Invertebrates	0.8	8.0	360	360	3	29	26
Simulated or Actual Field Testing for Aquatic Organisms	0.21	0.22	200,000	200,000	420	440	20
				Totals	520	703	183

1/ The percentage of new formulated products requiring a test is assumed to be the same as for the currently registered products.

Table 12

Number and Cost of Tests for Human Hazard Evaluation:
Comparison of Current Practice with Proposed Guidelines
Applied to Reregistration

Proposed Guidelines Requirement	Material Tested	Number of Tests		Cost per Test		Total		
		Current Practice	Guidelines	Current Practice (Dollars)	Guidelines (Dollars)	Current Practice ($1,000's)	Guidelines ($1,000's)	Difference ($1,000's)
Acute Oral Toxicity	MUP	1,585	1,585	700	700	1,100	1,100	0
Acute Oral Toxicity	FP	31,140	31,140	700	700	21,798	21,798	0
Acute Oral Toxicity	DL	0	3,000	700	700	0	2,100	2,100
Acute Oral Toxicity	AI	0	400	700	700	0	280	280
Acute Dermal Toxicity	MUP	1,585	1,585	650	1,300	1,030	2,060	1,030
Acute Dermal Toxicity	FP	31,140	31,140	650	1,300	20,241	40,482	20,241
Acute Dermal Toxicity	AI	0	400	650	1,300	0	845	845
Acute Inhalation Toxicity	MUP	220	220	750	1,500	165	330	165
Acute Inhalation Toxicity	FP	23,400	23,400	750	1,500	17,550	35,100	17,550
Acute Inhalation Toxicity	AI	2	2	750	1,500	2	3	1
Primary Eye Irritation	MUP	1,595	1,595	550	550	877	877	0
Primary Eye Irritation	FP	30,885	30,885	550	550	16,987	16,987	0
Primary Dermal Irritation	MUP	1,595	1,595	400	400	638	638	0
Primary Dermal Irritation	FP	30,885	30,885	400	400	12,354	12,354	0
Dermal Sensitization	MUP	16	1,610	400	400	6	644	638
Dermal Sensitization	FP	15,600	15,600	400	400	6,240	6,240	0
Acute Delayed Neurotoxicity	AI	90	100	5,000	5,000	450	500	50
Subchronic Oral Dosing	AI	354	354	75,000	75,000	26,550	26,550	0
21-day Dermal Toxicity	AI	300	400	20,000	20,000	6,000	8,000	2,000
90-day Dermal Toxicity	AI	0	15	25,000	25,000	0	375	375
Subchronic Inhalation Toxicity	AI	5	167	12,000	120,000	60	20,040	19,980
Subchronic Neurotoxicity	AI	0	6	12,000	12,000	0	72	72
Chronic Feeding	AI	344	354	75,000	150,000 [2/]	25,800	53,100	27,300
Oncogenicity	AI	460	460	80,000	162,000 [2/]	36,800	74,520	37,720
Teratogenicity	AI	344	490	9,500	30,000	3,268	14,700	11,432
Reproduction	AI	344	490	30,000	30,000	10,320	14,700	4,380
Mutagenicity	AI [1/]	344	490	55,000	55,000	18,920	26,950	8,030
Metabolism-Single Dose	AI [1/]	172	500	4,000	4,000	688	2,000	1,312
Metabolism-Multiple Dose	AI [1/]	172	344	10,000	10,000	1,720	3,440	1,720
					Totals	229,564	386,785	157,221

1/ Radiolabeled A.I. is normally required

2/ In addition to cost of Chronic Feeding.

Note: Not all existing products with registrations will be reregistered. For this reason, the total costs in the above table are not a good indication of total projected future costs. Such projections are provided later in this report, i.e., Section IV.

Table 13

Comparison of the Cost of Human Hazard Evaluation Requirements for New Active Ingredients[2/] Under Current Practice and Proposed Guidelines

	Percent[1/] of AI's[2/] Requiring Data Submission		Cost of Testing		Cost per Average Product		
	Current	Guidelines	Current ($)	Guidelines ($)	Current ($)	Guidelines ($)	Difference ($)
Acute Oral Toxicity [3/]	98	98	700	875	686	858	172
Acute Dermal Toxicity [3/]	98	98	650	1,625	637	1,593	956
Acute Inhalation Toxicity	15	15	750	1,500	113	225	112
Primary Eye Irritation	99	99	550	550	545	545	0
Primary Dermal Irritation	99	99	400	400	396	396	0
Dermal Sensitization	1	100	400	400	4	400	396
Acute Delayed Neurotoxicity	6	7	5,000	5,000	300	350	50
Subchronic Oral Dosing	24	24	75,000	75,000	18,000	18,000	0
21-Day Dermal Toxicity	21	27	20,000	20,000	4,200	5,400	1,200
90-Day Dermal Toxicity	0	1	25,000	25,000	0	250	250
Subchronic Inhalation Toxicity	1	11	12,000	120,000	120	13,200	13,080
Subchronic Neurotoxicity	0	1	12,000	12,000	0	120	120
Chronic Feeding	23	24	75,000	150,000	17,250	36,000	18,750
Oncogenicity	31	31	80,000	162,000	24,800	50,220	25,420
Teratogenicity	23	33	9,500	30,000	2,185	9,900	7,715
Reproduction	23	33	30,000	30,000	6,900	9,900	3,000
Mutagenicity	23	33	55,000	55,000	12,650	18,150	5,500
Metabolism-Single Dose	12	34	4,000	4,000	480	1,360	880
Metabolism-Multiple Dose	12	24	10,000	10,000	1,200	2,400	1,200
				Totals	90,466	169,267	78,801

1/ The percentage of active ingredients requiring a test is assumed to be the same as for the active ingredients in currently registered products.

2/ The product registered would be a manufacturing-use product or a formulated product. The material tested would be a form of the active ingredient.

3/ The cost figures for these tests are weighted to include an additional 25% for those active ingredients requiring additional testing where the manufacturing-use product differs from the technical grade of the active ingredient.

Table 14

Comparison of the Cost of Human Hazard Evaluation Requirements for New Formulated Products Under Current Practice and Proposed Guidelines

Proposed Guidelines Requirement	Percent of Products[1/] Requiring Test		Cost of Test		Cost per Average Product		
	Current	Guidelines	Current ($)	Guidelines ($)	Current ($)	Guidelines ($)	Difference ($)
Acute Oral Toxicity [2/]	99	99	700	770	693	762	69
Acute Dermal Toxicity	99	99	650	1,300	644	1,288	644
Acute Inhalation Toxicity	75	75	750	1,500	563	1,126	563
Primary Eye Irritation	99	99	550	550	545	545	0
Primary Dermal Irritation	99	99	400	400	396	396	0
Dermal Sensitization	50	50	400	400	200	200	0
				Totals	3,041	4,317	1,276

1/ The percentage of new formulated products requiring a test is assumed to be the same as for formulated products currently registered.

2/ The cost of this study is weighted to include an additional 10% for those products requiring additional testing on the use dilution.

Table 15

Total Data Cost of Guidelines Applied to Reregistration Broken Down by Components

Guidelines Section	Total Data Cost of Guidelines ($000's)	Incremental[1/] Data Cost of Guidelines ($000's)	Total Data Cost of Current Practice ($000's)	Value of Acceptable Data ($000's)	Cost to Meet Data Gaps ($000's)	Incremental Data Cost as Percent of Total Data Cost (%)	Cost of Current Practice as Percent of Total Data Cost (%)	Value of Acceptable Data as Percent of Total Data Cost (%)	Cost of Data Gaps as Percent of Total Data Cost (%)
Product Chemistry	278,203	89,901	188,302	13,910	174,392	32.3	67.7	5.0	62.7
Environmental Chemistry	241,999	0	241,999	12,100	229,899	0	100.0	5.0	95.0
Special Chemistry	1,190	0	1,190	119	1,071	0	100.0	10.0	90.0
Fish & Wildlife Hazard	41,086	11,420	29,666	8,217	21,449	27.8	72.2	20.0	52.2
Human and Domestic Animal Hazard	386,785	157,221	229,564	116,035	113,429	40.7	59.3	30.0	29.4
Total	949,263	258,542	690,721	150,381	540,240	27.2	72.8	15.8	57.0

1/ Incremental is defined as cost of guidelines minus cost of current practice

Note: Not all existing products with registrations will be reregistered. For this reason, the total costs in the above table are not a good indication of total projected future costs. Such projections are provided later in this report, i.e., Section IV.

Table 16

Total Data Costs for Typical New Registrations Under Current Practice and the Guidelines

Guidelines Section		Total Data Cost: Current Practice ($)	Total Data Cost: Guidelines ($)
Product Chemistry	AI	57,050	67,063
	Formulation	2,950	5,200
Environmental Chemistry	AI	131,228	131,228
	Formulation	1,712	1,712
Special Chemistry	AI	796	796
Fish & Wildlife Hazard	AI	9,475	12,924
	Formulation	520	703
Human & Domestic Animal Hazard	AI	90,466	169,267
	Formulation	3,041	4,317
Total	AI	289,015	381,278
	Formulation	8,223	11,932

Table 17

Summary of Annual Cost for Guidelines and Current Practice Applied to Reregistration Under the Generic Standards Concept for Scenario #1

Years	Tech. A.I. Standards Issued		A.I.'s Committed to Registration				A.I.'s Withdrawn by Registrant			
			Current		Guidelines		Current		Guidelines	
	New	Total	New	Total	New	Total	New	Total	New	Total
1979	50	50	--	--	--	--	--	--	--	--
1980	50	100	50	50	50	50	0	0	0	0
1981	50	150	50	100	50	100	0	0	0	0
1982	50	200	50	150	45	145	0	0	5	5
1983	50	250	45	195	40	185	5	5	10	15
1984	50	300	40	235	40	225	10	15	10	25
1985	50	350	40	275	40	265	10	25	10	35
1986	50	400	40	315	35	300	10	35	15	50
1987	50	450	35	350	35	335	15	50	15	65
1988	50	500	35	385	30	365	15	65	20	85
1989	50	550	35	420	30	395	15	80	20	105

Additional [1] Data Cost [2] Per A.I. [3] for A.I.'s Under Standards Issued in Years:

Years	(T-1)		(T-2)		(T-3)		(T-4)		Total Annual Costs		
	Current	Guidelines	Current	Guidelines	Current	Guidelines	Current	Guidelines	Current ($000's)	Guidelines ($000's)	Difference ($000's)
	$000's										
1979	0	0	0	0	0	0	0	0	0	0	0
1980	175	280	0	0	0	0	0	0	8,750	14,000	5,250
1981	175	280	175	280	0	0	0	0	17,500	28,000	10,500
1982	175	280	175	280	175	280	0	0	26,250	40,600	14,350
1983	150	240	175	280	175	280	175	280	33,000	50,200	17,200
1984	150	240	150	240	175	280	175	280	31,375	45,800	14,425
1985	150	240	150	240	150	240	175	280	28,625	41,400	12,775
1986	113	150	150	240	150	240	150	240	23,270	34,050	10,780
1987	113	150	113	150	150	150	150	240	20,475	26,100	5,625
1988	113	150	113	150	113	150	150	240	18,430	24,600	6,170
1989	63	84	113	150	113	150	113	150	14,635	17,250	2,615

[1] The cost figures have been adjusted for data meeting the requirements of the guidelines previously submitted to the Agency.
[2] See Appendix C for details on derivations of costs.
[3] The cost figures include the cost of data that must be submitted on formulations containing the active ingredient. Based upon the cost analysis it is estimated that data on formulations would add 25% and 40% to the cost of data on active ingredients under current practice and the guidelines respectively. The costs are assumed to be incurred linearly over 4 years.

Table 18

Summary of Annual Cost for Guidelines and Current Practice Applied to Reregistration Under the Generic Standards Concept for Scenario #2

Years	Early Notifications Issued	Tech. A.I. Standards Issued	A.I.'s Committed to Registration				A.I.'s Withdrawn by Registrant			
			Current		Guidelines		Current		Guidelines	
			New	Total	New	Total	New	Total	New	Total
1979	100	50								
1980	100	50	100	100	100	100	0	0	0	0
1981	100	50	95	195	85	185	5	5	15	15
1982	100	50	80	275	80	265	20	25	20	35
1983	100	50	75	350	70	335	25	50	30	65
1984		50	70	420	60	395	30	80	40	105
1985		50	30	430	30	425	20	100	20	125
1986		50	30	480	25	450	20	120	25	150
1987		50	30	510	25	475	20	140	25	175
1988		50	25	535	25	500	25	165	25	200
1989		50	25	560	25	525	25	190	25	225

Additional [1] Data Cost [2] Per A.I. [3] for A.I.'s Under Standards for Notifications Issued in Years·

Years	(T-1)		(T-2)		(T-3)		(T-4)		Total Annual Costs		
	Current	Guidelines	Current	Guidelines	Current	Guidelines	Current	Guidelines	Current ($000's)	Guidelines ($000's)	Difference ($000's)
	$000's										
1979									0	0	0
1980	175	280	0	0	0	0	0	0	17,500	28,000	10,500
1981	163	260	175	280	0	0	0	0	32,985	50,100	17,115
1982	150	240	163	260	175	280	0	0	44,985	69,300	24,315
1983	113	150	150	240	163	260	175	280	53,460	79,800	26,340
1984	88	117	113	150	150	240	163	260	42,120	58,820	16,700
1985	63	84	88	117	113	150	150	240	28,525	39,240	10,715
1986	63	84	63	84	88	117	113	150	18,415	22,140	3,725
1987	50	84	63	84	63	84	88	117	11,440	13,740	2,300
1988	50	84	50	84	63	84	63	84	6,530	8,820	2,290
1989	50	84	50	84	50	84	63	84	5,890	8,400	2,510

[1] The cost figures have been adjusted for data meeting the requirements of the guidelines previously submitted to the Agency.
[2] See Appendix C for details on derivations of costs.
[3] The cost figures include the cost of data that must be submitted on formulations containing the active ingredient. Based upon the cost analysis it is estimated that data on formulations would add 25% and 40% to the cost of data on active ingredients under current practice and the guidelines respectively. The costs are assumed to be incurred linearly over 4 years.

Table 19 Projections of Costs to Complete Reregistration Under Scenarios #1 and #2

	No. A.I.'s	Costs				
		Current Practice	Guide-lines	Incre-mental	Acceptable Data	Projected Actual Outlays
		$ Millions				
Scenario #1:						
Products now in production						
1. Reregistered during first 10 years	395	281	381	100	59	322
2. Not reregistered during first 10 years	105	75	101	26	16	0
3. Subtotal (10 years)	500	356	482	126	75	322
4. Remainder to be reregistered or not reregistered later	500[1/]	243	352	109	50	151[1/]
5. Subtotal	1,000	599	834	235	125	473
6. Products not now in production (Assumed to not be reregistered)	460	92	115	24	25	0
7. Grand Total	1,460	691	949	259	150	473
Scenario #2:						
Products now in production						
1. Reregistered during first 10 years	525	332	446	114	70	376
2. Not reregistered during first 10 years	225	145	212	67	33	0
3. Subtotal (10 years)	750	477	658	181	103	376
4. Remainder to be reregistered or not reregistered later	250[2/]	122	176	54	22	97[2/]
5. Subtotal	1,000	599	834	235	125	473
6. Products not now in production (Assumed to not be reregistered)	460	92	115	24	25	0
7. Grand Total	1,460	691	949	259	150	473

1/ Assumption made is that 250 of 500 A.I.'s in this group will eventually be reregistered.
2/ Assumption made is that 120 of 250 A.I.'s in this group will eventually be reregistered.

Table 20

Projected Annual Costs of Meeting Guidelines Requirements Under Two Alternative Registration Scenarios, 1980-89, 1977 Prices

Registration Scenario & Type of Costs	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
	$ millions									
Scenario #1 (50 Generic Stds/Yr)										
Reregistration										
Incremental	5	11	14	17	14	13	11	6	6	3
Data Gaps	9	18	26	33	31	29	23	20	18	15
Total	14	29	40	50	45	42	34	26	24	18
New Registrations										
Incremental	12	12	12	12	12	12	12	12	12	12
Current Requirements	27	27	27	27	27	27	27	27	27	27
Total	39	39	39	39	39	39	39	39	39	39
All Registrations										
Incremental Only	17	23	26	29	26	25	23	18	18	15
Data Gaps/Current Requirements	36	45	53	60	58	56	50	47	45	42
Total	53	68	79	89	84	81	73	65	63	57
Scenario #2 (50 Generic Stds/Yr with early notification)										
Reregistration										
Incremental	10	17	24	26	17	11	3	2	2	2
Data Gaps	18	33	45	53	42	28	18	11	7	6
Total	28	50	69	79	59	39	21	13	9	8
New Registrations										
Incremental	12	12	12	12	12	12	12	12	12	12
Current Requirements	27	27	27	27	27	27	27	27	27	27
Total	39	39	39	39	39	39	39	39	39	39
All Registrations										
Incremental Only	22	29	36	38	29	23	15	14	14	14
Data Gaps/Current Requirements	45	60	72	80	69	55	45	38	34	33
Total	67	89	108	118	98	78	60	52	48	47

Table 21

Comparison of Projected Annual Costs of Meeting Guidelines Requirements with Domestic Pesticide Sales and with Pesticides Industry R&D, 1980-89 Projections, by Alternative Registration Scenario

Sales, Cost and Comparison	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
Domestic pesticide sales[1] ($ million)	2,381	2,476	2,575	2,678	2,785	2,897	3,013	3,133	3,259	3,389
Pesticides R&D costs[2] for domestic sales ($ million)										
Total	167	173	180	187	195	203	211	219	228	237
Registration-related[3]	48	50	52	54	56	58	60	63	65	68
Costs of Scenario #1										
Incremental only: cost ($ million)	17	23	26	29	26	25	23	18	18	15
Compared to sales (%)	0.7	0.9	1.0	1.1	0.9	0.9	0.8	0.6	0.6	0.4
Compared to total R&D (%)	10.2	13.3	15.0	15.5	13.9	12.3	10.9	8.2	7.9	6.3
Compared to registration-related R&D (%)	35.4	46.0	50.0	53.7	46.4	43.1	38.3	28.6	27.7	22.1
Including data gaps: cost ($ million)	53	68	79	89	84	81	73	65	63	57
Compared to sales (%)	2.3	2.8	3.1	3.3	3.0	2.8	2.4	2.1	1.9	1.7
Compared to total R&D (%)	31.7	39.3	43.9	47.6	43.1	39.9	34.6	29.7	27.6	24.1
Compared to registration-related R&D (%)	110.4	136.0	151.9	164.8	150.0	139.7	212.7	103.2	96.9	83.8
Costs of Scenario #2										
Incremental only: cost ($ million)	22	29	36	38	29	23	15	14	14	14
Compared to sales (%)	0.9	1.2	1.4	1.4	1.0	0.8	0.5	0.5	0.4	0.4
Compared to total R&D (%)	13.2	16.8	19.3	20.3	14.9	11.3	7.1	6.4	6.1	5.9
Compared to registration-related R&D (%)	45.8	58.0	69.2	70.4	51.8	39.7	25.0	22.2	21.5	20.6
Including data gaps: cost ($ million	67	89	108	118	98	78	60	52	48	47
Compared to sales (%)	2.8	3.6	4.2	4.4	3.5	2.7	2.0	1.7	1.5	1.4
Compared to total R&D (%)	40.1	51.5	60.0	63.1	50.3	38.4	28.4	23.7	21.1	19.8
Compared to registration-related R&D (%)	139.6	178.0	202.7	218.5	175.0	134.5	100.0	82.5	73.9	69.1

[1] Domestic sales = domestic sales of domestic production + sales of imports. Annual increase projected at 4% in real terms from a base of $2,035 million in 1976.

[2] Calculated as equivalent to 7% of domestic pesticide sales in corresponding years.

[3] Calculated as equivalent to 2% of domestic pesticide sales in corresponding years. Do not include additional R&D costs resulting from the guidelines.

Table 11 shows similar estimates for new formulations. The incremental cost of the guidelines for average new formulations registered each year would be $183 per product. The 2,800 new formulations translate into an incremental cost of $512,400 for the guidelines as compared to current practice.

Appendix D contains a tabular presentation of the Agency's rationale for changing the data requirements from those for current practice to those in the proposed guidelines.

E. HUMAN AND DOMESTIC ANIMAL HAZARD

The guidelines, subpart F Hazard Evaluation: Humans and Domestic Animals, are designed to generate data on the toxicity of a pesticide product. Data are required on both short term effects such as acute toxicities through various exposure paths and also long term or chronic exposure effects such as oncogenicity. Table 12 provides estimates for reregistration of the costs attributable to the guidelines and under current practice. The difference or incremental costs are calculated to be $157.2 million.

Table 13 shows that under the guidelines, human hazard data for an average new active ingredient would cost $78,801 more to submit than under the current practice. Under the assumption that products containing 15 new active ingredients would be registered each year, the incremental annual cost for new active ingredients would be $1.18 million.

Table 14 provides the estimates used to calculate the incremental cost of subpart F for average new formulations registered each year. The $1,276 per product and the estimated 2,800 new formulations translate into an incremental cost of $3.57 million for the guidelines as compared to current practice.

Appendix D contains a tabular presentation of the Agency's rationale for changing the data requirements from those for current practice to those in the proposed guidelines.

F. DATA RETENTION

Subpart B would require applicants and registrants to retain and make available raw data, specimens, and samples of test material concerning data submitted to the Agency. This requirement clarifies these existing requirements in 40 CFR 169.2(k)(1) pertaining to retention of research data. The guidelines specifically define the kinds of "research data" which must be kept and identify the period of retention.

The Office of Pesticide Programs has initiated a lab audit program to review data which served as the basis for the toxicology testing results submitted to the Agency. At one informal hearing on this subject, the finding was that labs, as a general practice, retain the raw data presently and, in fact, regard the data as their property (EPA, 1977). The registrants accordingly should be able to arrange for Agency access to the data. Therefore, the requirement of record retention should not increase costs in most instances since the storage costs are likely already covered by overhead charges.

G. SUMMARY OF INCREMENTAL COSTS

The incremental one-time costs of the guidelines for subparts B, D, E, and F equal $258 million for reregistration of all existing products. (As will be discussed later, principally in section VI, many existing products with registrations will not be reregistered thus reducing the data costs for reregistration below $258 million.) The incremental costs of the guidelines for new registrations are estimated to be about $11.7 million per year. The breakdown by topic areas in the guidelines is as follows:

[In thousands]

	1-time incremental reregistration costs	Annual incremental cost for new registrations
Product chemistry	$89,901	$6,400
Environmental chemistry	0	0
Special chemistry	0	0
Fish and wildlife	11,420	564
Human and domestic animal hazard	157,221	4,752
Total	258,542	11,716

These basic cost estimates, along with those to meet current practice requirements [including data gaps which are reported in the next section of this report (part V)] are utilized in the economic impact analysis (part VI).

V. TOTAL PROJECTED COST OF GUIDELINES

A. REREGISTRATION

The total cost of data for reregistration can be broken down into three components: (1) The incremental cost of the guidelines; (2) the cost of submitting data to meet current standards, i.e. filling "data gaps"; and (3) the value in current prices of acceptable data already submitted to EPA in support of a registration.

The incremental cost of the guidelines has already been explained. The last two components of the total data cost require further explanation. The sum of these two components would be the total cost of data for reregistration under current practice or the "non-incremental" cost of the guidelines. A data gap in existing files would result either because data required under current practice have never been submitted to the Agency in support of a registration or because data on file are no longer scientifically acceptable, given the current state of the art of testing. Although a detailed product-by-product review of data available to EPA has not been conducted, the Agency estimated the amount of available data which would satisfy the purposes of the requirements of the guidelines. The estimates are not exact and therefore only approximate the amount of acceptable data which is already available.

Table 15 summarizes the total data cost of reregistration including the three components discussed above. The total data cost for reregistration equals $949 million, of which $259 million are incremental costs and about $691 million (73 percent) are the costs of the data requirements under current practice. Presently, an estimated 78 percent of the current requirements have not been met ($540 million out of $691 million) by submissions to EPA. No doubt some of these data have been generated, even though not yet submitted to EPA. Filling of data gaps which would occur under current practice account for 57 percent of the total data cost ($540 million out of $949 million). The guidelines would increase the cost of reregistration by approximately one-half (from $691 million to $949 million), if all presently registered products were to be reregistered.

The data cost of $949 million for reregistration is not expected to actually be incurred because not all presently registered products are expected to be reregistered. Rather, the costs will be substantially less, as indicated in section VI where two alternative reregistration scenarios are used to project actual costs.

B. NEW REGISTRATIONS

The total cost of the data for a new registration was developed in the process of calculating the incremental cost of the guidelines. Table 16 summarizes the cost for the new registration of typical products under the guidelines and under current practice. Some costs result from tests with the active ingredient, either in a manufacturing-use product or some other technical form. Other costs result from tests with a formulated product. The figures in table 16 are extracted from tables 2, 3, 5, 6, 8, 10, 11, 13, and 14.

The total cost for data under the guidelines derived from testing active ingredients would be $381,278 as compared to $289,015 under current practice. Using the previously-assumed estimate that 15 new active ingredients would be registered in a typical year, the total data cost for new active ingredients would be $5.7 million as com-

pared to $4.3 million under current practice.

The total data cost under the guidelines for new formulations (in addition to the testing on the active ingredients) would be $11,932 per product. This compares to $8,223 per product under current practice. The assumed 2,800 new formulations per year would result in a cost of $33.4 million under the guidelines as compared to $23 million under current practice. This would bring the total cost for data on new active ingredients and formulations under the guidelines to about $39.1 million per year compared with about $27.3 million per year under current practice.

VI. Costs of Guidelines Implementation Under Alternative Scenarios, 1980–89

A. Alternative generic standards scenario costs

Sales profiles, rates of return, and longevity of sales life will determine whether a registrant will make the decision to reregister any particular product. Appendix tables B-1, B-2, and B-3 provide a profile of active ingredients in registered insecticides, herbicides, and fungicides arranged by volume of sales from the largest to the smallest. The Agency assumes that the remaining types of pesticides, including disinfectants, would follow a similar pattern. In general, each class of products is dominated by a relatively few active ingredients when considered on the basis of sales. An important conclusion from this profile of sales it that there are many small volume active ingredients with production and sales which are so low that sufficient profit to support the additional costs imposed by reregistration under either current practice or the guidelines would be unlikely.

The timing of the imposition of the guidelines would affect the impact on the pesticides industry. The guidelines would be applied to presently-registered products at reregistration as part of the standards program. Under this plan, each currently registered product would retain its registration until such time as a generic standard has been established for the active ingredient(s) contained in the product. This analysis will include two scenarios by which reregistration could be accomplished using a generic standard setting approach:

Scenario No. 1. Fifty generic standards would be issued per year. As each standard is issued, the registrants of the products containing the active ingredient(s) covered by the standard would be informed of the additional data required to complete reregistration. EPA would then allow the registrant time to generate the needed data.

Scenario No. 2. Scenario No. 2 would be the same as scenario No. 1, except that each year registrants of products containing 100 active ingredients are notified of data deficiencies for which testing or other data gathering should be started. This notification schedule would continue for a period of 5 years. After 5 years, notification would fall back to 50 chemicals per year as under scenario No. 1. The early notification program is intended to reduce the time between the issuance of standard and final reregistration decisions. In effect, EPA would direct registrants to gather data on chemicals prior to developing the standards for those chemicals so that data needed to complete the standard are available at the time or shortly after the standard is issued.

Scenario No. 2 was selected as representative of many possible scenarios which have an early notification feature. For example, if early notification were given to all chemicals having agricultural or food crop uses in the first year of the reregistration process, the costs would be extremely bunched in the early years of the scenario. The overall costs depend on the number of chemicals reviewed. For scenario No. 2 and other similar possible scenarios, the total costs over all years would be the same, but the annual costs would vary depending on the schedule of review for the chemicals.

The order in which pesticides are selected for the generic standards program would also affect the impact of the guidelines. The approach to be taken by the Agency in either scenario No. 1 or scenario No. 2 is to select first the high-volume pesticides with emphasis on those pesticides applied to agricultural and food sites. These pesticides generally would require more extensive data in the areas of human hazard and environmental chemistry testing because of level and kind of exposure potential of such use patterns. The Agency would then proceed to establish standards on those chemicals which generally would require lower levels of expenditures for data.

Table 17 provides estimates of the total cost of data to be required annually under scenario No. 1 for both current practice and the guidelines. As described previously, 50 standards would be established each year for a period of 10 years and beyond. Following the establishment of the standards, industry would have to decide whether to conduct the testing required to obtain the data necessary for reregistration. As standards are issued year after year, some products would be voluntarily canceled, particularly as the lowest sales volume products are reached. This would occur under both current practice and under the guidelines. The withdrawal rate is, however, lower under current practice because of the lower cost involved.

Table 17 also shows the annual expenditures per active ingredient committed to reregistration. (See appendix C for cost derivation.) It is assumed that the cost for an individual active ingredient will be incurred over a 4-year period. The estimated costs per active ingredient reflect the Agency's intention to develop standards first on those products requiring the greatest amounts of data. The estimated costs also recognize that some data already exists in Agency files which would meet both guidelines requirements and current practice requirements. The cost figures have also been adjusted to include the estimated additional expenditures needed to develop data on formulations containing the active ingredients for which generic standards have been established. Calculations derived from the cost analysis indicate that data for formulations would add approximately 25 percent to the data cost under current practice and 40 percent under the guidelines.

Table 18 provides the annual costs expected to be incurred under scenario No. 2 for both current practice and the guidelines. The cost estimates reflect the same assumptions as were made for table 17, except for the accelerated pace with which decisions are made on chemicals as a result of early notification.

Tables 17 and 18 provide estimates of the annual costs under scenario No. 1 and scenario No. 2, respectively, for a 10-year time period. Projections beyond this time become increasingly uncertain. However, projections of the total costs and impacts on the number of products remaining in production after completion of reregistration is of interest. Certain data are available which can, with the use of averages and proportions, be used to project the costs and impact on the number of products beyond the first 10 years of either scenario No. 1 or scenario No. 2.

Projections of the number of active ingredients represented by products to be reregistered, costs of current practice data requirements, guidelines requirements, incremental costs, value of acceptable data, and projected outlays for active ingredients actually projected to be reregistered are contained in table 19 for scenario No. 1 and scenario No. 2. All costs include costs for the formulated products as well as for the active ingredients.

It was useful to break down the total of 1,460 active ingredients contained in registered products into those which are currently in production and those which are not currently in production. After reviewing production figures reported to the Agency, an estimate was made that 1,000 active ingredients are currently in production, and the re-

maining 460 active ingredients are no longer produced. The assumption is made that these 460 active ingredients would not be reregistered.

Of the 1,000 active ingredients currently in production, line 1 in table 19 provides estimates from tables 17 and 18 of the number projected to be reregistered in the first 10 years of scenario No. 1 and scenario No. 2. The associated costs for these active ingredients are also included. The actual projected outlays are the difference between guidelines requirement costs and the value of acceptable costs which would have been incurred for the active ingredients not projected to be reregistered in the first 10 years of either scenario, if the data were to be generated. Since the active ingredients on line 2 are not projected to be reregistered, there is a zero entered for projected actual outlays on that line.

Line 3 is the summation of lines 1 and 2. Under scenario No. 1, in the first 10 years 395 out of 500 active ingredients would be reregistered with projected actual outlays of $322 million.

Of the 1,000 active ingredients assumed to be in current production, 500 and 250 active ingredients under scenario No. 1 and scenario No. 2 remain to be reviewed. One assumption that can be made is that one-half or 250 of the 500 active ingredients in scenario No. 1 would eventually be reregistered. To be consistent, 120 of 250 active ingredients remaining in scenario No. 2 would be likely to be reregistered. The total number of active ingredients reregistered would then be 645 out of 1,000 under either scenario. Line 4 shows the costs of data for all 500 and 250 active ingredients in the two respective scenarios, except that the projected actual outlays are calculated only for the 250 and 120 active ingredients projected to be reregistered.

Line 5 provides these subtotals for the costs of data for all 1,000 active ingredients currently in production. The projected actual outlays for the 645 active ingredients projected to be reregistered is $473 million and is included on line 5.

Line 6 provides estimates of the value of data which would be needed to support the reregistration of the 460 active ingredients not currently in production. Since for this analysis the assumption is made that these active ingrednents will not be reregistered, a zero is entered for projected actual outlays for this line.

In summary, of 1,460 active inngredients contained in registered products, 645 would be reregistered eventually. These 645 active ingredients represent about 95 percent of the volume of all pesticides produced in the United States based upon reported production. Eight hundred and fifteen active ingredients (400 of this total are not currently in production) representing about 5 percent of the volume of pesticides produced in the United States are not projected to be reregistered under the current market, regulatory, and legislative structures.

Line 7 provides the projections of the value of data for all 1,460 active ingredients contained in registered products. The current practice costs are about $690 million, and the guidelines costs are about $950 million. The value of data submitted and acceptable is about $150 million. After adjusting for active ingredients not projected to be reregistered, the projected actual outlays are $473 million or about 50 percent of the total cost of data under the guidelines.

B. COMPARATIVE COSTS OF ALTERNATIVE SCENARIOS.

Table 20 contains comparative annual costs of the guidelines for both reregistrations and new registrations under both scenario No. 1 and scenario No. 2 for reregistration. The time period 1980-89 is used because this period would cover most major pesticides for reregistration purposes. Projections beyond this time would embody a high degree of uncertainty, given the opportunities for changes in both the regulation of pesticides and in the pesticide market.

The current requirements and the incremental costs for a given pesticide product are the same under both scenario No. 1 and scenario No. 2. Therefore the costs on an annual basis for data in support of new registrations are equivalent in both secnarios.

The early notification feature of scenario No. 2 is expected to create higher outlays in the early years of the time period in comparison to scenario No. 1. In both scenarios, costs would rise to a peak in 1983 ($89 million under scenario No.1 and $118 million under scenario No. 2) before starting to decline.

Although the annual costs would differ significantly between the two scenarios, the differences are not spectacular. Costs would decline at a faster rate in scenario No. 2 after 1983; after 1985 the annual costs of scenario No. 2 will have fallen below the annual costs of scenario No. 1.

For each scenario, separate data are presented for incremental costs, for costs of meeting current requirements including data gaps and for the total—which corresponds to full implementation of the guidelines under the scenario. In the peak year of costs, 1983, incremental costs under scenario No. 1 would equal $29 million, or about one-third of the total of $89 million (compared with costs of $60 million to meet current requirements). A similar ratio would exist for scenario No. 2.

VII. Economic Impact Analysis

A. PESTICIDE INDUSTRY IMPACTS

Profile of industry. Pesticide production (SIC Code 2879) is one component of the Chemicals and Allied Products Industry (SIC Code 28). Below are some statistical comparisons for the year 1977 which show the relative size of the pesticide producing industry compared to the chemical industry as a whole:

	Pesticides (SIC-2879)	Chemicals and allied products (SIC-28)
Value of shipments	[1]$2,900	[1]$112,000
Total employment	15,000	885,000
Production workers	9,000	555,000
Value added per production worker	[2]$75.92	$44.96

[1]In billions of dollars.
[2]Figure for 1975, 1977 data not available for pesticides.

Source: U.S. Department of Commerce, 1978.

Pesticide production accounts for 2.6 percent of the chemical industry value of shipments and 1.7 percent of total employment. Pesticide industry production workers comprise only 1.6 percent of all chemical industry workers. Value added per production worker in the pesticide industry was almost 70 percent higher in 1975 than for the chemical industry.

Pesticides are considered to be speciality chemicals in the realm of chemical industry products. Many pesticides are protected by patents. This protection probably explains much of the greater value in output per production worker hour enjoyed by the pesticide producers in comparison to the whole chemical industry.

Pesticide production involves manufacturing of an active ingredient, usually in its manufacturing-use form, and then preparing formulated products containing the active ingredient. The firms which produce manufacturing-use products are a small number of the firms involved in pesticide production. Most firms which formulate pesticides do not also produce the manufacturing-use products.

A contract study for EPA (EPA, 1976) found that as few as 12 pesticides could account for more than 40 percent of the value of all pesticide sales. It was further estimated that the 10 largest producers account for 75 percent of U.S. pesticide production. Data from industry surveys (National Agricultural Chemicals Association 1970, 1974, 1977) indicate that as few as 7 firms account for 50 percent of pesticide industry R. & D. expenditures and 60 percent of production, and that fewer than 50 firms produce virtually 100 percent of the active in-

gredients in pesticides used by the agricultural sector.

Basic pesticide-producing firms are a small group. Two-thirds of these forms ar large chemical- or petroleum-producing firms (EPA, 1975). Several of the remaining firms are involved in pharmaceutical production. Firms in these three groups generally rely on pesticides for less than 20 percent of total sales. It is generally the smaller basic producer for which perticides comprise a majority of the dollar sales volume.

The above data indicated that the pesticide industry is highly concentrated or oligopolistic at the basic producer level, including R. & D. Actions of any of these large individual firms can significantly influence the pesticides. This situation is in contrast to the formulation sector of the industry, where much less concentration exists.

Firms that formulate pesticide products generally purchase the manufacturing-use products from the basic producers. Formulating firms cover a wide range of sizes. One study prepared for EPA (EPA, 1976) gave the following estimates as to the number of firms which formulate pesticides:

Category	*Estimated No.*
Large formulators	500
Medium-size formulators	1,000
Small formulators	1,848
Total [1]	3,348

[1] Not included are basic producers who also formulate pesticides.

COST IMPACTS AT BASIC PRODUCER LEVEL

The incremental cost impacts of the guidelines will initially be borne by the pesticide-producing industry, including both formulators and basic producers. The distribution of these costs among the types of firms in the industry and their significance will be discussed below. Table 21 presents annual incremental and total costs of the guidelines estimated for the two scenarios discussed above, in comparison with domestic sales value of pesticides and in comparison with pesticides R. & D. expenditures covering the period 1980-89. Domestic sales include domestic sales of domestic production and imports, but exclude export sales of domestic production (equal to approximately 30 percent of U.S. production). The projections for domestic pesticides sales value are based on sales of $2.035 billion for 1976 and a 4.0 percent annual growth rate, which is conservative, but in line with current projections (EPA, 1978; Farm Chemicals, 1977; Ouellette and King, 1976). The base year (1976) and all projections are standardized at the 1977 price level.

Total pesticide R. & D. expenditures are projected at a rate of 7.0 percent of the domestic sales value of pesticides. This rate is slightly lower than the 1970-76 average (7.6 percent) reported by NACA, but provides a conservative basis for comparing the incremental R. & D. costs of the guidelines (NACA, various years). The registration-related R. & D. expenditures are projected at a rate of 2.0 percent of domestic sales, equal to the 1970-76 average reported by NACA (NACA, various years). These registration-related R. & D. expenditures are approximately 30 percent of the total R. & D. expenditures.

In scenario No. 1, the incremental cost of the guidelines would equal 0.4 to 1.1 percent of projected domestic pesticide sales at the basic producer level, 6.3 to 15.5 percent of projected total R. & D., and 22.1 to 53.7 percent of projected registration-related R. & D. Including the data gaps (which must also be filled) will cause these percentages to approximately triple. The year of greatest impacts for all comparisons given is 1983.

In scenario No. 2, the incremental cost of the guidelines range from 0.4 to 1.4 percent of projected sales and 5.9 to 20.3 percent of projected registration-related R. & D. Including the data gaps, these percentages increase by three of four times, depending on the year. Whereas the cost impacts are rather minimal compared to projected sales (i.e., in the range of 0.4 to 4.4 percent, depending on the year and the scenario), they are substantial when compared to R. & D., total or registration-related. Clearly, implementation of the guidelines would have a large impact on pesticides R. & D. Total R. & D. could be required to increase by about one-half, and registration-related R. & D. could be required to double or triple temporarily, as costs peak out during 1981-85.

Under both scenarios, the greatest percentage impacts would occur in 1983 and trend downward after that year. The decline would likely be caused primarily by two factors:

1. The large volume agricultural/food active ingredients would be reregistered first and they require the largest data cost outlays;

2. Some small sales volume active ingredients are not expected to be reregistered.

The projected annual cost from implementing the guidelines presented above are likely to be translated into price increases for sales of pesticides at the basic producer level of the industry. The magnitudes of such price increases are likely to be within the range of 2 to 3 percent on industry sales on an average during the 1980's. The rationale for this is as follows:

1. The demand structure for pesticides is generally assumed to be price inelastic (EPA, February 1978, page 16). This means that purchasers of pesticides tend to maintain the quantity of pesticides purchased in the face of price increases, e.g., a 1.0 percent increase in price generates less than a 1.0 percent reduction in the quantity clearing the market.

2. The guidelines would be imposed on an industry wide basis with a schedule bringing similar types of uses under the guidelines during the same period. Competing pesticide products for agricultural/food uses would generally be brought under the guidelines requirements by a generic standard approximately the same time. The probability of price increases is greater in this instance because competing products would tend to experience the cost increases during the same general time frame. In the process, the tendency would be to minimize impacts on competitive relationships among products used on the same sites.

3. There are no data to indicate that price increases would exceed the cost impacts of the guidelines through add-ons markups. Likewise, there are no data indicating that the industry would absorb these costs.

4. Costs would be passed on in the form of price increases during the approximate time frame during which the costs were incurred. There is no basis for projecting price increases substantially in advance of increased costs or for projecting that price increases would be continued after costs had peaked out and have begun to decline.

The above discussion only addresses average price increases at the basic producer level. Effects on individual formulated products or active ingredients might vary considerably. For many products, no doubt, data gaps would be small. The industry may have anticipated requirements for other products, and thus may already have incurred most of the costs of meeting guidelines requirements. In those instances, the additional cost would be minimal and a firm would not feel the need to increase prices.

In other cases, large data gaps would exist which would stimulate above-average price increases. The cost of the guidelines for small volume active ingredients could be substantially above average, e.g., in the range of five to ten percent increases. In some instances these costs could be sufficiently high so that prices could not be raised to cover the cost. In such cases, products containing those active ingredients would no longer be produced. The matter of loss of products associated with active ingredients not submitted for reregistration is discussed below.

The reregistration of existing pesticides under either current practice or the guidelines would require a decision

by the registrants as to whether the additional data expense is justified given the profitability and expected future sales of their pesticides. As previously stated, there are approximately 1,460 active ingredients identified in the currently registered products. Several of these active ingredients will likely become uneconomical under either reregistration scenario and under both current practice and the guidelines.

A review of current registration containing pesticidal active ingredients indicates that about 460 of the 1,460 active ingredients are not currently being produced. Applications for many of the products containing these active ingredients probably would not be submitted for registration. Of the active ingredients which are produced, many are produced in relatively very low volumes. To estimate the proportion of active ingredients which might become uneconomical to produce under current market conditions, a review of production levels was compared to the estimates of data cost. (See appendix C). Tables 17 and 18 include estimates of the number of active ingredients which would be expected to be withdrawn during reregistration under scenario No. 1 and scenario No. 2, respectively. As is indicated, most of these active ingredients would likely become uneconomical under both current practice and the guidelines.

In scenario No. 1, 80 out of 500 active ingredients are estimated to be withdrawn under current practice as compared to 105 out of 500 if the guidelines are implemented. In scenarios No. 2, 190 out of 750 active ingredients are projected to be withdrawn under current practice as compared to 225 out of 750 under the guidelines. On an incremental basis, the numbers of active ingredients withdrawn are 25 and 35 under scenario No. 1 and scenario No. 2, respectively.

The estimates of the number of active ingredients which might be withdrawn are not precise, but the error would tend to overstate the withdrawal rate of active ingredients which are now being produced. Several factors could reduce the cost of data and/or improve the market outlook for any one active ingredient which on first review would appear to be uneconomical. The previously discussed provisions for waviers would provide the greatest area of relief in terms of reducing data costs. For those costs which must be incurred, the market for individual chemicals might permit comparatively large price increases which would fund the required testing costs. In effect, for chemicals providing high benefit-to-cost ratios for users, the users would provide the funding for testing indirectly. User groups also directly fund testing in cooperation with pesticide manufacturers. The combined welfare of producers and users of pesticides might be greater than the cost of providing needed data. It would therefore be to their mutual advantage to fund the testing either directly or indirectly.

Scenarios No. 1 and No. 2 would bring the major sales volume pesticides under new proposed guidelines requirements within two or three years. At a rate of 50 generic standards per year, the top 125 active ingredients, which account for three-fourths of industry production of insecticides, herbicides and fungicides (see appendix B), would be brought under the new requirements of the third year under scenario No. 1, and needed data would be generated during the three or four years following issuance of the standards. This rate is accelerated under scenario No. 2. Within 5 to 10 years, 200 pesticide active ingredients accounting for about 90 percent (by volume) of all pesticides produced would be reregistered or conditionally reregistered.

The impacts on major products are projected to be slight for two prime reasons:

1. The costs imposed by the guidelines are small relative to annual sales. The one-time cost imposed by the guidelines, including filling data gaps, for a major agricultural pesticide is about $1 million. This is less than 2 percent of sales over a 4 year period during which requirements would be met ($1.0 million as percent of 4 years sales at $15 million per year; see appendixes B and C).

2. Many of the costs of the data requirements of the guidelines have already been met for the typical major agricultural/food pesticides, due to the "defensive research" that has been the increasing practice of may firms during recent years (EPA, 1978). About one third of the costs are estimated to have already been incurred for a typical major agricultural pesticide active ingredient (appendix C), which reduces the one-time cost to near $600,000 or about 1 percent of sales over a 4-year period.

Impacts on Formulated Products. Formulated products have data requirements in addition to the data requirements on the active ingredients contained in the products. This section is intended to provide a sales profile for formulated products which can be compared to estimates of the cost of data needed on formulations during reregistration.

As presented earlier in this analysis, there are approximately 33,750 formulated products which have EPA registrations. On the basis of the pounds of active ingredients used to produce the formulations, production estimates range in size from less than 10 pounds to several hundred thousand pounds. A random sample of 20 active ingredients representing 1,343 registered formulated products was reviewed and the pounds of active ingredients used to produce the products in 1975 were then arrayed. Table 22 summarizes the array which indicates that, in similar fashion to the active ingredients, the production of formulated products has a skewed distribution. For example, about 5,000 or 16 percent of the products are formulations of more than 20,000 pounds of active ingredients whereas 21,000 or 67 percent of the formulation are formulated from 5,000 pounds active ingredients or less.

TABLE 22.—*Estimated sales value and number of EPA registered formulated products, by production volume category, 1977, based on a sample of 1,343 products*

Pounds active ingredient	Sales value[1]	Products	
		Percent of total	Number
Zero or no report	0	8.2	2,624
1 to 5,000 lbs	$4 to $20,000	58.7	18,784
5,000 to 10,000 lbs	$20,000 to $40,000	9.2	2,944
10,000 to 20,000 lbs	$40,000 to $80,000	8.2	2,624
More than 20,000 lbs	More than $80,000	15.7	5,024
		100.0	32,000

[1] Current estimated pesticide sales at user level is approximately 1.2 billion lbs with a value of $5 billion. This gives an approximate average of $4 per pound of active ingredient for formulated products at the user level.

The value of formulation on the basis of dollars per pound of active ingredient contained in the formulations is highly variable. Generally, specialty

pesticides which might be sold for home and garden use would have higher prices per pound of active ingredient than pesticides intended for use in agricultural crop production. Currently approximately 1.2 billion pounds of pesticides are produced on an active ingredient basis. The retail value is estimated to be about $5 billion. This is an approximate average $4 per pound of active ingredient. This figure can be used to convert the pounds of active ingredient contained in formulations to retail value. Table 22 uses the $4/pound active ingredient estimate to complete the profile of formulated products.

The data cost to be borne by pesticide formulators is also variable, but some generalizations can be made to focus on the impacts of the guidelines requirements of formulations. Table 16 showed that for an average new formulation, the cost of tests or submissions of data in which the formulated product is involved equalled about $8,000 under current practice and $12,000 under the guidelines. The average cost for reregistering formulated products is approximately the same, since little acceptable data are currently in EPA registration files. The average costs are not indicative of the costs to be incurred for a typical formulation during reregistration because the costs are skewed, i.e., a very few formulated products will require the relatively large cost outlays for data.

Table 23 provides the costs of data that would be incurred by formulators which would be sufficient for 90 percent of the formulated products to meet the requirements for both current practice and the guidelines. These data are extracted from tables 1, 3, 4, 6, 7, 9, 11, 12, and 14. Thus, if no waivers were available, 90 percent of the registered pesticide formulations would be faced with potential costs of $5,100 or $8,900 per product under current practice and the guidelines respectively.

Comparison of the data required for typical formulations with the profile of production and sales suggested that some products would be adversely impacted unless special handling were provided by the Agency to reduce costs.

The formulated product survival rate cannot be determined by a simple comparison of the data cost under the guidelines with the current level of sales, since data sharing and waivers would lower the costs to be incurred for many formulations.

TABLE 23.—*Cost of data sufficient to meet requirements for 90 pct of formulated products for reregistration*

Guidelines subject	Current practice lines	Guide-
Product chemistry	$2,050	$4,300
Environmental chemistry	0	0
Special chemistry	0	0
Fish and wildlife hazard	0	0
Human hazard	3,050	4,500
Total	5,100	8,900

Source: These figures are extracted from tables 1, 3, 4, 6, 7, 9, 11, 12, and 13.

Sales figures could also change if market conditions permit the formulators to raise prices. Formulated products with specialized uses would be candidates to increase prices in order to generate sufficient revenues to cover the additional data costs imposed during reregistration.

Sales of some products would likely increase when competing products are withdrawn. In effect, the market of a particular active ingredient would change to reflect the withdrawal of a competing formulated product.

In conclusion, pesticides representing 90 percent or more of the current level of production should still be available after a 5 or 10 year period under any likely reregistration scenario. The guidelines requirements in themselves do not create the loss of the pesticides representing the remaining 10 percent of pesticide production. Some of the pesticides espected to be withdrawn would likely be withdrawn under current practice also. The attrition rate will probably be higher under the guidelines than under current practice.

The range of formulated products made from each active ingredient is likely to be reduced. The surviving products should fill the demand then created. The cost of testing to support formulated products would not be expected to adversely impact the availability of active ingredients.

Competitive impacts. The pesticide industry at the basic producer level is highly concentrated (oligopolistic), i.e., a few individual firms have significant shares of the various pesticide markets. These market shares allow the firms to assert themselves by influencing price, quality, and quantity of pesticides available. Market power, such as that of basic producers of pesticides, generally comes about because of barriers to entry into the market faced by other firms. Barriers to entry include such factors as patent protection and large initial investment. The basic pesticide producing industry is affected by both of these factors.

A market survey done for EPA by Doane Agricultural Service showed that, for many major crops, 8 or fewer insecticides and 8 or fewer herbicides would account for 75 percent of the respective markets (Doane, 1975). In some crops such as corn, cotton, and soybeans, 4 insecticides could account for up to 75 percent of the insecticide market for those crops depending on pest infestations. Competition in the market is further reduced when one considers that in each market there are geographical differences. The markets are even more concentrated at the state level than at the national level.

Any decisions by basic producers to withdraw their products from the market would tend to further increase the degree of concentration. Since products representing 90 percent of the total sales volume of active ingredients are expected to be reregistered, market disruptions at the basic producer level are unlikely.

Some low volume pesticides would likely be withdrawn from the market. The loss of these small volume active ingredients, many of which are not in current production, is of some, but limited, significance with regard to competition in the current market for pesticides. Their loss would improve the competitive position of the major products which already account for most of the market in the large scale uses. The small volume products often, however, are major factors in many minor uses of pesticides. The chief significance of the loss of such products and the increased cost of the guidelines implementation may well be on future competition.

The guidelines have the effect of increasing requirements to enter market, i.e., increasing barriers to entry, a factor which affects the potential competition in the industry. Because new product success is closely associated with R. & D. efforts, and because guidelines have the effect of increasing R. & D. costs for new products, the guidelines will affect entry into the industry to some extent. R. & D. already is quite concentrated at the present time, as discussed above (7 firms account for 50 percent of industry R. & D. and more than 60 percent of sales), and is at a rate about twice that for U.S. industry on the average (more than 7 percent on sales, compared with about 3.5 percent for all industry) (EPA, 1978). This is particularly significant at a time when firms are looking more toward expanding the use of existing active ingredients rather than developing new ones about which less would be known (from environmental and human health standpoints).

The impacts of the guidelines upon formulators would be minimized because they would be phased over a period of 10 or more years. This would permit formulators to adjust to prod-

uct losses over an extended period. However, there is a component of the formulating industry which consists of firms which often formulate only one product as a sideline to other businesses. Many such firms may go out of the pesticide business if they must pay full or even partial costs of meeting data requirements of the guidelines. The loss of such small scale formulator operations would not be of great significance to the industry or to the pesticide users.

Competitive relationships between basic producers and formulators would remain largely unaffected by the guidelines, aside from the matter of cost sharing, which takes on added significance due to the larger expenditures involved. The potential for joint ventures of producers and formulators in R. & D. pesticides might increase because of the increased R. & D. expenditures on new products.

B. PESTICIDE USER IMPACTS

The purpose of this section is to indicate the nature and extent of the impacts of the guidelines on pesticide user sectors, such as agriculture, industry, commerce, government, home and garden. Indirect impacts on the consumer of products or services which involve pesticides as an input are considered later in this report.

The direct user of pesticies could be affected in two ways by implementation of the guidelines:

1. Potentially increased prices of pesticides, as some or all of the additional costs of the guidelines are passed on through the marketing system, and
2. Potential unavailability of specific active ingredients and formulations of pesticides, should they no longer be profitable to produce.

The potential for pesticde price increases due to the incremental and total costs of the guidelines is addressed by translating the costs of the two scenarios into user impacts by assuming that those costs are passed on completely to the user, i.e., none are absorbed by producers and formulators and there are no add-ons or markups. These are probably reasonable assumptions on the average, for purposes of approximating actual impacts.

These user impacts were compared with projected user expenditures for pesticides on an annual basis for the period 1980–89. The projections were obtained by assuming an annual growth rate of 4.0 percent from a base of $4.5 billion for the year 1977. This rate of growth is somewhat conservative compared to the 6 to 8 percent rate predicted by Christodouhi (Farm Chemicals, 1977) or the 5 percent annual rate for tonnage predicted by Ouellette and King (Ouellette and King, 1976), but is not unreasonable for projections in real (constant dollar) terms. All projections of user expenditures and costs of the scenarios are expressed in terms of the 1977 price level. The result of this projection is pesticide user expenditures of about $5.06 billion in 1980, which trend upward to $7.20 billion in 1989 (table 24).

For all users of pesticides, the incremental costs of the guidelines under scenario No. 1 would be equal to 0.3 to 0.5 percent of projected baseline pesticide user expenditures during the 1980's through 1985 (up to 1.6 percent if data gaps are included). They decline moderately by the end of the 1980's. For scenario No. 2, the user impacts peak out in 1983 at 0.7 percent for incremental costs and 2.1 percent for total costs, compared to expenditures projected according to normal trend. These impacts are small but are occurring over an extended period and reflect only industry averages. Prices paid by some users would be impacted much more than others. The figures in table 24 are only approximate averages assuming straight passthrough of costs.

User impacts were evaluated for the two scenarios described earlier in this report. For scenario No. 1, the total costs (incremental plus cost of filling data gaps) over the 10-year period were projected to be $712 million, equal to 1.2 percent of the total user expenditures of $60.8 billion (table 25). For scenario No. 2, these costs ($765 million) equal 1.3 percent of user expenditures. The incremental costs of $220 million and $234 million for scenarios No. 1 and No. 2, respectively, equal 0.4 percent of user expenditures.

The distributional aspects of these impacts were addressed by separating the users into three market sectors: Agriculture, industrial/commercial/governmental, and home and garden, and projecting both expenditures and impacts by sector. User expenditures were distributed among the sectors according to the findings of a study (EPA, 1974) that estimated the sector breakdown as agriculture, 63 percent; industrial/commercial/government, 25 percent; and home and garden, 12 percent. This distribution was centrally located among the range of distribution reported by USDA and Farm Chemicals.

The above costs of the guidelines averaging 1.3 percent on projected user expenditures of pesticides can be projected as indications of the extent to which price increases would be likely to occur at the user level of the industry during the 1980's. On the average, the same general rationale applies to price increases at the user level as for the basic producer level discussed in an earlier section of this report (see section entitled "Cost Impacts at Basic Producer Level"). Though the price impacts may vary from product to product, the above averages are reasonable approximations of price increases. To users, on the average, these price impacts will also vary by sector of the economy.

Most all categories of users would be affected to some extent because the guidelines would affect active ingredients with formulations in all sectors. However, the agricultural sector was assumed to be impacted more heavily at first since the active ingredients used in agricultural pesticides are to be given priority in reregistration.

The cost impacts by sectors are presented in table 25 for both scenarios No. 1 and No. 2, for the 1980–89 time period. These impacts are weighted more heavily toward the agricultural sector early in the time period until the 350 active ingredients used in agricultural pesticides will have presumably been evaluated. For scenario No. 1, this takes 10 years, so the bias toward the agricultural sector lasts throughout the full 10-year period. The annual costs were distributed using the following proportions: Agricultural, 75 percent; industrial/commercial/governmental, 15 percent; home and garden, 10 percent.

Table 24

Comparison of Projected Annual Cost of Meeting Guidelines Requirements with Expenditures of Domestic Users for Pesticides, 1980-89 Projections, by Alternative Registration Scenarios

Expenditures, Costs and Comparison	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
Pesticide users expenditures[1/] ($ million)	$5,062	$5,264	$5,475	$5,694	$5,922	$6,159	$6,405	$6,661	$6,927	$7,204
Costs of Scenario #1										
Incremental only										
Cost ($ million)	$ 17	$ 23	$ 26	$ 29	$ 26	$ 25	$ 23	$ 18	$ 18	$ 15
Compared to expenditures	0.3%	0.4%	0.5%	0.5%	0.4%	0.4%	0.4%	0.3%	0.3%	0.2%
Including data gaps										
Cost ($ million)	$ 53	$ 68	$ 79	$ 89	$ 84	$ 81	$ 73	$ 65	$ 63	$ 57
Compared to user exp.	1.0%	1.3%	1.4%	1.6%	1.4%	1.3%	1.1%	1.0%	0.9%	0.8%
Costs of Scenario #2										
Incremental only										
Cost ($ million)	$ 22	$ 29	$ 36	$ 38	$ 29	$ 23	$ 15	$ 14	$ 14	$ 14
Compared to exp. (%)	0.4%	0.6%	0.7%	0.7%	0.5%	0.4%	0.2%	0.2%	0.2%	0.2%
Including data gaps										
Cost ($ million)	$ 67	$ 89	$ 108	$ 118	$ 98	$ 78	$ 60	$ 52	$ 48	$ 47
Compared to exp. (%)	1.3%	1.7%	2.0%	2.1%	1.7%	1.2%	0.9%	0.8%	0.7%	0.7%

1/ Increases at a projected annual rate of 4% over base of $4.5 billion in 1977.

Table 25

Comparison Of Cost Impacts of Meeting the Guidelines with Domestic User Expenditures, Total and 1980-1989[1/]

Expenditures, Costs and Sector Categories	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	Sum	Comparison with Sector User Expenditures %
	$ million											
User Expenditures[1/]												
Total	5,062.0	5,264.0	5,475.0	5,694.0	5,922.0	6,159.0	6,405.0	6,661.0	6,927.0	7,204.0	60,773.0	
Agriculture	3,189.0	3,316.0	3,449.0	3,587.0	3,731.0	3,880.0	4,035.0	4,196.0	4,364.0	4,539.0	38,286.0	
Ind/Comm/Gov	1,266.0	1,316.0	1,369.0	1,424.0	1,480.0	1,540.0	1,601.0	1,665.0	1,732.0	1,801.0	15,194.0	
Home & Garden	607.0	632.0	657.0	683.0	711.0	739.0	769.0	799.0	831.0	864.0	7,292.0	
Scenario #1[3/]												
Incremental Costs	17.0	23.0	26.0	29.0	26.0	25.0	23.0	18.0	18.0	15.0	220.0	0.4
Agriculture	12.8	17.2	19.5	21.8	19.5	18.8	17.2	13.5	13.5	11.2	165.0	0.4
Ind/Comm/Gov	2.6	3.4	3.9	4.4	3.9	3.8	3.4	2.7	2.7	2.2	33.0	0.2
Home & Garden	1.7	2.3	2.6	2.9	2.6	2.5	2.3	1.8	1.8	1.5	22.0	0.3
Total Costs	53.0	68.0	79.0	89.0	84.0	81.0	73.0	65.0	63.0	57.0	712.0	1.2
Agriculture	39.8	51.0	59.2	66.8	63.0	60.8	54.8	48.8	47.2	42.8	534.2	1.4
Ind/Comm/Gov	8.0	10.2	11.8	13.4	12.6	12.2	11.0	9.8	9.4	8.6	107.0	0.7
Home & Garden	5.3	6.8	7.9	8.9	8.4	8.1	7.3	6.5	6.3	5.7	71.2	1.0
Scenario #2[4/]												
Incremental Costs	22.0	29.0	36.0	38.0	29.0	23.0	15.0	14.0	14.0	14.0	234.0	0.4
Agriculture	16.5	21.8	27.0	28.5	21.8	11.5	7.5	7.0	7.0	7.0	155.6	0.4
Ind/Comm/Gov	3.3	4.4	5.4	5.7	4.4	6.9	4.5	4.2	4.2	4.2	47.2	0.3
Home & Garden	2.2	2.9	8.6	3.8	2.9	4.6	3.0	2.8	2.8	2.8	31.4	0.4
Total Costs	67.0	89.0	108.0	118.0	98.0	78.0	60.0	52.0	48.0	47.0	765.0	1.3
Agriculture	50.2	66.8	81.0	88.5	73.5	39.0	30.0	26.0	24.0	23.5	502.5	1.3
Ind/Comm/Gov	10.0	13.4	16.2	17.7	14.7	23.4	18.0	15.6	14.4	14.1	157.5	1.0
Home & Garden	6.7	8.9	10.8	11.8	9.8	15.6	12.0	10.4	9.6	9.4	105.0	1.4

1/ 1977 price level.

2/ Total user expenditures increase at an annual rate of 4 percent over a base of $4.5 billion in 1977. Market sector distribution of user expenditures is the following: Agriculture - 63%, Industrial/Commerce/Government - 25%, Home and Garden: - 12%.

3/ Impacts are weighted to reflect greater focus on agricultural pesticides until the 350 tolerance chemicals have been evaluated. Market sector distribution is the following: Agriculture - 75%, Industrial/Commerce/Government - 15%, Home and Garden - 10%.

4/ Impacts are weighted to reflect greater focus on agricultural pesticides until the 350 tolerance chemicals have been evaluated - 5 yrs. After the focus is assumed to shift away from primarily agricultural chemicals. Market sector distribution is the following: first 5 years: Agricultural Industrial/Commerce/Government - 15%, Home and Garden - 10%, second 5 years: Agriculture - 50%, Industrial/Commerce/Government - 30%, Home and Garden - 20%.

Both this distribution and the one described below for scenario No. 2 are believed to be reasonable under the current program assumptions about implementing the guidelines. However, it must be recognized that the actual sector impacts can better be predicted after the specific sequence of active ingredients is established. For scenario No. 2, the impacts of the 350 food and feed crop use chemicals would be felt during the first 5 years, after which it is assumed that the impacts would shift away from agriculture and toward the other sectors. Accordingly, the annual costs were distributed among the sectors in the same proportion as scenario No. 1 for the first 5 years, i.e., agricultural, 75 percent; industrial/commercial/governmental, 15 percent; and home and garden, 10 percent, and in the following proportions for the second 5 years: Agricultural, 50 percent; industrial/commercial/governmental, 30 percent; and home and garden, 20 percent.

For agricultural users, the projected cost impacts of the guidelines represent a slight increase in overall production expenditures which total $87 billion in 1977. Pesticide expenditures account for less than 5 percent of production expenses in agriculture (3.8 percent in 1977). It is assumed that this relationship would remain fairly stable in the future. The total cost of guidelines implementation for pesticides used in the agricultural sector over the 10-year period are $534 million for scenario No. 1 and $502 million for scenario No. 2. On an average year basis, the total costs of the guidelines implementation are 0.6 percent of 1977 production expenses in the agricultural sector. If only the incremental costs are considered, the cost of the guidelines implementation are reduced to 0.2 percent of the 1977 production expenses.

Compared to the agricultural sector's pesticide expenditures, the guidelines implementation costs are 0.4 percent for the incremental costs and 1.2 to 1.3 percent for the total costs for both scenarios (table 25).

Data from various pesticide surveys indicate that as few as one-third or about 1,000,000 farms account for over 90 percent of farmer's expenditures on pesticides. Thus, the total impact of the guidelines implementation on one of these pesticide-using farms would average $48.06 per year for senario No. 1 and $45.23 for scenario No. 2. When only the incremental costs are considered, the per-farm annual costs are $14.85 for scenario No. 1 and $14 for scenario No. 2.

For pesticide users in the industrial, commercial, and governmental sectors, total cost impacts average $10.7 million per year during the 1980's ($15.8 million for scenario No. 2) which are quite insignificant in relation to the scope of economic activity involved (as much as three-fourths of the U.S. economy). If only the incremental costs are considered, the average annual cost impacts are $3.3 million for scenario No. 1 and $4.7 million for scenario No. 2. The projected 10-year pesticide expenditures for the industrial/commercial/governmental sector is $15.194 billion. The total guidelines impacts of $107 million and $158 million for scenarios No. 1 and No. 2 are equal to 0.7 and 1 percent of the sector pesticide expenditures, respectively. The incremental cost impacts are less significant, representing 0.2–0.3 percent of the sector expenditures.

For home and garden users of pesticides, annual total cost impact of implementing the guidelines averaging $7.1 million for scenario No. 1 ($10.5 million for No. 2) would not appear to be highly significant or burdensome. This cost would equal $0.03–$0.05 per capita or $0.07–$0.10 per household, assuming there are 100 million households in the United States.

Compared with home and garden sector pesticide expenditures of $7.29 billion, the total cost impacts are relatively small at 1 percent ($71.2 million) for scenario No. 1 and 1.4 percent ($105 million) for scenario No. 2. The incremental cost impacts are smaller yet, at 0.3 percent of sector expenditures for scenario No. 1 and 0.4 percent for scenario No. 2.

In summary, the sector impact of guidelines implementation on individual sectors is quite small, averaging 0.2 percent to 1.4 percent of sector expenditures.

As noted at the beginning of this section, in addition to increased costs, pesticide users could be affected by the loss of some low sales volume pesticide active ingredients and formulations following the implementation of the guidelines. Lack of sufficient registered products is already a significant problem, particularly for certain minor uses in agriculture, and a rapid implementation schedule for the guidelines could add to this problem. This matter is addressed in the sections to follow.

C. IMPACT ON SMALL VOLUME ACTIVE INGREDIENTS

The analysis of the impacts of the guidelines applied under reregistration scenarios indicates that the market for certain active ingredients would not justify the expense of generating the required data. A review of the guidelines requirements indicates that for most active ingredients, a minimum of $200,000–$250,000 in added data costs would be needed to obtain reregistration. For active ingredients requiring $250,000 in additional data, cash flow analysis indicates that sales of $232,000 per year for 15 years and a profit rate of 15 percent before taxes on sales would be required just to break even on the added expenditure when a discount rate of 11 percent is applied. It is apparent that firms would have to generate more than a break-even level of sales on their pesticide. A minimum of $500,000 in annual sales of an active ingredient would seem to be required. This level of sales would be the equivalent of 200,000–300,000 pounds of production on an annual basis.

A review of the production of active ingredients in registered formulated products indicates that approximately 460 of the 1,460 active ingredients are not currently produced. Another approximately 640 active ingredients are produced, but at a level or 200,000 pounds or below. The remaining 360 active ingredients have reported production greater than 200,000 pounds annually. (These production figures are for 1 year, 1975, but a comparison to intended production for 1976 showed no significant changes.) Therefore, a strict application of the guidelines for reregistration with current market conditions could make as many as 1,100 active ingredients uneconomical to produce. It should be pointed out that a strict application of current practice to reregistration would also make many active ingredients uneconomical. The number of active ingredients adversely impacted is estimated to be 10–20 percent lower under current practice as compared to the guidelines (900–1,000 active ingredients).

A preliminary analysis of 1,100 active ingredients in registered formulated products indicates that only about one-third had production volume of more than 250,000 pounds on an active ingredient basis in 1975. A 10-percent screening of the remaining small volume registrations (about 800 of them) indicates that 20 to 30 percent do not have close alternatives in the large volume category above 250,000 pounds (active ingredient basis). Although this analysis is very tentative, it indicates that there are a number of small volume registered chemicals which do not have large volume alternatives.

The impacts on small volume active ingredients could be reduced by waivers of requirements for certain chemicals as provided for in the proposed guidelines. Waivers can be granted when sufficient data are available to allow a finding that a pesticide will not cause unreasonable adverse effects on the environment. Thus for many pesticide active ingredients, their limited use patterns and hence possible limited exposure risk could significantly reduce the quantity, type, and

hence the cost of data needed for reregistration.

Presently the Senate and the House of Representatives are considering identical amendments to FIFRA requiring of the Administrator of EPA: "* * * in establishing standards for data requirements for the registration of pesticides with respect to minor uses, shall make such standards commensurate with the extent of use, pattern of use, and level and degree of potential exposure of man and the environment to the pesticide. In development of these standards, the Administrator shall consider the economic factors of potential national volume of use, extent of distribution and the impact of the cost of meeting the requirements on the incentives for any potential registrant to undertake the development of the required data."

The proposed amendment applies to minor use and has implications for small volume active ingredients. It can be expected that if the generic standards procedure for registration is implemented, special consideration will be given to data requirements on many small volume active ingredients to lessen the cost burden. The number of active ingredients which would then remain economic to reregister and produce cannot, however, be estimated.

D. MINOR USE IMPACTS

A minor use of a pesticide is a relative term relating to the volume of a pesticide applied to a site. Minor use can, for example, encompass a small sales volume active ingredient applied to a few sites. Commonly, minor uses involve major sales volume pesticides which have major applications such as on corn or cotton. A minor use of a pesticide, thus, is any use which accounts for only a small proportion of the total pesticide's use.

Minor use problem areas have been identified for several years. A program known as Interregional Research Project 4 (IR-4) was established by USDA in 1963 which, in cooperation with State experiment stations, produces data to support minor use registration. Data requirements at that time were much less costly than under current practice or the guidelines. A problem for minor uses exists whenever the use of the pesticide desired (either large sales volume or small sales volume) has market potential too small to justify taking the steps necessary to make the product available for that use. Implementing the registration guidelines, which have been identified as increasing costs, can contribute to minor use problems.

The impact of implementation of the guidelines on the minor use problem is indirect. The guidelines in themselves do not impose specific requirements for minor uses. In fact, the data generated in support of the registration of a major use may be cited to support the registration of a minor use. The guidelines contained in subparts B, D, E, and F, if implemented, would impact on the minor use problem largely to the extent that it is not economical to conduct the required testing for every use.

As has been discussed, pending amendments to FIFRA require the Administrator to give special consideration to scale data requirements (the guidelines included) to accommodate minor uses. This does not mean that the minor use problem would be completely solved. It would only tend to minimize such impacts. Market conditions and product liability will still combine to create minor use problems.

E. EMPLOYMENT AND PLANT CLOSURES

This section examines the impacts of the guidelines on employment and plant closures. The projected dislocations are presented along with adjustments expected in a dynamic industry such as pesticides.

U.S. Department of Commerce (1978) estimated that total employment in the sector "Agricultural Chemicals Not Elsewhere Classified" (pesticides) was 15,000 in 1977. Of this total employment, 9,000 were production workers. These employment figures are probably somewhat understated. Pesticide formulation, for many small and large firms alike, is only a portion of their business. the workers would generally spend only a portion of their time in formulating pesticides, and therefore may not be considered as fully employed in the manufacture of pesticide formulations.

The establishments which are identified as primarily producers of pesticide formulations (SIC Code: 2879) number 388 according to U.S. Department of Commerce (1978). EPA lists 5,300 plants manufacturing pesticide formulations. The large discrepancy appears to be due to two main factors. First, EPA records carry plants which produced pesticide products in the past, but no longer do so. Second, pesticide formulation occurs at plants or establishments which are primarily in other lines of checmical product manufacturing, and therefore would fall under other SIC Code numbers.

This analysis has made the projection that under two possible reregistration scenarios under the guidelines, pesticide products containing 645 active ingredients would be reregistered over a period of 10 years and beyond. These 645 active ingredients represent about 95 percent of the current volume of pesticides produced. It is therefore possible that workers involved in the production of products containing the residual 5 percent of active ingredients may lose their positions. For the 15,000 workers at establishments whose primary output is pesticides, a 5-percent dislocation of jobs would equal 750 persons who might be displaced. These displacements would take place over a 10-20-year period or at an average rate of 38-75 positions per year.

Under current practice, projections were made that products containing an additional 50-75 active ingredients would be reregistered. These additional active ingredients represent only about 1 percent of current pesticide production. Therefore, using the same assumptions as above, the employment impact of reregistration under current practice might lead to a dislocation of 4 percent of 15,000 jobs or 600 persons over a 10-20 year period. On an annual basis, 30-60 jobs might be adversely affected. The incremental impact on employment dislocation under the guidelines as compared to current practice would be 8-15 jobs per year or a total of 150. These conclusions are derived from averages which are then applied to an industry structure which varies from small one person operations to large multimillion dollar chemical production facilities. The fine detail may vary, but the overall conclusions should be in the correct range of impacts.

To a large degree, the employment effects would be offset since the pesticides projected to be reregistered (or additional new products) can be expected to substitute for products withdrawn from registration. Distributional effects might occur however as jobs at predominately small firms are lost while jobs at larger firms are likely to increase. There is no logical reason to believe that the jobs shifts would be contained in the same geographic areas. Workers in small geographically isolated pesticide manufacturing firms might need to seek other lines of employment in their geographic area. The pesticide industry is a growth industry, with sales expected to increase in the future at an annual rate of about 4 percent (EPA, February 1978, p. 9). Therefore, the effects of the guidelines on employment and plant utilization would tend to be offset, so that there would tend to be no net effects. If pesticides were not a growth industry, the potential for job and plant losses would be much greater.

Data limitation make it impractical to project the number of plant closures which might occur as a result of implementing the proposed guidelines. Indications are that small formulating plants and basic pesticide production plants are quite flexible, allowing them to make adjustments so that actual plant closures will be minimized.

Formulation plants have a great deal of flexibility since their operations are in essence a combination of mixing and packaging. Switching from formulating one active ingredient which might not be reregistered to an active ingredient (old or new) that is registered might require no more than cleaning and adjusting existing apparatus. The long leadtime of the generic standards approach to implementing the guidelines should allow sufficient opportunity for formulators to obtain new registrations of products with active ingredients that are registered or reregistered.

The small volume active ingredient producers would not, in most cases, be affected by the guidelines requirements for a period of up to 10 to 15 years. Goring (1977) uses a 20-year time horizon, including development time, to evaluate the expected return on investment in pesticide development. Assuming that this is the industry norm in terms of expected product life, then the development time, market time accrued to date, and the 10 to 15 years mentioned above would indicate that presently registered active ingredients may have achieved their original market life expectation before being asked to meet the proposed guidelines data requirements.

Plant closures are therefore not likely to occur in the near future. In the long run any such closures may not be distinguished from the normal turnover in an industry as dynamic as pesticide production. Furthermore, the industry is projected to grow at a rate of 4 percent or more according to current estimates by industry and other experts.

F. CONSUMER EFFECTS

Direct effects on consumers due to price increases on pesticides used by them have already beeb discussed above. This section of the report addresses overall impact upon consumer, i.e., direct and indirect combined, assuming all costs are passed on to the ultimate consumer.

As discussed above, average annual total costs of implementing the guidelines for home and garden uses equal $7.1-$10.5 million or $0.03-$0.05 per capita. If the costs for nonhome and garden uses of pesticides are added to these figures, the following cost impacts are projected on the average during the 1980's.

Incremental—$22-$23 million, $0.10 per capita.
Including data gaps—$71-76 million, $0.32 - $035 per capita.

These cost impacts, while significant, are quite small when compared to total consumer expenditures for goods and services ($1.2 trillion per year, currently). They are also small when compared to the overall costs of environmental cleanup and protection programs which are estimated to equal about $290 billion (over $1,300 per capita) for the decade 1976-85 (CEQ, 1977).

G. OTHER IMPACTS

The macroeconomic (GNP, inflation, employment, etc.) impacts of the guidelines are projected to be insignificant. Inpacts in the range of $100 to $125 million per year (0.008-0.01 percent of GNP) are clearly insignificant to the overall economy in terms of production, employment, inflation, savings, investment, etc. Impacts are significant only at the sector level and very often merely distributional rather than net overall impacts. Certain products or firms are disadvantaged compared to others, but on the average losses and gains would tend to be nearly equal.

Impacts on energy and other scarce mineral resources are not likely to be significant. Overall pesticide production and use would remain largely unaffected thus no overall net effects would be expected. Problems would be solved generally by short term adjustments among producers and users of pesticides, apart from the minor use/small volume pesticide problem which would only be aggravated (not caused) by implementing the guidelines. Special research training and extension efforts may be needed to minimize these problems and are already in place to some extent.

Implementation of the guidelines as discussed in this report assumes that the various data requirements can be met by research and data gathering activities on a scale substantially above current levels, i.e., doubling. There are potential constraints on conducting the needed R. & D. in the time frames indicated. For example, there could be shortages in personnel and facilites to conduct requred toxicology and environmental effects research. The Office of Pesticide Programs is in the process of obtaining contractor effort to assist in evaluating this matter. This effort could be quite important inasmuch as demands for such research are increasing in other related program areas.

The testing industry should be anticipating the trend toward increased safety testing of chemicals from not only the Office of Pesticides, but also Office of Toxic Substances in EPA, Occupational Safety and Health Administration (OSHA), Food and Drug Administration (FDA), Consumer Product Safety Commission (CPSC), etc. The phasing of the proposed guidelines requirements over a period of more than 10 years will allow the testing industry opportunity to expand to fill the expected increase in demand for safety testing of chemicals.

The Office of Pesticide Programs intends to continue its policy of allowing registrants sufficient time to secure testing facilities when constraints exist. For reregistration, the registrants are allowed to continue to produce and market their products until the needed data are generated. The proposed guidelines are designed to generate data on scientific bases to evaluate the potentiasl risks of pesticide products. There is no administrative policy or statutory mandate that data requirements under FIFRA should be limited due to short term shortages in laboratory facilities when shoratages are fully expected to abate and cause no hardships on registrants.

The Agency is a member of the Interagency Regulatory Liaison Group (IRLG) composed of EPA, FDA, OSHA, and CPSC. Through the organization, coordination of testing requirements for chemicals across these agencies would be expected to ensure that priorities are established for the testing of chemicals.

VIII. LIMITATIONS OF ANALYSIS

This report of projected economic impacts from subparts B, D, E, and F, of the guidelines for registering pesticides under FIFRA is not in as great detail as would be preferred. Data bases are weak in several areas. While the guidelines are being proposed, further generation of data and analysis is being undertaken by the agency. Major limitations of the existing analysis are as follows:

1. Costs are projected on estimated average unit costs of tests which will vary in practice considerably around averages depending on the specific circumstances of proposed registrations of a pesticide product. Although best available data from private labs, pesticide producers, Government labs, EPA personnel, and consultants were utilized in making cost estimates, there is a high degree of uncertainty as to the actual average costs. This is particularly true because of opportunities for waiver of requirements which will occur on a case-by-case basis and opportunities for reducing requirements for minor use pesticides as provided for in proposed amendments to FIFRA under consideration by the Congress at the present time. During the period for which the guidelines are being proposed, EPA is conducting further analysis of the unit costs of the various tests and data requirements. Contractor support is planned for these efforts.

2. The analysis assumes that the various data requirements and tests can be met under the registration scenarios during the 1980's in the absence of significant constraints on generation

of such data and tests due to scarcities in laboratory facilities and/or analytical expertise. Limited data are presently available on the capacity of such research facilities and expertise. Inasmuch as implementation of the guidelines would result in substantial increases in pesticides R. & D., and limited data are available on the capacity of these industries to meet such requirements, the Agency is conducting an analysis of this matter, with contractor effort during the upcoming months.

3. Economic profile data are limited with respect to pesticide producers, formulators, and users, particularly the latter two groups. The analysis reflects economic impacts largely on an aggregate basis and on the average for these groups. It lacks detail with respect to specific impacted segments and categories, for which impacts may vary greatly. Some sectors or groups could be much more seriously affected than the average. For that reason, further analysis is being made of this matter also by the Agency with contractor effort. In addition, the Agency is specifically requesting input as to such impacts in connection with the proposed guidelines. Such inputs and comments will be taken account of in preparation of the final economic impact analysis.

4. The two scenarios for implementation of the guidelines in connection with a generic standards program during the 1980's provide only rough approximations of economic impacts during that period. It is possible at this time to project with precision the actual costs and impacts because such detailed plans over the period have not been prepared. Even if they were, they would be subject to considerable change due to the time period involved. The Agency believes that the two scenarios presented are indicative of the range of most likely implementation scenarios during the 1980's. No attempt was made to estimate economic impacts on an annual basis beyond the 1980's during which reregistration of existing pesticides would be expected to be completed.

5. Projections of the number of new active ingredients and formulations to be registered during the 1980's are mere linear projections from recent years. It is impossible that the estimate of 15 new active ingredients per year could be significantly underestimated or overestimated. The Agency is conducting further analysis of research and development trends in the pesticide industry, including financial outlook information. This analysis will be available during the upcoming months.

6. Impacts of the proposed guidelines on minor use pesticides as well as small volume active ingredients are analyzed in the current analysis but will be subjected to further analysis in the future. Particular attention will be paid to the availability of pesticides for minor uses and substitues for small volume active ingredients which may no longer be economic with full implementation of the guidelines over the decade of the 1980's. Further attention will be paid to potential plant closures and attendant economic and community impacts.

7. The current analysis does not consider economic impacts the guidelines could have upon the extent to which pesticide research and development and production activities are carried out in this country as compared to foreign nations. Attention will be focused on this matter as appropriate depending upon comments received on this analysis and further review the Agency has undertaken on this matter.

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Appendix A—Sources of Cost Estimates

The cost of a test or data submission described in the guidelines will generally vary with the product being tested. For this analysis, cost estimates for a typical product were sought. Sources of cost estimates include pesticide producers, private contract laboratories, government laboratories, and OPP personnel. Tables A-1 through A-5 list the sources of test costs used in this analysis. When several estimates for a single test were available, an average figure was derived. The costs used should not be interpreted as the figures for all products. They are only representative costs. For any single product the actual cost could be higher or lower than the costs provided.

Another point to be remembered is that the estimates will vary in accuracy depending on the degree to which the test is standardized. For example, the cost of a hydrolysis test in environmental chemistry will be more accurate than a field test in the fish and wildlife hazard area.

The analysis also includes estimates on the costs of tests under current practice. Some of these costs differ from the costs of tests as described in the guidelines. The costs under current practice were estimated by OPP personnel.

A-1

Sources of Cost Estimates for Product Chemistry Requirements under Guidelines

Guidelines Requirement	Estimated Cost ($)	Source(s) of Estimate: Private Lab(s)	Pesticide Producer(s)	Gov't. Lab(s)	OPP Personnel
Manufacturing Process Description (MUP)	1,100		X		X
Manufacturing Process Description (Form)	1,000		X		X
Theoretical Discussion (MUP and Form)	100		X		X
Development of Methodology for Analytical Assay (MUP)	60,000		X		X
Devlopment of Methodology for Analytical Assays (Form)	160,000				X
Develop of Methodology For Analytical Assay on Formulated Products Produced by Integrated System (Form)					
Sample Analysis (MUP and Form)	1,600		X		X
Physical/Chemical Properties (MUP and Form)	1,600		X		X

A-2

Sources of Cost Estimates for Environmental Chemistry Tests Under Guidelines

Guidelines Requirement	Estimated Cost ($)	Source(s) of Estimate: Private Lab(s)	Pesticide Producer(s)	Gov't. Lab(s)	OPP Personnel
Hydolysis	12,000	X	X	X	
Photodegradation	20,000	X	X	X	
Aerobic Soil Metabolism	29,000	X	X	X	
Anaerobic Soil Metabolism	29,000 1/	X	X	X	X
Araerotic Aquatic Metabolism	25,000	X	X	X	
Aerobic Aquatic Metabolism	25,000	X	X	X	
Effects of Pesticides on Microbes	28,000	X	X	X	
Effects of Microbes on Pesticides	28,000	X	X	X	
Activated Sludge Metabolism	15,000	X	X	X	
Leaching	10,000	X	X	X	
Volatility	7,500	X	X	X	
Adsorption/Desorption	7,500	X	X	X	
Water Dispersal	16,000	X	X	X	
Field Dissipation-Soil	29,000	X	X	X	
Field Dissipation-Water	21,000	X	X	X	
Forest Dissipation	50,000	X	X	X	
Combination & Tank Mix	9,000 2/		X		
Long Term Study	20,000 3/				X
Rotational Crop	20,000 3/	X	X	X	
Irrigated Crops	20,000	X	X	X	
Fish Accumulation	20,000	X	X	X	

1/ In addition to aerobic soil metabolism
2/ In addition to Field Dissipation-Soil
3/ Assume 4 crops

A-3

Sources of Cost Estimates for Special Chemistry Requirements under Guidelines

Guidelines Requirement	Estimated Cost ($)	Source(s) of Estimate: Private Lab(s)	Pesticide Producer(s)	Gov't. Lab(s)	OPP Personnel
Residue Analysis on Green Tobacco	50,000				X
Residue Analysis on Dry Tobacco	20,000 1/				X
Residue Analysis in Smoke Including Pyrolysis Products	80,000 2/				X

1/ In addition to residue analysis on green tobacco
2/ In addition to residue analysis on green and dry tobacco

A-4

Sources of Cost Estimates for Fish and Wildlife Hazard Tests under Guidelines

Guidelines Requirement	Estimated Cost ($)	Source(s) of Estimate: Private Lab(s)	Pesticide Producer(s)	Gov't. Lab(s)	OPP Personnel
Avian LD 50	1,500	X	X		
Avian Dietary LC50	2,000	X	X		
Mamalian Acute Toxicity	1,000				X
Avian Reproduction	24,000	X			
Small pen Study	12,000	X			X
Large Pen Study	25,000				X
Field Test	50,000				X
Fish Acute LC50	750	X	X		
Acute Toxicity to Aquatic Invertebrates	360	X			
Acute Toxicity to Estuarine & Marine Organisms		X			
Fish Reproduction or Invertebrate Life-cycle	11,500	X			
Fish Life-cycle	40,000	X			
Aquatic Organism Toxicity & Residue	20,000				X
Simulated or Actual Field Testing for Aquatic Organisms	200,000	X			X

Table A-5

Sources of Cost Estimates for Human and Domestic Animal Hazard Evaluations

Guidelines Requirement	Estimated Cost ($)	Sources of Estimate			
		Private Lab(s)	Pesticide Producer(s)	Gov't Lab(s)	OPP Personnel/ Consultant
Acute Oral	700	X	X		
Acute Dermal	650	X	X		
Acute Inhalation	750	X	X		
Primary Eye Irr.	550	X	X		
Primary Dermal Irr.	400	X	X		
Dermal Sensitization	400	X			
Acute Delayed Neurotoxicity	5,000				X
Subchronic Oral Dosing	75,000	X			
21-day Dermal Tox.	20,000				X
90-day Dermal Tox	25,000				X
Subchronic Inhalation	12,000				X
Subchronic Neurotoxicity	12,000				X
Chronic Feeding	150,000	X	X		
Oncogenicity	162,000	X	X		
Teratogenicity	30,000	X			X
Reproduction	30,000	X			
Mutogenicity	55,000	X			
Metabolism	14,000				X

APPENDIX B—MARKET SHARE PROFILE DATA

Table B-1

Cumulative Market Shares for Active Ingredients,
Not Including Various Salts and Esters Which Are Registered

Cumulative Percent of Sales by Type	Number of Active Ingredients[1]		
	Insecticides[2]	Herbicides[3]	Fungicides
10	2	1	1
20	3	2	2
30	5	3	3
40	7	4	5
50	10	8	7
60	16	14	12
65	20	18	15
70	24	22	
75	30	28	
80		33	
85		42	
90			
95			
100	420	410	240

1/ Does not distinguish the various salts and esters which are also registered except on the 100% of sales line.
2/ Includes nematicides
3/ Includes plant growth regulators

Table B-2

Selected Cumulative Market Shares for
Active Ingredients Including Associated Salts and Esters

Cumulative Percent of Sales by Type	Number of Active Ingredients (Sales Volume in Millions)			
	Insecticides[2]	Herbicides[3]	Fungicides	Total
65			20($72)	
70				
75	30($570)			
80				125($1,832)
85		75($1,190)		
90				
95				
100	420($760)	410($1,590)	240($110)	1070($2,460)

1/ Includes counts of salts and esters which are also registered.
2/ Includes nematicides
3/ Includes plant growth regulators

Table B-3

Average Sales Volumes for Active Ingredients

			Average Sales Per AI 1/ ($000's)
Insecticides			
Largest	30	AI's	19,000
Remaining	390	AI's	487
Total	420	AI's	1,810
Herbicides			
Largest	75	AI's	15,860
Remaining	335	AI's	1,195
Total	410	AI's	3,880
Fungicides			
Largest	20	AI's	3,600
Remaining	220	AI's	410
Total	240	AI's	460
Summation			
	125	AI's	14,650
	945	AI's	665
	1,070	AI's	2,300

1/ AI - Active Ingredient

APPENDIX C—DERIVATION OF COST FIGURES IN TABLES 17 AND 18

The cost of test data will vary with the chemical and with the anticipated use pattern. Generally, pesticides used in agriculture on food crops will require the most intensive and expensive data because of the potential human ingestion through residues and the more likely broader environmental impacts. A review of the tests outlined in the guidelines indicated that at the upper end, data costs would average $950,000 for pesticides with broad food crop uses. This figure would include the more expensive longer term feeding studies required for human hazard evaluation. At the lower end an average of $200,000 would be expended for all data required. This figure would generally not include the more expensive toxicology and environmental studies. Pesticides requiring data costing $200,000 would ordinarily not have food crop uses and would have more limited use patterns. The remaining pesticides with assorted use patterns would fall in the range $200,000 to $950,000, on the average. If the same approach were applied under current Agency practice, the range would be $150,000 to $700,000 (see tables C-2 and C-3).

Table C-1 provides estimates of the number of active ingredients expected to need the varying dollar amounts of data assuming that all currently registered products are considered. Figures are given in terms of both guidelines and current practice. The approach used to develop the breakdown was to apply the highest costs to the first 300-350 active ingredients, which would cover the pesticides use by the agricultural sector (see table C-2). Then the costs were reduced to the minimum levels in such a way as would provide a weighted average data cost which approximated the figures in the cost analysis of this report (see table C-3).

The figures in table C-1 must be adjusted to reflect the value of data which has been submitted to the Agency and would be acceptable under the guidelines. It was estimated in the cost analysis that 16 percent of the value of data required by the guidelines has been submitted to the Agency. In terms of the data cost of current practice, the data submitted would be 21 percent of the total value. Table C-4 provides the adjusted figures.

The figures in C-4 are then further adjusted to add in the cost of test data on formulations made from the active ingredients. The cost anlaysis indicated that for an active ingredient use in agriculture, the additional testing costs would add 25 percent under current practice and 40 percent under the guidelines. Table C-5 provides these adjusted figures.

These costs are then assumed to be incurred over a 4-year time period. Then 25 percent of the costs from table C-5 are used in tables 17 and 18 to provide the basis for calculating the annual expense to the pesticide industry.

Table C-1

Expected Cost of Data for Active Ingredients
Under A Generic Standard Scenario

Number of Active Ingredients		Cost of Data	
		Current Practice	Guidelines
		$ 000's	
First	150	700	950
Next	150	600	800
"	150	450	500
"	150	250	300
"	150	200	300
"	150	150	200
"	150	150	200
"	150	150	200
"	150	150	200
Last	110	150	200
Total	1,460		

Table C-2

Costs to Meet Guidelines, Current Practice, and
Data Gaps for Typical Agricultural Pesticide Active Ingredient

Guidelines Area	Costs			Percent of Data Cost Yet to Be Incurred	Cost of Data Yet to Be Incurred
	Current	Guidelines	Difference		
Product Chemistry	$ 57,000	$ 67,000	$10,000	50	$ 33,500
Environmental Chemistry	$225,000	$225,000	$ 0	95	$213,750
Fish and Wildlife	$ 50,000	$ 75,000	$25,000	90	$ 67,500
Human Hazard	$350,000	$600,000	$250,000	50	$300,000
Total	$682,000	$967,000	$285,000	64	$614,750

Table C-3
Costs to Meet Guidelines, Current Practice, and Data Gaps for Average Pesticide Active Ingredient, All Use Patterns

Guidelines Area	Costs			Percent of Data Cost Yet to Be Incurred	Cost of Data Yet to Be Incurred
	Current	Guidelines	Difference		
Product Chemistry + Special Chemistry	$ 57,000	$ 67,859	$10,000	50	$ 33,500
Environmental Chemistry	$131,228	$131,228	$ 0	95	$124,700
Fish and Wildlife	$ 9,475	$ 12,924	$ 3,449	95	$ 12,300
Human Hazard	$ 84,466	$169,267	$78,611	75	$125,000
Total	$282,169	$381,278	$92,060	79	$295,500

Table C-4
Expected Data Cost Subtracting Value of Data Already Submitted

Number of Active Ingredients		Cost of Data	
		Current Practice	Guidelines
		$ 000's	
First	150	550	800
Next	150	475	675
"	150	350	420
"	150	200	250
"	150	160	250
"	150	120	170
"	150	120	170
"	150	120	170
"	150	120	170
"	150	120	170
Last	110	120	170
Total	1,460		

Table C-5
Net Data Cost Including Data for Corresponding Formulations

Number of Active Ingredients		Cost of Data	
		Current Practice	Guidelines
		$ 000's	
First	150	685	1,120
Next	150	595	945
"	150	438	588
"	150	250	350
"	150	200	350
"	150	150	238
"	150	150	238
"	150	150	238
"	150	150	238
Last	110	150	238
Total	1,460		

APPENDIX D—BENEFITS TO BE DERIVED FROM GUIDELINES REQUIREMENTS AND RATIONALE FOR INCREMENTAL CHANGES

Table D-1

Benefits to be Derived from Guidelines Requirements and Rationale for Incremental Changes

Guidelines Subpart and Section	Benefit of Data Requirement	Comparison of Current Practice and Guidelines Requirements		Rationale for Incremental Guidelines Requirements
		When Required (No. of Chem./ Products)	Level of Data (Scope/Rigor)	
Product Chemistry				
Description of manufacturing process (163.61-4)	To assure the Agency that a thorough and diligent effort to anticipate ingredients (intentional and unintentional) has been made	Increase	Increase	Unintentional impurities may occur at any stage of manufacturing or packaging. A more complete process description is therefore needed. Some additional products are covered since some formulated products are produced themselves from formulated products.
Discussion of unintentional ingredients (163.61-5)	To anticipate impurities (e.g., dioxin in 2,4,5-T) which could create unreasonable risks to the environment	New	New	This is a new requirement added because of past experience with impurities such as dioxins and nitrosamines. This requirement would allow a review of potential risks which might occur because of unintentional ingredients in products.
Declaration and certification of ingredient limits (163.61-6)	Variance in the composition of a product outside of certain limits can reasonably be expected to change the efficacy and potential risk of products. The Agency intends to control this variance by registering only those products whose composition can be stably produced and maintained.	New	New	This is a new requirement added to allow the manufacturer to certify the limits on the levels of active ingredients, inerts, and impurities to be in compliance with the requirements to accurately label their products' composition.
Product analytical methods and data (163.61-7)	The Agency has need for methodologies (analytical or otherwise) to determine the kind and levels of ingredients in products. These methodologies are used in enforcement of FIFRA and in determining the registerability of pesticide products. Also, the Agency needs the results of these methodologies as applied to samples of the products for comparative purposes.	Increase	Increase	The "when required" has been increased to cover products reformulated from other formulated products since changes in the composition could occur. The level of rigor has been increased to reflect more current scientific methods of analytical chemistry. Also, analysis of five samples are now required as opposed to one before, to measure the variance of results likely to be obtained.
Physical and chemical properties (163.61-8)	Physical and chemical properties such as boiling point would be used to confirm the description of the manufacturing process; others would be used to evaluate hazard potential, such as flammability; and finally others such as odor would be helpful in identifying the causative agents in accidental poisoning.	Increase	Increase	This requirement has been extended to cover products reformulated from other formulations. An octanol/water partition coefficient has been added as a measure of a chemical's lipid solubility.
Special Chemistry Requirements				
Pesticides on tobacco (163.64-1)	Use of pesticides on tobacco does not require a tolerance or exemption from tolerance. Data are, however, needed to assess the exposure of man to pesticide residue upon the consumption of tobacco.	Same	Same	There are no changes over current requirements for this section.

Table D-1 (Cont'd)

Guidelines Subpart and Section	Benefit of Data Requirement	Comparison of Current Practice and Guidelines Requirements: When Required (No. of Chem./ Products)	Comparison of Current Practice and Guidelines Requirements: Level of Data (Scope/Rigor)	Rationale for Incremental Guidelines Requirements
Environmental Chemistry				
Physico-chemical degradation (163.62-7) - hydrolysis - photodegradation	Degradation studies are used to determine the rate of decomposition and identification of pesticide residues which are formed through the action of sunlight or water on a product. The fate of these residues help to evaluate the hazard potential of pesticides.	Same	Same	There are no changes over current practice for this section.
Metabolism (163.62-8) - aerobic soil - anaerobic soil - anaerobic water - aerobic aquatic - effects of microbes on pesticides - effects of pesticides on microbes - activated sludge	Pesticides introduced into the environment can be transformed by metabolic means. Metabolic processes can occur in soil and in water. Metabolism data are needed to evaluate the fate of pesticides in the environment under aerobic and anaerobic conditions in both soil and water. Additionally, pesticides may enter wastewater treatment facilities. It is necessary to evaluate the effects of pesticides on activated sludge use in treatment plants.	Same	Same	There are no changes over current practice for this section.
Mobility (163.62-9) - leaching - volatility - adsorption/desorption - water dispersal	Mobility studies are used to evaluate the movement of pesticide residues in the environment. Such movement may cause contamination of the food web (including nontarget crops), loss of useable land and water resources, and habitat loss for wildlife. Leaching, volatility, adsorption/ desorption, and water dispersal were selected as common measures of pesticide mobility.	Same	Same	There are no changes over current practice for this section.
Field dissipation (163.62-10) - soil - water - ecosystem - combination and tank mixes - long term study	Field studies determine pesticide dissipation and mobility in the environment which may differ from rates observed under laboratory conditions. Data from these studies are needed to assess the potential hazards for reentry into treated areas, residues in rotational crops, residues in the food web, and contamination of land and water resources.	Same	Same	There are no changes over current practice for this section.
Accumulation (163.62-11) - rotational crop - irrigated crop - fish - special studies	Pesticides introduced into the environment may enter and accumulate in food webs. Studies in this section will determine this accumulation in rotational crops, irrigated crops and fish.	Same	Same	There are no changes over current practice for this section.

Table D-1 (Cont'd)

Guidelines Subpart and Section	Benefit of Data Requirement	Comparison of Current Practice and Guidelines Requirements: When Required (No. of Chem./ Products)	Comparison of Current Practice and Guidelines Requirements: Level of Data (Scope/Rigor)	Rationale for Incremental Guidelines Requirements
Hazard Evaluation: Wildlife and Aquatic Organisms				
Avian single dose LD_{50} (163.71-1)	This test measures the single dose level of a pesticide which would produce mortality in birds. This is an input to evaluate the potential hazard to birds from a single ingestion of a pesticide or pesticide contaminated food.	Same	Same	There are no changes from current requirements for this test.
Avian dietary LC_{50} (163.71-2)	This test measures the dose level of a pesticide which would produce mortality in birds over a feeding period of several (5) days. These data are used to evaluate the hazard to birds of dietary exposure to pesticides.	Same	Same	There are no changes from current requirements for this test.
Mammalian acute toxicity (163.71-3)	This test measures the single dose level of pesticide which would produce mortality in wild mammals such as deer. These data are used to evaluate the potential hazard to wild mammals from a single ingestion of a pesticide or pesticide contaminated food.	Increase	Increase	Agency experience has identified additional insecticides for which these data are needed.
Avian reproduction (163.71-4)	This test measures the effects of exposure to pesticides on avian reproduction. Pesticides which persist in the environment have the potential to disrupt reproduction in birds. This test is an input to evaluate this hazard.	Increase	Same	Agency experience has identified additional insecticides, fungicides, and herbicides which are now thought to pose risk to avian reproduction.
Simulated and actual field testing (163.71-5)	Field testing provides data which more clearly identify potential hazard to birds and/ or mammals. This testing can answer questions raised by ambiguous results from laboratory testing, or it may be used to evaluate impacts on non-target species under actual pesticide use conditions.	Increase	Same	Agency experience has identified additional pesticides in all classes for which field testing data would provide a more supportable scientific basis for decision making.
Fish acute LC_{50} (163.72-1)	This test measures the pesticide concentration in water which will produce mortality in fish. These data are used to evaluate the potential hazard which pesticides entering water may cause to fish.	Increase	Same	Additional tests on formulated products are being required because of increasing concerns about the differences in toxicity among formulations which contain different inerts.
Acute toxicity to aquatic invertebrates (163.72-2)	This test measures the pesticide concentration in water which will produce mortality in aquatic invertebrates such as mayflies. These data are used to evaluate the impacts on invertebrate species, which, if affected, might disrupt the aquatic ecosystem.	Same	Same	There are no changes from current requirements for this test.

Table D-1 (Cont'd)

Guidelines Subpart and Section	Benefit of Data Requirement	Comparison of Current Practice and Guidelines Requirements: When Required (No. of Chem./ Products)	Comparison of Current Practice and Guidelines Requirements: Level of Data (Scope/Rigor)	Rationale for Incremental Guidelines Requirements
Acute toxicity to estuarine and marine organisms (163.72-3)	This test measures the effects of pesticides in an estuarine or a marine environment. This is an input to evaluate the potential hazard of pesticides to fish, crab, shrimp, molluscs, etc.	Increase	Increase	The test proposed now includes the addition of marine fish. Additional products are to be tested because of the Agency's concern with plant effluents and run-offs.
Embryo-larvae and life-cycle studies of fish and aquatic invertebrates (163.72-4)	This test provides the Agency with data on the long term effects of pesticides on fish and other water inhabiting organisms.	Increase	Same	Additional chemicals will require this test primarily because of concern that disinfectants in waste water find their way into water bodies and have the potential for producing hazardous effects on fish and other aquatic organisms over a long period of time.
Aquatic organism toxicity and residue study (163.72-5)	This test will provide data on the effects on non-target organisms of pesticides applied to or expected to enter water bodies. Particular attention is paid to the build-up of pesticide residies in the aquatic food chain.	Increase	Same	The increase in the number of chemicals to be tested reflects the increasing concern over the build-up of persistant pesticides in the food chain.
Simulated or actual field testing for aquatic organisms (163.71-6)	Field testing provides data which more clearly identify potential hazard to aquatic life than can sometimes be produced in a laboratory. When laboratory findings indicate potential risks, then field testing can provide data under actual environmental conditions which may confirm or refute the laboratory findings.	Increase	Same	Agency experience, especially with disinfectants, has indicated that a few additional chemicals would need this test.
Hazard Evaluation: Humans and Domestic Animals				
Acute studies (163.81-1, -2, -3) - acute oral toxicity - acute dermal toxicity - acute inhalation toxicity - primary eye irritation - dermal sensitization - acute delayed neurotoxicity	Data from these sections are used to determine the relative toxicity of compounds, how pesticides cause toxic effects, and the proper design for longer term studies. Other uses for this data include issuance of RPAR's, classification of pesticides for restricted or general use, and label warnings of hazard.	Increase	Increase	Increases in the scope or rigor of acceptable test protocols on scientific grounds are proposed for acute dermal toxicity and acute inhalation toxicity tests. The changes are to allow a better measure of the statistical significance of the test results. Tests are now required for acute oral and acute dermal toxicity when the technical grade active ingredient differs from the manufacturing-use product. These changes are to determine if the inert ingredients in the manufacturing-use product alters the toxicity. A requirement to measure the oral toxicity of the use dilution for some products used in the home was added because of concern over accidental poisonings in the home. Finally, all manufacturing-use products are proposed to be tested for dermal sensitization as opposed to a few under current practice. This change reflects a concern for pesticide production worker safety.

Table D-1 (Cont'd)

Guidelines Subpart and Section	Benefit of Data Requirement	Comparison of Current Practice and Guidelines Requirements		Rationale for Incremental Guidelines Requirements
		When Required (No. of Chem./ Products)	Level of Data (Scope/Rigor)	
Subchronic testing (163.81-1, -2, -3, -4, -5) - subchronic oral dosing - subchronic 21-day dermal toxicity - subchronic 90-day dermal toxicity - subchronic inhalation toxicity - subchronic neurotoxicity	These sections provide data on results of repeated exposure through various routes. These data also serve to identify target organ and to establish dose levels for life-time or chronic studies. Finally these data are used to compare the toxicity of pesticides according to the route of exposure.	Increase	Increase	The 90-day dermal toxicity study is prepared to be newly added for pesticides which are purposely applied to human skin. Systemic toxicity effects can then be measured in similar fashion to a subchronic oral study. The 21-day dermal toxicity is proposed to cover more chemicals than under current practice because of increasing concern over applicator and worker exposure. The protocol for the subchronic inhalation has been expanded with a significant cost increase to cover inhalation exposures which are long or almost continuous. A subchronic neurotoxicity test has been newly added to obtain further data on those chemicals which produced nervous system effects in the acute delayed neurotoxicity test or other studies. Under current practice the longer term neurotoxocity effects are not now evaluated in a special study.
Chronic testing (163.83-1, -2, -3, -4) - chronic feeding study - oncogenicity studies - teratogenicity studies - reproduction study	These sections describe tests for detecting adverse effects from lifetime exposure to a pesticide. Focus is on detection of malignant and benign tumors, birth defects, fetotoxicity, decreased fertility, premature delivery, smaller offspring, and other chronic effects. These tests are required on pesticides likely to be ingested through various routes of exposure by the human population.	Increase	Increase	The scope and rigor of the chronic testing area is proposed to be increased to reflect more stringent scientific standards accepted today. These standards include additional test animals and dosing levels, and longer test periods to provide increased statistical reliability and better data bases for extrapolation of the results.
Mutagenicity testing (163.84-1, -2, -3, -4)	These sections provide data on the mutagenic potential of pesticides. Through regulation, the Agency would decrease human exposure to chemicals shown to cause genetic mutations.	Increase	Same	Currently the Agency is requiring mutagencity testing on pesticides which may leave residues on food or feed crops. This section is proposed to be extended to cover additional pesticides to which humans may be exposed through routes other than food.
Special testing (163.85-1) - general metabolism study	These studies will provide data on how a pesticide moves, changes, or accumulates in the mammalian system. These data are designed to identify pesticide metabolites in mammals and provide a basis for evaluating the chronic effects of pesticides on humans. The metabolites formed in an animal system may differ from those formed in the environment. Metabolism studies are therefore needed in addition to the tests under environmental chemistry.	Increase	Same	Currently the Agency is requiring metabolism studies on pesticides which may leave residues on food or feed crops. This section is proposed to be extended to cover additional pesticides which humans may receive exposure through other routes. Exposure through non-food routes can also add a pesticide burden to the body.

APPENDIX E—EXCERPT FROM SECTION II-A IN PREAMBLE TO SUBPART F ENTITLED "TEST SUBSTANCE." THIS SECTION PROVIDES AN EXAMPLE OF ALTERNATIVE APPROACHES CONSIDERED IN DRAFTING THE PROPOSED GUIDELINES

The majority of the other tests in this proposal are subchronic and chronic studies, and the guidelines would generally require that they be performed with the technical grade of each active ingredient in the product. The decision to routinely require intermediate and long-term toxicity testing only on technical chemicals is based both on the Agency's experience in reviewing the toxicity of the ingredients of pesticide products and on economic considerations.

Pesticide products contain many different kinds of ingredients. Every pesticide contains at least one pesticidally "active ingredient," which by definition produces toxic or behavior-altering effects in one or more organisms exposed to the chemical. The ordinary commercial production of pesticidally active ingredients usually introduces manufacturing impurities or byproducts which may also be toxic. Other chemical substances called "inert ingredients" [1] are deliberately added during the formulation of an end-use product to improve the usefulness of the pesticide, reduce its hazard to users, to dilute the chemicals, to stabilize the ingredients, and for several other reasons. An "inert ingredient" may bring its own impurities or may react with other ingredients or packaging materials to produce new impurities. Finally, some pesticides are somewhat unstable and over time may partially degrade to form still more substances.

[1] The term "inert ingredient" is defined by FIFRA § 2(m) and refers to any ingredient in a product which is pesticidally inactive. These substances, however, are not necessarily nontoxic, nor are they necessarily biologically or chemically inert.

EPA recognizes that any of the ingredients in a pesticide product could be toxic to man or other beneficial organisms. Experience, however, has shown that, with some notable exceptions, the active ingredients and associated manufacturing impurities are of greatest concern. These impurities, together with the active ingredient, make up what is usually considered the "technical chemical." Thus, testing the technical chemical is consistent with that experience.

Comments already received recommend that subchronic and chronic studies be performed on technical chemicals and on each formulated product, as well. The basis for this recommendation is that ingredients in an end-use product, other than the active ingredient, may pose risks to man and the environment. Moreover, testing the formulated product would detect effects caused by the synergistic (or other) interaction of different ingredients. These effects would not be evaluated by testing each ingredient separately.[2] Another alternative has been proposed: That data from subchronic and chronic tests be derived from tests with each ingredient in a pesticide product, not merely the active ingredients. This alternative would require testing of each deliberately added inert ingredient in a product, and possibly each impurity. This testing scheme, however, would not identify toxic effects resulting from the interaction of two different ingredients.

EPA considers both of these alternatives economically prohibitive. Over 30,000 formulated products are registered; they contain approximately 1,450 different active ingredients, and a comparable number of deliberately added inert ingredients. By extending the data requirements for subchronic and chronic studies to include data from tests on formulated products, the Agency would increase the number of required tests twentyfold. Extending the data requirements from active ingredients to deliberately added inert ingredients would double the amount of testing required in this proposal. If testing of impurities were also required, the amount of testing would triple. Such test requirements would not only strain the national capacity to perform toxicological assays, but would also place an extraordinarily heavy burden on the industry.[3] Moreover, EPA is not persuaded that the additional data generated by routine testing of inert ingredients, impurities, and end-use products would significantly improve the quality of EPA's decisionmaking. Consequently, proposed § 163.80-3(b)(2)(iv) states that additional testing of these substances would be required only on a case-by-case basis. The Agency invites public comment on whether the subchronic and chronic data requirements should be extended to include routine testing of substances other than the technical grade of active ingredients.

[FR Doc. 78-24864 Filed 9-5-78; 8:45 am]

[2] The acute oral, dermal, and inhalation toxicity studies, § 163.81-1 through -3, are designed to detect some synergistic or other interactions between ingredients in a pesticide. Under these sections, data must be submitted on the LD_{50} and LC_{50} of each active ingredient in a pesticide product, as well as the manufacturing-use or formulated product, itself. If the toxicity of the product exceeds the additive toxicity of the individual active ingredients, further testing may be required to determine the source of the enhanced toxicity. Such additional toxicity could result either from the independent toxicity of an inert ingredient or from the interaction of ingredients in the formulation.

[3] See the economic impact analysis report on these proposed regulations (FR citation).

federal register

WEDNESDAY, SEPTEMBER 6, 1978
PART III



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

■

REAL ESTATE SETTLEMENT PROCEDURES ACT

Advance Notice of Proposed Rulemaking; Request for Comments

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[24 CFR Part 3500]

[Docket No. R78-568]

REAL ESTATE SETTLEMENT PROCEDURES ACT

Advance Notice of Proposed Rulemaking

AGENCY: Department of Housing and Urban Development.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice is published to invite comments from the public to assist the Department to determine what revisions of the regulations, if any, are needed. Comments are requested also on specific sections and areas of the Real Estate Settlement Procedure Act (RESPA) to assist in the possible development of additional procedures or regulations.

DATES: Comments will be received through December 1, 1978.

ADDRESS: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Availability of RESPA materials: Single copies of RESPA, the current Regulations and Special Information Booklet, are available at no charge from the above office as long as the present supply lasts.

FOR FURTHER INFORMATION CONTACT:

Cynthia D. Lewis, Acting Director, or Richard H. Heidermann, Special Assistant, Real Estate Practices Staff, Office of the Deputy Assistant Secretary for Regulatory Functions, Room 4108, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410; telephone 202-755-5860 or 202-755-7038.

SUPPLEMENTARY INFORMATION

BACKGROUND

The Secretary of Housing and Urban Development proposes to review the regulations issued pursuant to the Real Estate Settlement Procedures Act (12 U.S.C. 2601-2617) commonly known as RESPA. That Act (RESPA) is intended to provide advance disclosure to homebuyers of settlement costs, eliminate certain kickbacks and referral fees for various settlement services, and reduce the amounts homebuyers are required to escrow for real estate tax and insurance payments. The current RESPA Regulations (24 CFR Part 3500) became effective June 30, 1976. Except for a change deleting references to the Equal Credit Opportunity Act, published in the April 13, 1977 FEDERAL REGISTER on pages 19405 and 19327, the regulations have not been revised since June 1976.

RESPA is administered by the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection. This Office is conducting a review to determine what revision may be needed to existing regulations or procedures to assure that homebuyers obtain the benefits and protections Congress intended and invites comments from all interested persons and groups.

COMMENTS REQUESTED

Comments are sought on the need for and type of regulations pertaining to section 9 and 10 of RESPA which deal with title insurance and escrow limitations respectively. Present regulations do not cover these provisions. Comments are also sought on the need for technical clarification of section 8 of RESPA and Regulation 3500.14 which prohibit certain kickbacks and unearned fees.

The Department would also welcome comments in any other area of RESPA and particularly on these issues:

1. Are the required good faith estimate and special information booklet accurate and helpful? Are they being delivered to homebuyers in sufficient time to be used by them? What additional information should the estimate or booklet contain? What should be deleted or shortened?

2. Is the required Settlement Statement being accurately completed, available for inspection and delivered so as to be helpful to homebuyers and sellers and in accordance with RESPA requirements?

3. Is the existing form of the Settlement Statement helpful or is it confusing to buyers, sellers, lenders and others who receive or prepare it? What changes, if any, should be made in it?

4. Where lenders require the use of a particular settlement service provider, they are currently required to disclose if a business relationship exists. Should this requirement be broadened to include the nature of the relationship or other disclosures? Has the existing requirement provided useful information to borrowers?

Comments and suggestions are sought on these and any other issues, including the administration of RESPA, from all interested persons. The Department hopes to complete its review under this proposed rulemaking early in 1979. Proposed changes, if any, in the regulations will be published for comment as soon as possible after that time.

Interested persons may participate in this rulemaking by submitting written comments, suggestions, data or argument to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC. 20410.

All material submitted should include the name and address of the person or organization submitting it and refer on the first page to Docket No. N. 78-891. Material received by December 1, 1978, will be considered before any action is taken to revise the existing RESPA Regulations or procedures. Copies of all material received will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above.

Issued at Washington, D.C., August 25, 1978.

PATRICIA M. WORTHY,
Deputy Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 78-24950 Filed 9-5-78; 8:45 am]

federal register

WEDNESDAY, SEPTEMBER 6, 1978
PART IV



FEDERAL COMMUNICATIONS COMMISSION

■

NONCOMMERCIAL EDUCATIONAL FM BROADCAST STATIONS

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20735; RM-1974, RM-2655; FCC 78-384]

PART 73—RADIO BROADCAST SERVICES

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Noncommercial Educational FM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Second report and order.

SUMMARY: The Commission issued a report and order adopting changes in the rules governing the operation of noncommercial educational FM stations. To promote efficient channel use the Commission is requiring Class D (10 watt) stations that do not increase power to change channel thereby making room for a number of new stations and power increases by existing stations. Also, in an effort to increase the service they provide, required all noncommercial educational FM stations, regardless of power, to operate at least 36 hours per week and called for a sharing of frequencies when stations are not operated at least 12 hours per day.

DATE: Effective October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Jonathan David, Broadcast Bureau, 202-632-7792.

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

SUPPLEMENTARY INFORMATION:

SECOND REPORT AND ORDER

Adopted: June 7, 1978.
Released: September 1, 1978.

In the matter of changes in the rules relating to Noncommercial Educational FM Broadcast Stations, Docket No. 20735, RM-1974, RM-2655.

1. This proceeding was inaugurated on March 17, 1976 (41 FR 16973), stimulated by a petition from the Corporation for Public Broadcasting, to explore various issues relating to the efficient use of the FM radio channels set aside for noncommercial educational purposes.[1] In this document we will be resolving many of the issues raised in the *Notice of Proposed Rulemaking* and others may be the subject of future Orders. Some issues do remain, however, particularly relating to CPB's proposal for a Table of Assignments for the noncommercial educational portion of the FM band which cannot be resolved based on the data now on hand. In order to obtain the additional information we need in that regard, we are issuing a *Further Notice* in this proceeding.

2. The issues raised by this proceeding were far ranging, involving technical engineering matters of great complexity as well as legal or policy issues of considerable importance and sensitivity. As will be clear from the discussion below, if we are to act to foster the most effective use of these channels, it is unavoidable that a number of adjustments will have to be made in current approaches to channel usage. Clearly, some of the options would entail changes which could affect the private interests of existing licensees, and we have given careful consideration to the filings of these parties. Nonetheless, we cannot limit ourselves to an exercise of picking and choosing between the sets of views based upon private interests, no matter how legitimate or understandable they may be. Rather, we are charged with finding the best way to serve the public interest. In order to understand how the Commission approached this subject, it will be helpful if we begin with an examination of the history of noncommercial educational FM and the context in which the current proceeding arose.

INTRODUCTION

3. Interest in noncommercial radio is not new but was expressed even before this Commission was established. Thus, in enacting the Communications Act of 1934, the Congress included a provision (sec. 307(c)) which called upon this Commission to study and promptly report back to the Congress on the proposal to allocate by statute a fixed percentage of radio broadcasting facilities to nonprofit programs or entities. In its 1935 report to Congress, the Commission recommended against such an approach, and the idea was never pursued further. At that time, broadcasting was limited to AM radio, which, with a few exceptions, was operated on a commercial basis. Then, some years later, frequencies were set aside for FM radio [2] and TV broadcasting. This gave the Commission an opportunity to examine the idea of reserving channels as a means of responding to specific noncommerical needs of an educational nature. The Commission decided in favor of doing so. In 1952, it set aside individual television channel assignments on a community-by-community basis for noncommercial educational use and they were (and are) so designated in the Table of Television Assignments. FM was treated differently, with the lower 20 channels being set aside generally for noncommercial educational use but no city-by-city allocations were made. On July 5, 1961, the Commission issued a *Notice of Inquiry and Notice of Proposed Rulemaking and Memorandum Opinion and Order* in Docket 14185, 26 FR 6130, 21 R.R. 1655, in order to reexamine the allocations policies followed in assignment of both commercial and noncommercial educational FM stations. At the time that proceeding began, all applications for FM stations were treated on a demand basis. This is, the applications were judged strictly on their own engineering terms, not on the basis of the impact on future assignment needs. The only test applied was compliance with the requirements that 1 mV/m interference would not be caused or received. Because of its developing concern that this approach did not make any provision for future need, the Commission decided to establish a Table of (commercial) FM Assignments. This Table, which does not cover the group of channels reserved for noncommercial educational use, was designed to anticipate future need for new stations or enlargements in coverage and make it possible to protect those needs against encroachment. This was done through use of mileage separation criteria that were incorporated into an FM Table. Under the Table, channels were reserved for use in or near particular assigned communities. The protection provided was solely in terms of mileage separations. Proposed stations were no longer obliged to protect another station's 1 mV/m contour.[3]

5. All the matters in that 1961 *Notice* were disposed of with the exception of certain issues relating to noncommercial educational radio, including the possible establishment of a Table to govern usage of the 20 FM channels, 201 through 220 (88.1 through 91.9 MHz) which are reserved for educational use. That matter was raised in the *First Report and Order* in Docket 14185, 33 FCC 309, 23 R.R. 1801 (1962), and in a later *Notice of In-*

[1] FM Channels 201 through 220 are set aside for such use in the 48 conterminous States. Because part of the FM band in Alaska is set aside for other (nonbroadcast) use, including channels 201 through 220, they are not available for educational use. That State does not have reserved channels. Instead, the channels normally used for commercial purposes are available for noncommercial educational use. Guam, Puerto Rico, and the Virgin Islands are treated in the same manner as the 48 States.

[2] At first another frequency band, 42-50 MHz, was set aside for FM but this was later changed by the Commission to the present band 88 to 108 MHz.

[3] In effect, the separations protect the following contours of Class A, B, and C stations at maximum facilities: A. 927 uV/m; B. 560 uV/m; and C. 944 uV/m.

quiry, FCC 66-1007, 31 FR 14755 (1966). Although that issue remains unresolved,[4] the Commission did take certain other actions relating to the noncommercial educational channels, particularly by placing certain mileage separation restrictions on the use of noncommercial educational FM Channels 218, 219, and 220. Stations on these channels were to be assigned in such a manner as to protect assignments on commercial Channels 221A, 222, and 223. Likewise, the educational stations on Channels 218, 219, and 22C were to receive the same mileage protections. Except for (1) these three channels (218, 219, and 220) in all parts of the country and (2) all channels in the Mexican and Canadian border areas, noncommercial educational FM stations continue to be assigned exclusively on the basis of not causing or receiving interference within their respective 1mV/m contours. (See § 73.509 of the Rules.) In the Mexican border areas of the States of Arizona, California, New Mexico, and Texas, noncommercial educational FM radio assignments are governed by an agreement between the Governments of the United States and Mexico, which became effective August 9, 1973. An Educational Table of Assignments pursuant to this agreement was adopted.[5] Although the Canadians have their own Table which includes noncommercial educational FM radio assignments, we do not have one governing assignments on the U.S. side of the border.

6. The *Notice* in the present proceeding raised a number of issues relating to channel use. The Commission hoped to continue its examination of the question of whether to establish a Table of Assignments or other means of anticipating future need. Among other things, the Commission raised the possibility of altering the present classes of stations or the facilities which can be used by these classes of stations. We also re-raised the question first raised in Docket No. 14185 of what to do with the low power (normally 10-watt) Class D stations.[6] We were concerned about the impact these 10 watt stations could have on channel usage. In the earlier docket, we observed that, "In our view, * * * the time may well be at hand when proper use of the increasingly crowded educational FM band requires restrictions on the future authorization and continuance of 10-watt operations * * *" 31 FR 14755 at 14756 (1966). Although no action was taken on this issue in Docket 14185, the issue remained an important one. In fact, recent developments have given it a greater sense of urgency. The corporation for Public Broadcasting ("CPB") filing with the Commission dated May 12, 1972, offered a focus for consideration of various possible ways of responding to that concern.

7. The central question of efficiency in channel use involves many more engineering and policy issues than simply deciding between a Table and a demand system. It can involve a wide range of questions regarding what facilities to be used by what classes of stations. It also involves how much of the time available for use is actually used by a particular licensee. At present there is no specific requirement that a noncommercial educational station in either service, TV or radio, be operated for any minimum period. The only existing rule (§ 73.561) suggests that the degree of use (or more exactly the lack of full use) of a channel could be considered if other parties sought to supplant the renewal applicant. In our experience, this rule has had little or no effect on the operating schedules of existing stations. Thus, we wished to consider whether to adopt a rule that would deal with the situation more effectively.

8. The passage of time and resulting changes in spectrum needs requires us to examine all these matters anew. Although the noncommercial educational FM channels have long been reserved, it has only been recently that the demand for their use has increased greatly. Because noncommercial FM growth was slow at first, the Commission chose not to impose specific requirements, believing that by avoiding possible burdensome requirements, it was creating an environment fostering establishment of these stations. Gradually noncommercial FM did grow. Even so, in many areas of the country, much spectrum space continued to remain unused. Eventually this changed. The Public Broadcasting Act of 1967 established the Corporation for Public Broadcasting. CPB began to make grants for public radio station operations and initial funding for new public radio stations which operate in the noncommercial educational FM band. Also since 1967, direct facility grants have been made to public radio stations by the Department of Health, Education, and Welfare. Pending legislation would transfer this role to the Commerce Department's National Telecommunications and Information Administration. Because of the congestion which has developed, demands for noncommercial FM spectrum could not always be accommodated. No longer did the Commission have the luxury of a "hands-off" approach. With congestion came a need to reexamine the nature of channel use, and in the words of section 307(b) of the Communications Act, to take steps to insure a "fair, efficient and, equitable distribution of radio service."

9. The present *Notice of Proposed Rulemaking* raised the following key issues: (1) What changes should be made in the allocations methods used for noncommercial FM? (2) Should there be changes in the classes of noncommercial FM stations or in the facilities available to these classes of stations? (3) How should 10-watt (or other low power) stations be treated? (4) Should a new Channel 200 be established? (5) What standards should be used regarding determining the potential for interference to television Channel 6 reception? (6) Should steps be taken to insure that a noncommercial FM station is operated and programed in a fashion that is responsive to local needs? [7] and (7) Should steps be taken to improve the efficiency of channel usage through requiring a minimum schedule, time sharing or otherwise?

10. The first two of these issues constituted a central focus of the CPB petition. They received a good deal of attention from it and other parties in their responsive filings. Although we raised the question of whether we should end our practice of operating on a demand system and should switch to a Table of Assignments or some other approach instead, we expressed some doubts about the workability of alternative approaches. Nonetheless, we indicated our willingness to consider use of a Table and to examine possible changes in the classes of stations and their facilities. CPB has, in fact, submitted a proposed Table of Assignments. This Table is based on what, in effect, would be nine classes of stations (three classes with three subcategories each). Arguably, we could act on this part of the proceeding now and decide whether to make such a change in our approach to assignments. We think, however, that important benefits could flow by issuing a *Further Notice*. By setting forth the specific Table and related items in such a document and by inviting comments on it, our deliberative process could gain in-

[4] The Commission in 1976, terminated Docket 14185 and transferred the remaining noncommercial educational FM issues to this proceeding where action could be taken on our updated record.

[5] The Table, which governs use of noncommercial educational FM channels in the border area covered by the United States-Mexico FM Broadcasting Agreement, appears in § 73.507 of the FCC Rules (50 FCC 2d 172 (1974)).

[6] Unlike other station whose facilities are based on effective radiated power and a computed figure for height above average terrain, these stations are allowed 10 watts transmitter power output and are assumed to have an antenna height that does not exceed 100 feet.

[7] This is an issue we have decided to sever and to pursue in connection with related issues regarding licensing eligibility. It is treated in a separate *Notice of Inquiry* in BC Docket No. 78-164 published July 18, 1978, 43 FR 30842.

sights from other perspectives. At the moment we have little more than comment on the abstract issue of a Table. Other comments, directed to a specific proposal, can carry this process further. In any event, changes would have to be made in the CPB Table's Channel 6 protection standards. We hope to be able to adopt such standards soon, but it is clear that those used by CPB in its proposed Table do not provide an adequate degree of protection against interference. Also, the table is based on the current Class D usage of channels. But that too is expected to change as a result of the actions we are taking today. For these reasons the issue of a proposed Table for noncommercial FM channels will not be resolved here. Almost all of the remaining matters, however, lend themselves to at least partial disposition now.

10-Watt Operations

11. The first issue is what to do about the 10-watt (and other low power) operations. Low power stations (Class D) stations are intended to serve limited areas, as for example, a college campus. CPB suggested treating these as secondary operations. Even before the *Notice* was issued and the comments were received, it was clear to us that there was a sharp divergence between those who focus on the inefficiency they see in devoting a significant amount of spectrum space to Class D operations and those who emphasize the value they see in the service these stations can provide. It also was clear that whatever general statements could be made regarding the current situation, there would be exceptions. Thus, even if permitting many 10-watt operations was inefficient. this did not necessarily mean that a given 10-watt operation was inefficient. Nor did it mean that a limitation on a particular 10-watt station's coverage was necessarily paralleled by a limitation on its service through educational and other programs responsive to local needs. Overall, it did mean that serious questions had arisen generally on both efficiency of spectrum use and breadth of community service, and we proposed steps to deal with this problem.

12. Because of our concern about the impact of future grants of low power station authorizations, we put forward a proposal under which 10-watt operations would have to protect all stations from interference. However, they no longer would be protected themselves from interference except from that which would be caused by another 10-watt station. Moreover, any Class D station would be required to change its channel to accommodate the establishment of a new full-fledged station or an increase in facilities of such a station even if they were to take place after the Class D station went on the air. This could mean that the Class D station would have to change channel or leave the air entirely if a new channel could not be found for it. The choice of a channel to use would not be limited to those in the noncommercial educational portion of the FM band but would include the commercial FM portion as well.

13. This proposal sparked substantial response. A number of parties shared CPB's views of the need for noncommercial FM stations with more substantial facilities to provide effective public radio service throughout the country. Other parties, with different goals in mind, asserted that CPB's proposals regarding 10-watt operations were unacceptable. They argued that often a station can only be started on a small scale[8] and that it is only after its public acceptance grows that it is realistic to expect that such a station could extend its coverage. Closing the door on future 10-watt stations was seen as putting a halt to this process. Also, some parties claimed that certain operations are best conducted with limited facilities. Limited power, they say, is an appropriate way to reach a small community or a neighborhood which is a part of a larger city of license. According to this view, operation on a greater scale with substantial facilities could even bring about a separation of the station from its more limited community and thereby cause a loss of effective station/community dialogue and involvement. CPB's response is that it has no desire to eliminate these stations but only is pointing out that a comparison between types of stations appears necessary in view of the existing congestion in the noncommercial part of the FM band. Thus, CPB says its purpose is only to deal with the comparative worth of a Class D and a higher power station if a choice must be made between them.

14. There was a third view, expressed by licensees of Channel 6 TV stations and by commercial broadcasters generally, who argued that by virture of their low power these Class D stations would cause less interference to reception of Channel 6 TV stations than stations operating with greater facilities.[9] Commercial broadcasters were also less than enthusiastic about moving Class D stations into the commercial part of the FM band.

15. Responding 10-watt stations said that CPB's suggestions were self serving. They opposed CPB's focus on using larger stations to offer its public radio programing. Instead, they suggested that CPB and the National Public Radio ("NPR") should drop the limitation on the availability of CPB funds and NPR programing to stations which operate with certain facilities and which have a minimum operating schedule and meet other qualifications. They urge that CPB funds and CPB funded programing over NPR be offered to all noncommercial stations. These are now available only to stations meeting certain criteria in terms of facilities, staff size, ect. CPB replied, quoting 47 U.S.C. 396(a)(5), that its mandate is not to serve all noncommercial radio stations, as the Class D stations claim, but to make noncommercial broadcasting services available to all citizens. According to CPB, dividing the available radio funds among all existing noncommercial educational radio stations would be one of the least effective ways of making the service available. It asserts that the amount available per station would not even cover the salary of a single half-time employee. In fact, CPB contends that the cost to NPR simply to interconnect all the more than 900 noncommercial radio stations would required more than the combined CPB-NPR radio budget.

16. The National Federation of Community Broadcasters ("NFCB") made several studies to determine what the actual effect of the proposed rules would be. It found that were it not for existing Class D stations, at least 40 to 45 new high-power noncommercial FM stations in the top 100 markets could be established and that significant power increases could be obtained for another 25 to 30 existing stations. This theme was taken up by other parties who commented on their difficulty in being able to increase power. One party said that it could not even establish a station due to a Class D's "cluttering" of the spectrum around it. As to the effect on Class D stations, NFCB also found that few of them would need to be forced off the air. Their study indicated that it would be possible to locate one or more 10-watt stations in the commercial FM spectrum in all but the three largest markets, and it expected some other 10-watters to apply for higher power and thus get protection. CPB also com-

[8] In the *Notice* we referred to this phenomenon. We noted that 40 percent of these stations which began with 10 watts have sought or obtained increased facilities, with 60-70 percent of them at least reaching the equivalent of Class A maximum facilities. A number of others that increased did so to a greater amount (or increased a second time) and obtained Class B or Class C facilities. Although it may be that some of the stations which have not increased their facilities are precluded by engineering considerations from doing so, the record does not show the degree to which this is true.

[9] Because of their proximity to Channel 6 TV's frequency band, some educational stations have the potential of causing interference to Channel 6 reception, a point taken into account in authorizing these FM stations.

mented that disruption of Class D service in small markets where they are most useful is likely to be minimal, since the present shortage of channels is in large markets. However, the problem was not seen as limited to 10-watt stations, as they also found that in many instances new stations or better facilities also were blocked by low power Class A's.

17. On the specific question of whether displaced Class D's should be allowed in the commercial part of the FM band, the arguments pro and con were sometimes joined in a single pleading. Such was the case with the party that warned us not to consider this step a panacea, but nonetheless observed that it was unlikely that there would be harm in letting Class D's operate in the commercial band. Another party said that the commercial portion of the band is more stable, due to the existence of a Table of Assignments, so that locating a Class D station there would be less likely to produce for existing commercial stations and the Class D stations would be less likely to encounter problems from new commercial facilities. Another party, opposed to allowing Class D's on commercial channels, argued that even if the Class D stations are accorded secondary status, it would create bad will for a new commerial station to push such a Class D off the air. There was concern also that some interference from Class D's might go uncorrected and it was emphasized that several small pockets of interference to one station could add up to a large amount.

18. Three basic arguments were offered in favor of continued protection for 10-watters: (1) They offer truly local service; (2) they provide training;[10] and (3) they represent a stepping stone to larger facilities. A number of 10-watt stations described their programing at some length. Some stressed how their stations had strong local ties and gave truly local service. One station claimed that it had two or three times the audience of a local 50 kW noncommercial station. This it attributed to its close attention to local needs. There was something approaching general agreement that Class D's could be useful in small towns. But there was a dispute over the claim by some stations that they have close ties with a particular neighborhood in a larger city. To the contrary. CPB alleged that the service contours of these stations do not usually encompass an identifiable neigborhood but instead are determined by the accident of the transmitter location, most frequently on the campus of some educational insitution. In fact, in larger markets, some parties thought that low power would lead to low level of public awareness of a station's existence, thus lessening its potential for involvement with the community. The problem 10-watt stations face in having to compete for funds and listeners with higher power stations was also noted.

19. While on the one hand there was criticism of Class D stations for operating with restricted hours and for failing to involve themselves in the community, other parties felt that training in itself was sufficient reason for the continued existence of Class D stations.[11] This was in contrast to those that felt that it was only through programing that a station could serve the public interest. These parties argued that most Class D's were not providing much program service. Although some commercial broadcasters commented favorably on the training function, one party pointed out that the more complex training needed for TV personnel has been accomplished without using the equivalent of a Class D TV station. Many parties insisted that training could be done equally well on carrier current stations as on Class D stations, but this was not considered a satisfactory alternative by most of the schools that have 10-watt stations. Thus, one university said it needed an over-the-air station as a high percentage of the students live off campus. Also, carrier current operations were said to cost more and to be unpopular with staff and listeners. Finally, one 10-watter said its training program includes a special scholarship for minority students.

20. NFCB strongly disputed the argument that Class D's could be expected to be a stepping stone to higher power facilities. It and other parties argued that it cost only a little more (perhaps as little as $1,500 more) to build a higher power station and that such stations were easier to support financially from the very beginning because of the wider audience they would reach. Thus, if these stations desired higher power they would have sought it initially. NFCB also thought it unlikely that 10-watt stations would continue to increase facilities. It stated that in the past the applications to increase facilities came mainly from stations licensed to institutions of higher education. It asserted that many past increases could be traced to funding by CPB and HEW of universities that had 10-watt stations. But now that the Class D service has an increasing share of secondary schools and a decreasing share of institutions of higher education, it expected this process to slacken.

21. A number of other points received attention. Few thought that 10-watt stations would have substantive value for enhancing the opportunity for minority ownership. Some even charged that this emphasis could give the appearance of directing minority ownership to inferior facilities. Although there are no reserved educational frequencies in Alaska, the Alaska Broadcasting System ("ABS") requested that we reserve assignments for 10-watters in Alaska. It said that such operations were particularly suitable for Alaska, which ABS notes is characterized by small settlements separated by vast unpopulated territories.

22. Finally, we were offered arguments on what to do if changes are to be ordered. On the one hand we were told that even if we halt further authorizations of Class D's we should protect existing ones. On the other hand, we were told that Class D's should be protected only for 1 year, or until their next license renewal, not longer. Several parties opposed establishing a 100-foot antenna height limit on Class D stations, citing their own situations. They asserted that such a limit would have a harmful effect since their campus was located more than 100 feet above average terrain or their antenna had to be mounted on a high building to be above obstructions. One party said severe power losses in excessively long transmission lines at the 10-watt level would deter abuse of excess height. NAB proposed moving 10-watt stations to the lower channels exclusively so as to minimize interference on Channel 6.

23. In reaching a decision on these difficult issues, we have been forced to recognize that there is no solution that would satisfy all of the conflicting interests involved. The fact that we raised questions about the continuation of 10-watt operations has led some to misunderstand the Commission's view of 10-watt or other low power operations. It was not our view then that these stations have no value, nor do we believe that now. Likewise we have never operated on the belief that these stations do not respond to discrete local needs. Even granting the value these stations can have and the service they can provide, we still must concern ourselves with the question of efficient channel usage. This means

[10] The issue of the legitimacy of using 10-watt stations entirely or principally for education for their own staff as distinguished from providing an educational service to the listener was separately raised in this proceeding. The overall issue of community service requirements for noncommercial FM stations, however, will be handled in a related proceeding which we inaugurated to deal with noncommercial radio and television lincense eligibility.

[11] This is to be distinguished from the general question, referred to in the previous footnote, of how stations on reserved noncommercial educational frequencies are to be used. Here, the point is whether such a function particularly relates to 10-watt stations.

that choices have to be made between worthwhile services. In the allocations area, such choices cannot be resolved entirely on a case-by-case approach, evaluating the operation of individual stations. Only through the adoption of general allocation standards (with appropriate exceptions where the public interest requires) can we provide some measure of certainty, efficiency, and cost-effectiveness in our allocations and licensing of stations.

24. Having balanced the competing equities, it has become clear that these low power operations cannot be permitted to function in a manner which defeats the opportunity for other more efficient operations which could serve larger areas, and bring effective noncommercial educational radio service to many who now lack it. When both types of services can no longer be accommodated, action is required. We think the public interest requires moving these low power operations to other channels where they would not impede the development of new or extended educational radio services. Since the commercial part of the FM band already has a Table of Assignments it is easier to accommodate these low-power stations in a manner which avoids interference concerns and, equally important, helps avoid uncertainty and unpredictability. In our view, doing nothing more than having 10-watt stations move to a different channel in the reserved noncommercial educational portion of the FM band would not be sufficient. At best it would reduce the impact of the inefficiency of an individual assignment. But, it would do little in terms of the cumulative impact of such inefficiencies. In order to deal with that a broader step involving a move to the commercial part of the FM band is necessary.

25. Theoretically, such a move could be postponed until a request was received for use of the particular channel that a 10-watt station presently occupies. While this seems less harsh than requiring all 10-watt stations to vacate their present channels, it offers little benefit in making frequencies currently available. Instead, uncertainty about such availability could ensue. And, just as important, proceeding in this fashion would only serve to greatly delay inauguration of needed service. In addition, moving low-power stations out of the educational part of the FM band could have advantages beyond just freeing frequency space. It could help avoid Channel 6 TV interference through making a higher frequency available [12] which until then had been employed by a low power operation. With all of these reasons in mind we believe it is necessary to require all low power operations that are able to do so to move to open places in the commercial part of the FM band.

26. We expect that there will be space in the commercial FM band to accommodate many of the 10-watt stations that will be required to change channel. We recognize that some 10-watt stations, will not be able to find such space, and upon documentation of this fact, such stations may seek to use Channel 200 instead.[13] If, in turn, that is not possible, they will be required to determine which channel in the reserved noncommercial portion of the FM band posses the least preclusionary impact on other potential stations and will be required to move to that channel. Through the use of these three approaches, we hope to be able to avoid the necessity for terminating any of these low-power operations. However, that may not be possible in all cases, as where a proposal is filed in conflict with a 10-watt renewal application which would more effectively respond to a community's need for expanded educational service. That fact, of course, will be taken into account in choosing between the proposals. Although they still will not be permitted to cause 1 mV/m interference, those 10-watt operations which remain in the educational portion of the band no longer will be afforded protection against such interference except that caused by other 10-watt stations. Continuing to give full protection to 10-watt stations could only lessen otherwise possible gain in spectrum use efficiency.

27. In moving to the commercial part of the FM band, these 10-watt stations will be like FM translators. This is, they will be considered secondary operations.[14] Thus, it is possible that future changes in the FM Table could require the termination of an operation that had moved to a commercial channel, because of its secondary status, or it could mean that the station might have to move a second (or even third) time if this proved necessary as a result of changes in the FM Table. Hopefully, this will be a rare result.

28. We believe that there is no present reason to apply our general policy on 10-watt stations announced here to Alaska. At this time it is clear that 10-watt operations can be accommodated there without great harm. In fact, they seem well designed to serve the small and often isolated settlements of that State. However, if facts change as to spectrum crowding in Alaska, we can take such additional steps as later prove to be needed. In the meantime, we will allow Class D assignments in the commercial FM Table and will designate them by an asterisk.[15] This arrangement allowing operation with 10 watts will apply to educational stations only. Commercial operations will continue to be governed by the Class A minimum of 100 watts.

29. A second exception is necessary in the border areas where agreements with Canada and Mexico restrict our ability to move the 10-watt stations. We intend to explore possible steps including, if necessary, seeking to amend these agreements to increase our flexibility to do so. Even without including these areas, however, the steps we are taking will help bring about better use of what up to now has been inefficiently used spectrum space.

30. This brings us to the final point: When to apply these new standards and to whom to apply them. First, no additional 10-watt applications will be accepted for filing. To that end, in a separate *First Report and Order* we amended our rules to impose a "freeze" on the acceptance of any additional 10-watt applications. For those applicants already on file or whose application was filed before the "freeze" was imposed, we will process them under the old rules. However, like all other existing stations, they will become subject to the new requirements. If they prefer, they can anticipate the process and seek to move to a new channel immediately without waiting for this to be triggered by the Commission's requirements. Applicants that do prefer this course, should file an appropriate amendment to their pending applications.

31. Existing stations may also seek to move now if they choose. But the rules will also provide an opportunity for Class D stations to exempt themselves by increasing facilities to at least the minimum Class A level of 100 watts ERP. And, to avoid wholesale disruption, we shall allow all stations until January 1, 1980, to file the necessary application to increase facilities to this level. In the meantime, all Class D license renewals shall be granted on the basis of the secondary status of the station. Then, for all renewal applications which are to be filed January 1, 1980, or later, all 10-watt stations must include (1) a full engineering showing of the commercial channel to which the station would move or (2) if that is not possible, how the station is proceeding with

[12] Although there is disagreement about the degree of the potential for interference from FM frequencies to Channel 6, there is agreement that the further the FM frequency is from Channel 6, the lower the potential.

[13] Later in this document we discuss our decision to establish a new FM channel 200 and our reasons for so deciding.

[14] Where a 10-watt station conflicts with an FM translator, the translator will have to yield.

[15] As noted, the usual educational frequencies are not available for use in Alaska, and instead are interspersed through the commercial channels which are used in that State.

either of the alternatives discussed above. If its request to change channels is found to be in proper form, a temporary authority to operate on that channel will be granted with the regular renewal on the new channel following upon completion of the change-over and submission of the necessary filings.

32. It may well be that as the process we are adopting is followed, there may be mutually exclusive applications for use of Channel 200 or of a particular commercial or noncommercial frequency. A hearing in such a case could be burdensome, time consuming and costly to the parties, the public, and the Commission. Thus, whenever possible, we hope to avoid this and to urge parties to seek agreements that would avoid such hearings. If necessary we will offer a later policy statement to implement this intent, but its need is not yet clear.

Operating Schedule

33. We have examined the degree to which noncommercial radio stations use the time available to them on their frequency. Although noncommercial educational FM stations are licensed for unlimited operation, there is no rule which requires them to operate any minimum number of hours. The only requirement is stated by § 73.561 of the Commission's Rules. This indicates that the extent to which the frequency is used is a matter of importance only at renewal time, and even then, only if spectrum space is inadequate to accommodate any additional demand. The rule is not self-enforcing. In fact, it virtually never has been invoked. Even if this rule could function in individual cases where complaints are lodged about the limited hours of a particular station, it certainly lacks any value in bringing about across-the-board changes to insure a fuller use of these frequencies. Also we have observed that many noncommercial stations have operated only rather limited schedules and that many also have been off the air for prolonged periods, as for example when a college-licensed radio station observes the institution's curricular summer vacation. With the growing scarcity of spectrum space, this has caused us concern. Consequently, in issuing the *Notice* we expressed the tentative view that some constructive response to this situation might well be needed. To this end we proposed adoption of a minimum schedule requirement.

34. Tentatively, we proposed to established a 36 hour per week minimum which would consist of at least 5 hours per day, on at least 6 days per week. These figures were tentative ones which were selected because they had been applied to commercial FM stations in past years before they were succeeded by more stringent requirements. In addition to inviting comments on the need for a minimum schedule and on the specific proposal of a 36 hour minimum, we offered for comment another suggestion of a possible way to increase efficient channel usage. Under this suggestion: (1) Operating less than 36 hours (or any other minimum figure selected) would not be acceptable; (2) operating between 36 and 72 hours would be acceptable but would not provide protection against propsals for time sharing; and (3) over 72 hours of operation would be considered enough to demonstrate such full use of a frequency as to exempt a station from the necessity for time sharing. Finally, we asked whether special treatment should be afforded those college-licensed and other stations which observe school vacations. One thought was to permit such stations to continue to observe these vacations but to require a sufficient number of additional hours of operation at other times so that averaged over the year, they would reach the minimum level of any minimum operating schedule rule which is adopted.

35. The responses to these proposals varied. Various parties opposed our adopting any minimum operating schedule requirement. Some took the view that even if we allowed a college station to adjust its hours when it is closed for vacation, this still would impose a burden. These parties believed that such a requirement could force some school stations off the air and could have the effect of sacrificing the 9-month value of a station because of a 3-month concern. The costs of year-round operation were also thought to be a problem if we were not to allow vacations to be observed. A number of such stations pointed to their reliance on student staff members, most of whom, they said, would not be available during vacations and holidays. Other costs involved in extending the hours of operation such as maintenance, security, engineering supervision, tape rental costs and utility cost were also mentioned. Some felt that even if stations were not forced off the air, they could be put in the position of having to ask students to withdraw from their other activities if they were required to participate on the level required by a minimum operating schedule. In many cases, stations said volunteers are an important part of their staff and that it would be unrealistic to expect that their time at the station could be increased to meet a minimum schedule.

36. The proposal for a minimum schedule was also attacked as a hardship for high school stations. Since State law typically requires such students to be supervised at all times when participating in school activities, a minimum schedule, we were told, would mean a significant increase in cost to provide such supervision. We were warned that in times of severe budget restrictions, the necessary funds might not be available. This concern led one party to suggest exempting elementary and high school stations but not college stations from a minimum schedule requirement. Alternatively, parties argued that it should be left to the listener to determine whether a particular station operates a sufficient number of hours,[16] or even whether any quantitative requirement should be applied to a station since the limited programing it does offer is particularly desirable.

37. Finally, among the opponents are those who charge that the proposal is really an effort by CPB to force small stations off the air to make way for the powerful, professionally funded, public radio operations it supports. Since CPB already requires a minimum schedule of the stations it supports, they point out that our proposal would not place a burden on these stations even if it would on others. These parties urge us to continue to use the present rule with its focus on renewal time and ask us to consider the hours of operation of a station only in the context of another specific interest in using the channel more fully. In their view, the Commission's present rule already could be taken as inviting challenge to a renewal of a station using little of the time available to it, either by way of petition to deny or a competing application.

38. On the other hand, quite a large number of parties supported the proposal in full or even urged that a more stringent approach be taken than the one we suggested. Some parties spoke harshly about inadequacies they saw in some existing noncommercial FM operations and they expressed the hope that a minimum schedule requirement could encourage serious noncommercial radio operations and discourage those that lack seriousness of purpose and commitment. Others, taking a similar tack, directed their remarks to the limited operating schedules of some stations but did not attempt to correlate this to any overall deficiencies in program operation. Spectrum space, we were told, is far too valuable to waste, so much so that one party suggested that in order to be protected against time sharing, a station should be required to operate 18 hours per day, 7 days per week. Another thought that we should use the

[16] In effect, they would have us formulate a rule which could take into account the individual circumstances applying to each station.

second step figure of 72 hours mentioned in the *Notice* as inviting time sharing as a minimum requirement for all stations, or that we should require all stations to operate at least 10 hours per day on not less than 6 days per week, *every* week of the year. The party making this latter suggestion urged that it go into force on the first anniversary of a station's going on the air, thus allowing the licensee 1 year to get the station properly established. Another suggestion, not unlike this one, would have the Commission take into account the years the station has been on the air in fashioning a minimum schedule requirement. Likewise, the size of the station's facilities also could be taken into account, so that all stations would have to meet a certain minimum but more powerful ones should have to do more. One suggestion was to combine this with a requirement of a minimum number of weeks of operation during the year (34 weeks was suggested for college-licensed stations).

39. Various other parties simply supported the specific proposal put forward in the *Notice* and a number more did so with some minor exceptions such as the exact number of hours to be required. The arguments put forward on behalf of this general approach were the traditional ones the Commission has emphasized initially about efficiency of spectrum use, the avoidance of waste and licensee responsibility to serve fully the listener. It was on this latter point that several parties placed particular emphasis. They argued that our decision regarding the question of a minimum operating schedule should be based on a broadcast station's responsibility to serve the public, not on the station's private interest in preferring to operate on a limited basis. Thus, they note, a given station might indeed prefer to operate on a schedule of its own choosing and quite obviously could show that a more extensive schedule involved added costs. Even so, these parties urged us to focus on the need for service and to conclude, in effect, that with the decision to seek a license by any institution or nonprofit group necessarily came its acceptance of public responsibility. The supporters of the minimum schedule requirement argue that it should be that responsibility which governs the Commission's actions in this field.

40. A number of other parties, agreeing that some requirement was called for, suggested variations on our original proposal. One already mentioned was that of allowing compensation for vacations by increasing the number of hours during the weeks the station was on the air. Other suggestions included (1) giving a vacation exemption only during the station's first three years of operation, (2) permitting a reduction in hours during vacations to 50 percent of normal hours, (3) increasing the hourly minimum by stages, (4) allowing the station to be silent on the weekend so long as the requisite hours are offered during the week, (5) relating the schedule requirements to the size of the market or (6) taking into account whether the station's audience was intended to be or was in fact a general one or was limited to a campus and its immediate environs. A final suggestion was that stations that do not maintain year-round schedules of minimum hours lose their protection against interference.

41. A number of parties thought it might be appropriate to exempt class D (40-watt) stations from any minimum operating schedule. Parties expressing this view argued that these stations lacked the resources to sustain such operations and thus should not be required to meet the requirements applied to other classes of stations. One party thought 10-watt stations should be exempt except when located in metropolitan areas. It asserted that in such cases, such a station could join with another licensee on the channel to meet the requirement. On the other hand, many parties took exception to the idea of exempting 10-watt stations. Among them were the licensees of 10-watt stations that operated full schedules themselves. One 10-watt licensee noted that it operated 133 hours per week (equal to 19 hours per day) and was unable to stay on the air during vacation times at the university. It fully supported the minimum schedule proposal.

42. Finally, we come to the arguments directed to the proposal for time sharing. Many of the comments did little more than offer mere statements of support or opposition without offering much in the way of explanation of the reasons for holding their views and the consequences they anticipated if time sharing were to be required. Some parties did offer points for us to consider in deciding whether time sharing could be instituted on a broad scale. Some doubted whether we would be able to successfully deal with questions of how many organizations would be allowed to share a frequency, how many hours each would be granted, and who should be excluded and for what reasons. Just as some thought that the concept of time sharing could add an element of complication to broadcast procedures, others endorsed the approach and were convinced that the Commission would be able to develop standards that appropriately respond to the situation. In fact, some parties asked us to express support for time sharing (even if we did not feel it was appropriate to mandate it). Finally, we were warned against thinking that time sharing by itself could be a substitute for applying what otherwise would be a more stringent standard.

43. The comments offer a great deal of insight into the preferences of individual stations and in particular to the desire of a number of them to avoid any requirements regarding the number of hours they need to operate. However, these stations gave little attention to the public's right to expect that a station occupying a frequency would use it to a reasonable degree to provide a service to the public. Spectrum space is scarce and is becoming more so. In fact, in many parts of the country, there is little or no spectrum space available to accommodate additional services. With this in mind, we think it is clear that some action is needed to insure reasonable use of a frequency by those that do occupy it. Most of the parties seemed to accept this fact and understood that some action might well be necessary.

44. There are thus many choices before us in how to proceed, which are not limited to the 36-hour minimum figure mentioned in the *Notice*.[17] This figure was not used because it necessarily had greater innate merit than other figures that might have been used, but it seemed a good basic measure of minimal service to use. After reviewing the record the 36-hour figure still seems a logical starting point, just as it had been for commercial FM before a more stringent requirement was imposed. While some parties mentioned other numbers we could use, these were but minor variations on the original theme and would have little difference in effect. There also were suggestions for a major increase from the level originally proposed, but we are concerned about the possibly harmful consequences of imposing too severe a requirement too abruptly. In deciding upon a course to follow and attempting to balance the interests involved, we have chosen to follow our original proposal. Although it is a close question whether to mandate this minimum year-round, for the moment it will be applied only during the weeks the station is on the air. No additional hours will be required to compensate for vacation periods.

45. To those who still think this step extreme, we point out that a 36 hour requirement means a station needs to operate only about 21% of the hours available to it. This can hardly be thought of as imposing on onerous burden. Instead, it is only an appropriate beginning point. Even if a more stringent operating requirement is not warranted for across-the-board application now, we cannot ignore the fact that by itself the requirement we have

[17] See para. 34 above.

chosen is not sufficient to insure maximum spectrum efficiency. We could go further and require increased hours of more powerful stations, but this could have the effect of discouraging power increases to extend coverage to underserved areas. Other complicated standards could be evolved based on population of the city of license or coverage area. But this also does not offer much more in exchange for the intricacies it would involve. Consequently, we have rejected differing standards based on both these factors. Conceptually, the keying of a minimum schedule obligation to a station's number of years on the air has much to commend it. But it, too, must be rejected as an administrative nightmare. Likewise keying the increases to the passage of years (a certain number of hours for 1979, more in 1980, etc.) is far too inexact a way to proceed. To avoid an excessive burden, we would have to make such increments modest, and therefore they would be unlikely to afford meaningful relief. Moreover, such increments would necessarily be based on conjecture about the future.

46. Since we firmly believe that some additional action is required, we return to the original idea of time sharing. We are convinced that except where the channel is efficiently used, at the level discussed below, time sharing is appropriate. Some have warned that administrative difficulties would ensue. We agree that there could be some initial confusion in the administration of time sharing arrangements. We also recognize the fact that some time sharing agreements might not easily be achieved. Even so, this approach is definitely worth pursuing. We expect that an approach can be structured in such a way as to avoid most anticipated problems. One of the advantages of time sharing is that it can bring real benefits without imposing real burdens. First of all it avoids the necessity for a more stringent across-the-board rule on minimum operating hours. In addition, its primary (and often only) impact would be on hours that the existing licensee is not using.

47. In our view, another prospective licensee should not be prevented from using hours not utilized by the present occupant of the channel. The difficulty in negotiations between the parties would be expected if the second party desired to use some of the hours the first party is already using. Many times this would not be a problem, either because they can agree or because they desire to use different hours. High school stations often do not operate during the very hours in the evening that a community station might most desire. Unavoidably, there will be some disputes between the parties—either in arriving at an agreement or in administering it afterwards. In such cases, the issue should be brought to the Commission for our resolution. In addition to advantages in terms of better use of time, if the parties can agree, it is possible for time sharing to be extended to include important cost savings through use of joint studies and/or transmitting equipment. For all these reasons, we welcome such agreements.

48. If a party is interested in sharing time with a licensee now operating a station, it should evidence that fact by filing an application for a construction permit for that channel and specifying that it proposes time sharing. Such applications will be accepted for filing at any time but will be acted upon in connection with a renewal application.

49. With our decision to establish a minimum schedule and a higher schedule level that would avoid time sharing, a number of stations will need to make adjustments in their operations and others may wish to do so. The minimum schedule requirement will go into effect on January 1, 1979. This should provide adequate time to prepare for the minimum schedule obligations itself. Then, commencing with renewal applications due on or after January 1, 1980, time sharing may be proposed by other applicants for the channel unless the existing station (1) is operating at least 12 hours per day and at least 6 days of the week during the entire year or (2) if it observed vacations (of up to 3 months) it operated enough hours to meet the test if averaged over the entire year (the station would be required to file with the Commission and keep on file at the station a compilation of the hours broadcast).

50. The provisions we are adopting to increase the hours of station operation may need to be increased in the future, as even the levels we have chosen fall far short of full channel use. At this time, though, we believe these steps can offer greater opportunity for the public to benefit from the service these stations can offer. Perhaps this rule can also make it possible for a number of entities that are not excluded because there is no available frequency to offer through time sharing arrangements types of programming not now available to their communities. If, so, the rule will bring benefits in diversity as well as efficiency terms.

CHANNEL 200

51. The next issue we turn to is the proposal raised by CPB [18] and put forward in the *Notice* that we establish a new educational FM channel at 87.9 megahertz, to be called Channel 200. As we pointed out when inviting comments on this proposal, this frequency is not part of the band which has been set aside for educational FM use. Actually, it is part of the frequency band of 82-88 MHz which as been assigned to television Channel 6. Pursuant to International Radio Regulations governing the use of this frequency in Region 2 (the area which includes the United States of America) and pursuant to agreements now in force between the United States and Canada,[19] and between the United States of America and the United Mexican States,[20] frequencies below 88 MHz are not set aside for FM broadcasting. In fact, both agreements specifically identify the FM channels as being those beginning with Channel 201 (88.1 MHz) exactly as does § 73.501(a) of the Commission's own Rules. Although treaty restrictions preclude use of this frequency for FM purposes in areas near the border,[21] no such restriction exists elsewhere in the country. However, for the balance of the country there still are serious interference considerations which must be taken into account. In fact, the interference potential is great because the center frequency for the TV Channel 6's FM sound carrier is 87.75 MHz, which is quite close to the proposed FM frequency of 87.9 MHz. However, even taking into account the need to protect Channel 6 television stations from interference and to avoid use of Channel 200 in any location near the border, there still are places where the frequency could be used. The purpose of this part of the *Notice* was to determine to what degree this was true and to explore whether the frequency 87.9 MHz should be utilized in certain areas of the conterminous United States for noncommercial educational FM purposes. No use other than a noncommercial one was contemplated.

52. In raising this issue we pointed out the relationship between the Channel 200 question and the general problem of Channel 6 interference. This is the case because the frequencies in the lower part of the FM band (the more so the lower they are) have a potential for causing interference to Channel 6 reception. This arises because TV receivers do not reject to a sufficient degree the strong FM signals on frequencies some distance from that of the TV channel. However, this is different from the Channel

[18] This proposal was also the subject of RM-2655, which sought the assignment of Channel 200 to Washington, D.C.

[19] North American Regional Broadcast Agreement, 61 Stat. 1726, TIAS 1726, 6 Bevans 447.

[20] Agreement Between the United States of America and the United Mexican States concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band (effective date Aug. 9, 1973). TIAS 2697.

[21] The border areas are those within 400 km (250 mi) of Canada or 320 km (199 mi) of Mexico.

200 situation where the desired signal is virtually on the same frequency, and thus the television receiver could not reject it.[22] Because of the important differences between the Channel 6 interference question and that posed by Channel 200, we can proceed to resolve the latter. The Channel 200 question is the easier one to resolve in that we have only one channel to deal with and have a simpler task in that we only have to find what is left over when Channel 6 service areas are protected in full.[23] The general Channel 6 issue is expected to be resolved in a subsequent *Report and Order.*

53. In the *Notice,* we also inquired about the use to which Channel 200 might be put in the event it were established. Should it be reserved for use in such locations as would allow the employment of powerful facilities? Should it be used on a lesser or even on a low power basis? Should we specify the areas where it could be used so as to insure that all or some of the area which would be served would receive a first educational service?

54. The responses to the *Notice* were mostly along lines that could be anticipated. Most of the TV stations which responded, as well as the NAB, opposed the establishment of Channel 200 as posing an even greater threat to reception of Channel 6 stations than that posed by operations on existing noncommercial FM channels. Storer Broadcasting argued that Channel 200 would cause additional interference to Channel 6 color reception, in addition to the aural interference it says its Channel 6 station presently suffers from educational FM operation. The licensees of various other Channel 6 television stations also opposed the concept. In their view, use of Channel 200 would bring a destructive impact to stations that already face serious problems from stations operating on the educational channels, particularly the lower ones which are closer to the Channel 6 frequency band. These stations expressed serious misgivings in regard to the proposal and doubts about our being able to protect them from any interference that might otherwise be caused by Channel 200 operations. They were particularly troubled by this proposal for additional operations since they did not feel that their operations were now being accorded the full degree of protection from interference by existing operations to which they were entitled.[24] The Channel 200 proposal was also opposed by those who argued that it was not likely to be of much benefit in the places where it was most needed, namely in metropolitan areas, since that is where Channel 6 stations are found. Elsewhere, we are told, there is little need for Channel 200. Finally, there were those who questioned our being able to develop standards for Channel 200 that would provide the necessary protection to Channel 6. Finally, some doubt was expressed over being able to tune FM receivers to the frequency 87.9 MHz.

55. Even those who supported the proposal recognized the need to insure the absence of interference. However, they differed from the opponents in that they believed that we could find ways in which to protect Channel 6 reception. Although all understood the need to exclude the border areas and areas around Channel 6 operations, not all agreed on how to use the areas that are left. On the one side, there was an argument in favor of reserving this channel for the use of powerful stations that could provide service to wide areas. More parties, however, urged its use for low power operations, principally 10-watt Class D stations. The latter method was seen as one way of accommodating the Class D stations that might be displaced from their current frequencies. One party referred to its study which showed that in many markets it would be possible to accommodate one or more 10-watt stations in the commercial part of the band and indicated that to some extent Channel 200 could be used where commercial space could not be found.

56. We agree that there is at least some basis for doubts which have been expressed about Channel 200. Thus, it is true that we cannot use Channel 200 near the Mexican and Canadian borders. It is also true that it cannot be used anywhere in the vicinity of existing Channel 6 TV operations. Perhaps, too, some FM receivers cannot be tuned to pick up Channel 200 signals. Still, we believe there is at least some merit in establishing Channel 200. Even though there are large portions of the country where the channel could not be used, there are other areas remaining where it could be.[25] In our view, so long as adequate protective measures are taken, there is nothing to be gained by not using the spectrum space which is available. The demand is there, and this frequency can help meet it.

57. Having decided to put the frequency to use, we need to determine how best to use it and still insure full protection to Channel 6. A number of parties hoped that it would be used for the establishment of new powerful stations that would be able to bring service to areas now lacking it. For the most part, this is not possible. Even in the areas where it might be used in this fashion, they are so removed from major population centers that other (regular educational) frequencies themselves are likely to be available. Besides that, there would be severe restrictions on establishing stations with even the modest facilities of a Class A station (3 kW at 300 ft).

58. With all of this in mind, we are convinced that its best use is for stations with modest, essentially Class D, facilities.[26] Used in this fashion, it can help provide a way to remove those Class D stations which cannot move to a commercial channel and are blocking expansion of existing educational stations or the establishment of new full-powered ones. In view of our decision to move the 10-watt stations rather than to simply terminate them, it would be useful indeed if there was another place (besides the commercial band) where they could be shifted.

59. At this point, we are not in a position to assay the extent to which Channel 200 will be needed to accommodate Class D stations moved from their present frequencies. As a consequence, it is not possible at this point to predict what space, if any, might remain for the possible use of any new stations. Therefore, for the time being, we will use Channel 200 exclusively in the manner described and will limit stations to their present facilities, which will not be allowed to exceed 50 watts effective radiated power and an antenna height of 30 meters (100 ft) unless those greater facilities, already in use, would cause no interference.

60. For the purpose of insuring protection to Channel 6, it is necessary to use the more informative figure of effective radiated power. Transmitter power output which is limited to 10-watts is not a reliable indicator of the effective radiated power, which varies from case to case. Likewise, we need to include consideration of the actual antenna height above average terrain, not an assumed figure.[27] The 50 watt/100 ft combination is designed to allow reasonable Class D facilities even for those Class D stations that will need to reduce their facilities to this level.

61. As to the standards themselves, we have chosen a conservative approach. CPB suggests, and we agree,

[22] Since the frequency Channel 200 would use belongs properly to television rather than FM, any such use of it would have to be on a secondary basis, a fact recognized in the standards we are adopting.

[23] The closeness of the frequencies absolutely precludes any colocation or other location of the FM inside the coverage area.

[24] This issue will be discussed when we deal with the establishment of standards regarding the potential educational FM stations have for causing interference to television Channel 6.

[25] Figure 1, attached to this document, depicts with cross-hatching the areas where Channel 200 could be used consistent with applicable restrictions.

[26] In fact, Figure 1 shows that there is a rather severe limit even on its use for Class D stations or equivalent. It is based on use of 50 watts ERP and a height above average terrain of 100 ft.

[27] This will require affected Class D stations to compute the figure, something that many have not yet had to do.

that the Channel 6 stations should be protected not just to the 47 dBu (Grade B) contour but to the 40 dBu contour. This will protect the TV station throughout the area where it is viewed, and do so in a fashion that recognizes its primary status and the secondary status of the FM station. To protect this contour, the FM signal would have to be reduced substantially below this level. CPB urges that it be reduced by 15 dB, that is, the FM signal at the TV 40 dBu contour would not be allowed to exceed 25 dBu. AMST, on the other hand, urges that it be reduced to 25 dB, so that it would be the 15 dBu contour of the FM station which could not overlap the TV's 40 dBu contour.

62. We have chosen to follow the AMST proposal in this regard because it is based on the level at which interference would begin to result. The CPB median figure by definition means that in the worse half of the cases, there would be interference. This is far too much to contenance, especially bearing in mind the fact that except for this special dispensation, this is not intended to be an FM frequency at all. Thus, for Zone I a separation of 212 kilometers (132 mi), 123 kilometers (77 mi) to the 40 dBu contour for the TV and 88 kilometers (55 mi) for the FM's 15 dBu contour. For Zone II the figures are 241 kilometers (150 mi) separation based on a 40 dBu contour extending 153 kilometers (95 mi) and the FM contour 88 kilometers (55 mi). On an attached map (Figure 1) we have depicted the areas where it would be possible to locate a station on Channel 200, taking into account treaty considerations and Channel 6 interference. In a few cases, educational stations on Channels 201, 202 and 203 will also have an impact.

63. For the reasons indicated, we are amending the Commission's rules in the manner already described. We hope soon to follow with other important steps which likewise will help foster the most effective use of these frequencies.

64. Accordingly, *It is ordered*, That effective October 13, 1978, Part 73, of the Commission's rules and regulations is amended as set forth below. Authority for this action is found in sections 4(i), and 303(r) of the Communications Act of 1934, as amended.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

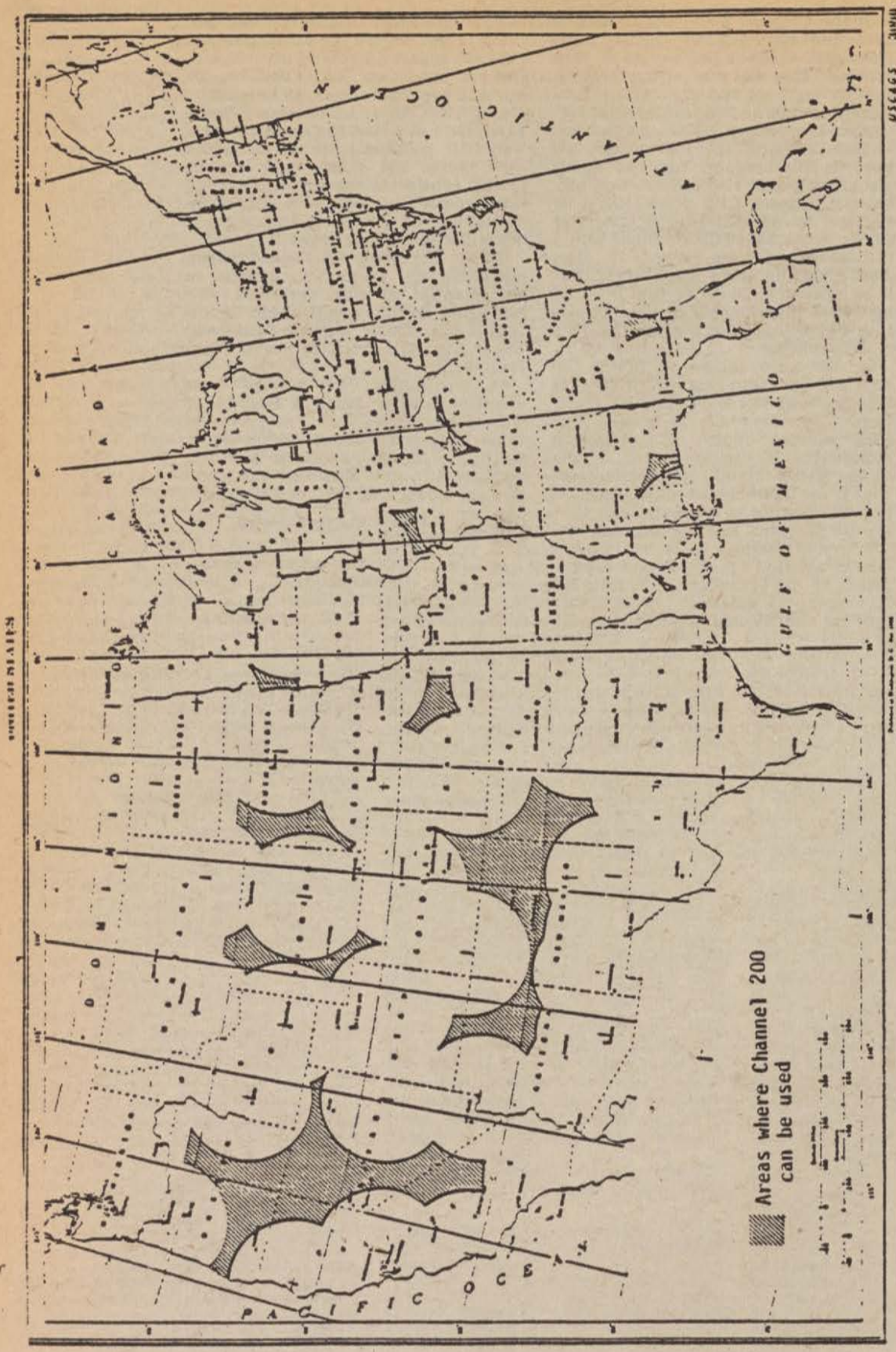

Areas where Channel 200
can be used
GULF OF MEXICO
PACIFIC OCEAN

FIGURE 1

Formal and informal comments have been deleted from this second report and order. For information contact: Jonathan David, Broadcast Bureau, FCC 202-632-7792.

1. Section 73.207(a) is amended to read as follows:

§ 73.207 Minimum mileage separations between co-channel and adjacent-channel stations on commercial channels.

(a) Petitions to amend the Table of Assignments (§ 73.202(b)) (other than those expressly requesting amendment of this section or § 73.205) will be dismissed and no application for a new station, or change in the channel or location or an existing station, other than a class D (secondary) station, will be accepted for filing, unless the proposed facilities will be located at least as far from the transmitter sites of other co-channel and adjacent-channel stations (both existing and proposed) as the distances in miles specified in this paragraph. Proposed stations of the respective classes shown in the left-hand column of the following table shall be located no less than the distance shown from co-channel stations and first adjacent-channel stations (200 kHz removed) and second and third adjacent-channel stations (400 and 600 kHz removed) of the classes shown in the remaining columns of the table. The distances shown between stations of different classes apply regardless of which is the proposed station under consideration (e.g., distances shown from a new Class A station to an existing Class C station are also the distances between a new Class C and an existing Class A station). The distances between Class B and Class C stations apply only across zone lines. The adjacent-channel spacings listed also apply:

* * * * *

2. Paragraphs (a) and (b) of § 73.209 are amended to read as follows:

§ 73.209 Protection from interference.

(a) Permittees and licensees of FM broadcast stations are not protected from any interference which may be caused by the grant of a new station, or of authority to modify the facilities of an existing station, in accordance with the provisions of this Subpart. However, they are protected from interference caused by Class D (secondary) noncommercial educational FM stations. See § 73.509.

(b) Except as specified in § 73.509, the nature and extent of the protection from interference accorded to FM broadcast stations is limited solely to the protection which results from the minimum assignment and station separation requirements and the rules with respect to maximum powers and antenna heights set forth in this Subpart.

* * * * *

3. Section 73.501 is amended to read as follows:

§ 73.501 Channels available for assignment.

(a) The following frequencies, except as provided in paragraph (b) of this section, are available for noncommercial educational FM broadcasting:

Frequency (MHz)	Channel no.
87.9	[1]200
88.1	201
88.3	202
88.5	203
88.7	204
88.9	205
89.1	[2]206
89.3	207
89.5	208
89.7	209
89.9	210
90.1	211
90.3	212
90.5	213
90.7	214
90.9	215
91.1	216
91.3	217
91.5	218
91.7	219
91.9	220

[1]The frequency 87.9 MHz, Channel 200, is available only for use of existing Class D stations required to change frequency. It is available only on a noninterference basis with respect to TV Channel 6 stations and adjacent channel noncommercial educational FM stations. It is not available at all within 402 kilometers (250 miles) of Canada and 320 kilometers (199 miles) of Mexico. The specific standards governing its use are contained in § 73.512.

[2]The frequency 89.1 MHz, Channel 206, in the New York City metropolitan area, is reserved for the use of the United Nations with the equivalent of an antenna height of 500 feet above average terrain and effective radiated power of 20 kW and the Commission will make no assignments which would cause objectionable interference with such use.

(b) In Alaska, the frequency band 87.9-100 MHz is allocated exclusively to Government radio services and non-Government fixed service. The frequencies 87.9 MHz-91.9 MHz (Channels 200 through 220, exclusive) will not be assigned in Alaska for use by noncommercial educational FM broadcast stations; however, the frequencies 100.1-107.9 MHz (Channels 261 through 300, inclusive) are available for such use under the allocation provisions in Subpart B, §§ 73.201-73.213. Such noncommercial educational assignments will be designated by an asterisk. Noncommercial educational FM stations using Class A channels in Alaska are exempt from the minimum effective radiated power requirements specified in § 73.211(a) and from the "freeze" on the acceptance of applications proposing facilities of less than 100 watts effective radiated power contained in Note 3 to § 1.573. (However, they are subject to certain other requirements applicable to stations operating on commercial channels. See § 73.513.)

(c) There are specific noncommercial educational FM assignments (Channels 201-220) for various communities in Arizona, California, New Mexico, and Texas. These are set forth in § 73.504.

4. Paragraphs (b) and (c) of § 73.504 are amended to read as follows:

§ 73.504 Noncommercial educational channel assignments under the United States-Mexico FM Broadcast Agreement.

* * * * *

(b) Anyone applying for a noncommercial educational FM station in the border area of Arizona, California, New Mexico, or Texas, must propose at least Class A minimum facilities (see § 73.211(a)) and apply for a channel set forth in the table in paragraph (a) for use either at the listed community or an unlisted community under the same conditions set forth in § 73.203(b) of this chapter; *Provided, however,* That existing Class D noncommercial educational stations may apply to change frequencey within the educational portion of the FM band in accordance with the requirements set forth in § 73.512.

(c) The minimum mileage separations set forth in § 73.207 of this chapter and the Note thereto shall apply to:

(1) A petition for rulemaking to amend the table set forth in paragraph (a) and;

(2) Except for Class D stations changing channel pursuant to § 73.512, to an application for any class of noncommercial educational FM channel (new station, or change in channel or transmitter site or increase in facilities of an existing station) within the border area referred to in paragraph (a). Any petition to amend which so conflicts will be dismissed. Any application which does not so conform will not be accepted for filing. No authorization for a commercial educational station will be granted for a station in the United States in the area adjacent to the border area which does not meet the minimum mileage separations set forth in § 73.207 to any noncommercial educational allotment or authorization in the border area.

* * * * *

5. Section 73.506 is amended to read as follows:

§ 73.506 Classes of educational channels, and stations operating thereon.

(a) Noncommercial educational stations operating on the channels speci-

fied in § 73.501 are divided into the following classes:

(1) A Class D educational station is one operating with no more than 10 watts transmitter power output.

(2) A Class D educational (secondary) station is one operating with no more than 10 watts transmitter power output in accordance with the terms of § 73.512 or which has elected to follow these requirements before they become applicable under the terms of § 73.512.

(3) Noncommercial educational stations with more than 10 watts transmitter power output are classified as Class A, Class B, or Class C, depending on the effective radiated power and antenna height above average terrain, and the zone in which the station's transmitter is located, on the same basis as provided in §§ 73.205, 73.206, and 73.211 for stations on the nonreserved FM channels. Where a station is authorized with more than 3 kilowatts (4.8 dBk) effective radiated power, or coverage greater than that obtained by the equivalent of 3 kilowatts effective radiated power and 91.5 meter (300 foot) antenna height above average terrain, it is classified as a Class B station if its transmitter is located in Zone I or Zone I-A, and as a Class C station if its transmitter is located in Zone II. Class A stations may be assigned in all zones.

(b) Class A, B, and C noncommercial educational stations may be assigned to any of the channels set forth in § 73.501. Existing Class D noncommercial educational FM stations may continue to operate on their present channels and pending applications for new Class D stations may be granted to permit operation on the channel proposed, but in both instances such operations shall be subject to the provisions of § 73.512.

6. Paragraph (a) of § 73.507 is amended to read as follows:

§ 73.507 Minimum distance separations between co-channel and adjacent-channel stations.

(a) *Minimum distance separations.* No application for a new station, or change in channel or transmitter site or increase in facilities of an existing station, will be granted unless the proposed facilities will be located so as to meet the adjacent channel distance separations specified in § 73.207(a) for the class of station involved with respect to assignment on Channels 221, 222, and 223 listed in § 73.201 (except where in the case of an existing station the proposed facilities fall within the provisions of § 73.207(b)), or where a Class D station is changing frequency to comply with the requirements of § 73.512.

* * * * *

7. Section 73.509 is amended to read as follows:

§ 73.509 Protection from interference.

(a) No application for a facility on any channel specified in § 73.501 of this Chapter will be accepted if the requested facility either would cause objectionable interference within the 1 mV/m contour of any co-channel or adjacent channel station other than Class D (secondary) or, except in the case of Class D (secondary) proposals, receive interference within the proposal 1 mV/m contour.

(b) No application for use of any commercial FM channel by a Class D (secondary) station will be accepted if the requested facility would cause objectionable interference within the 1 mV/m contour of any co-channel or adjacent-channel station.

(c) No application for FM Channel 200 will be accepted if the requested facility would cause interference within the 1 mV/m contour of any co-channel Class D (secondary) station on Channel 200 or any adjacent-channel station on Channels 201, 202 and 203. The standards set forth in paragraph (a) 1-3 shall be used to determine the existence of objectionable interference.

(d) The following standards shall be used to determine the existence of objectionable interference:

(1) The distance to the 1 mV/m contour shall be determined by the use of Figure 1 of § 73.333 (F(50,50) curve) of this Chapter (see § 73.313(c)(1)).

(2) The distance to the applicable interference contour shall be determined by the use of Figure 1a of § 73.333 (F(50,10) chart) of this Chapter.

(3) Objectionable interference will be considered to exist if, on the basis of the curves referred to in this subparagraph, the ratio of undesired to desired signal exceeds: 1:10 for co-channel; 1:2 for first adjacent channel (200 kHz removed); 10:1 for second adjacent channel (400 kHz removed); and 100:1 for third adjacent channel (600 kHz removed).

(e) No application for FM Channel 200 will be accepted if the requested facility would cause interference to Channel 6 operations, including TV translators on this channel. Such objectionable interference will be considered to exist whenever the 15 dBu contour based on the F 50(10) curves in § 73.333 Figure 1a of the proposal would overlap the 40 dBu contour based on the F 50(50) curves in § 73.699 Figure 9, of the television station.

8. Paragraph (a) of § 73.511 is amended to read as follows:

§ 73.511 Power and antenna height requirements.

(a) Except as provided in § 73.504(b), no provision as to a minimum facility for an FM broadcast station shall apply to a noncommercial educational station operating on a channel specified in § 73.501(a); and no provision as to a maximum facility shall apply to a noncommercial educational station on Channels 201 to 217, inclusive. However, any application other than a Class D (secondary) station application filed pursuant to § 73.512, specifying a facility below the minimum of 100 watts effective radiated power will not be accepted for filing (see Note 3 to § 1.573) and any application exceeding the maximum set forth in § 73.211 will not be necessarily granted; see *Notice of Inquiry* in Docket No. 14185 as concerns educational FM matters (5 FCC 2d 587, 588, fn. 2 (1966); see also 13 FCC 2d 751 (1968) and 17 FCC 2d 496 (1969) and Docket 20735 (41 FR 16973).

* * * * *

9. New § 73.512 is added to read as follows:

§ 73.512 Special procedures applicable to Class D noncommercial educational stations.

(a) All Class D stations seeking renewal of license for any term expiring June 1, 1980, or thereafter shall comply with the requirements set forth below and shall simultaneously file an application on FCC Form 340, containing full information regarding such compliance with the provisions set forth below.

(1) To the extent possible, each applicant shall select a commercial FM channel on which it proposes to operate in lieu of the station's present channel. The station may select any commercial channel provided no objectionable interference, as set forth in § 73.509(b), would be caused. The application should include the same engineering information as is required to change the frequency of an existing station and any other information necessary to establish the fact that objectionable interference would not result. If no commercial channel is available where the station could operate without causing such interference, the application shall set forth the basis upon which this conclusion was reached. This procedure applies throughout the continental United States except that stations in the areas within 402 kilometers (250 miles) of Canada and 320 kilometers (199 miles) of Mexico do not have to comply with this requirement pending completion of negotiations with these countries, in which case such parties should follow the

procedures in paragraph (a)(3) of this section.

(2) If a commercial channel is unavailable, to the extent possible each applicant should propose operation on Channel 200 (87.9 MHz) unless the station would be within 402 kilometers (250 miles) of the Canadian border or 320 kilometers (199 miles) of the Mexican border or would cause interference to an FM station operating on Channels 201, 202, or 203 or to TV Channel 6, as provided in § 73.509.

(3) If a channel is not available under either paragraph (a) (1) or (2) of this section, the renewal applicant shall study all 20 noncommercial educational FM channels and shall propose operation on the channel which would cause the least preclusion to the establishment of new stations or increases in power by existing stations. Full information regarding the basis for the selection should be provided.

(b) At any time before the requirements of paragraph (a) become effective, any existing Class D station may file a construction permit application on FCC Form 340 to change channel in the manner described above which shall be subject to the same requirements. In either case, any license granted shall specify that the station's license is for a Class D (secondary) station.

(c) Except in Alaska, no new Class D applications nor major change applications by existing Class D stations are acceptable for filing except by existing Class D stations seeking to change frequency. Upon the grant of such application, the station shall become a Class D (secondary) station.

(d) Class D educational (secondary) stations (see § 73.506(a)(2)) will be permitted to continue to operate only so long as no interference (as defined in § 73.509) is caused to any FM or TV broadcast station. In the event that the Class D (secondary) station would cause interference to an FM (other than a Class D (secondary)) or TV broadcast station after that Class D (secondary) station is authorized, the Class D (secondary) station must cease operation when program tests for the FM or TV broadcast station are authorized. The Class D (secondary) station may apply for a construction permit (see § 1.533(a)(6)) to change to another frequency or antenna site where it would not cause interference (as defined in § 73.509). If the Class D (secondary) station must cease operation before the construction permit is granted, an application for temporary authorization (pursuant to § 1.542 and 47 U.S.C. 309(f)) to operate with the proposed facilities may be submitted; where appropriate, such temporary authorization can be granted.

10. Section 73.513 is amended to read as follows:

§ 73.513 Noncommercial educational broadcast stations operating on unreserved channels.

Noncommercial educational FM stations, other than Class D (secondary) stations, which operate on channels listed in § 73.202 rather than § 73.501(a) but which comply with § 73.503 as to licensing requirements and the nature of the service rendered, shall comply with the provisions of the following sections of Subpart B of this part: §§ 73.201 through 73.213 (Classification of FM Broadcast Stations and Allocation of Frequencies); § 73.254 (Required Transmitter Performance); and such other sections of Subpart B of this Part as are made specifically applicable by the provisions of this Subpart C. In all other respects, such stations shall be governed by the provisions of this subpart and not Subpart B of this part.

11. Section 73.561, including the title, is amended to read as follows:

§ 73.561 Operating schedule; time sharing.

(a) All noncommercial educational FM stations will be licensed for unlimited time operation except those stations operating under a time sharing arrangement. Beginning January 1, 1979, all noncommercial educational FM stations are required to operate at least 36 hours per week, consisting of at least 5 hours of operation per day on at least 6 days of the week; however, stations licensed to educational institutions are not required to observe the minimum operating requirement during those days designated on the official school calendar as vacation or recess periods.

(b) Effective January 1, 1980, all stations, including those meeting the requirements of paragraph (a) of this section, but which do not operate 12 hours per day each day of the year, will be required to share use of the frequency upon the grant of an appropriate application proposing such share time arrangement. Such applications shall set forth the intent to share time and shall be filed in the same manner as are applications for new stations. They may be filed at any time, but in cases where the parties are unable to agree on time sharing, action on the application will be taken only in connection with the renewal of application for the existing station. In order to be considered for this purpose, such an application to share time must be filed no later than the deadline for filing applications in conflict with the renewal application of the existing licensee.

(1) The licensee and the prospective licensee(s) shall endeavor to reach an agreement for a definite schedule of periods of time to be used by each. Such agreement shall be in writing and shall set forth which licensee is to operate on each of the hours of the day throughout the year. Such agreement shall not include simultaneous operation of the stations. Each licensee shall file the same in triplicate original with each application to the Commission for initial construction permit or renewal of license. Such written agreements shall become part of the terms of each station's license.

NOTE.—For allocations purposes, both (all) stations sharing time will be treated as unlimited time stations.

(2) The Commission desires to facilitate the reaching of agreements on time sharing. However, if the licensees of stations authorized to share time are unable to agree on a division of time, the Commission shall be so notified by statement to that effect filed with the application proposing time sharing. Thereafter the Commission will designate the application for hearing on any qualification issues arising regarding the renewal or new applicants. If no such issues pertain, the Commission will set the matter for expedited hearing limited solely to the issue of the sharing of time. In the event the stations have been operating under a time sharing agreement but cannot agree on its continuation, a hearing will be held, and pending such hearing, the operating schedule previously adhered to shall remain in full force and effect.

(c) A departure from the regular schedule set forth in a time-sharing agreement will be permitted only in cases where an agreement to that effect is reduced to writing, is signed by the licensees of the stations affected thereby and filed in triplicate by each licensee with the Commission prior to the time of the proposed change. If time is of the essence, the actual departure in operating schedule may precede the actual filing of written agreement, provided appropriate notice is sent to the Commission in Washington, D.C.

(d) In the event that causes beyond the control of a permittee or licensee make it impossible to adhere to the operating schedule in paragraphs (a) and (b) of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the Commission, *Provided*, That notification is sent to the Commission in Washington, D.C., no later than the 10th day of limited or discontinued operation. During such period, the permittee or licensee shall continue to adhere to the requirements of the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30-day period, the permittee or licensee will so notify the Commission in

Washington, D.C., of this date. If the causes beyond the control of the permittee or licensee make it impossible to comply within the allowed period, informal written request shall be made to the Commission in Washington, D.C., no later than the 30th day for such additional time as may be deemed necessary.

12. Section 74.1203(a) is amended to read as follows:

§ 74.1203 Interference.

(a) FM translators will be authorized and permitted to continue to operate only where they cause no interference to the direct reception by the public of the off-the-air signals of any authorized broadcast station including Class D (secondary) noncommercial educational FM stations. FM translators shall not cause harmful interference to the transmissions of any other authorized radio station nor shall an FM translator cause interference to reception by a television broadcast translator station of its input signals. FM translator stations which may cause any such interference will not be authorized.

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federal register

WEDNESDAY, SEPTEMBER 6, 1978
PART V



CONSUMER PRODUCT SAFETY COMMISSION

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CELLULOSE INSULATION

Proposed Amendment to Interim Standard and Certification Rule

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1209]

INTERIM STANDARD FOR CELLULOSE INSULATION

Proposed Amendment and Certification Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of intent to propose an amendment to interim standard and a certification rule; solicitation of comments.

SUMMARY: In this document the Commission announces that it intends to propose an amendment to its interim safety standard for cellulose insulation and to propose a rule that specifies how manufacturers would certify that cellulose insulation meets the amended standard. In recently enacted legislation, Congress directed the Commission to issue the interim standard, based on General Services Administration specification HH-I-515C, to eliminate or reduce unreasonable risks of injury from flammable and corrosive cellulose insulation. The legislation also requires the Commission to propose, as an amendment to the interim standard, any revisions to the GSA specification that supersede the requirements for flame resistance and corrosiveness. GSA recently revised its specification. The Commission must propose an amendment to its interim standard by January 22, 1979. Because the statute provides a short time for considering comments and deciding whether to issue the proposed amendment in final form, the Commission is now requesting comments in advance on the provisions of HH-I-515D and related issues. The Commission is also requesting comments on the proposed certification rule now since the Commission intends to publish the proposed certification rule at the same time the proposed amendment is published. The Commission will consider these comments in preparing the proposed amendment to the interim standard and the proposed certification rule.

DATE: Comments must be submitted by October 6, 1978.

ADDRESS: Comments should be submitted to the Office of the Secretary, CPSC, Washington, D.C. 20207. Received comments and other information on this proceeding may be viewed in the Office of the Secretary, CPSC, 1111 18th Street NW., Third Floor, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Harry I. Cohen, Program Manager, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6453.

SUPPLEMENTARY INFORMATION: On July 11, 1978, the "Emergency Interim Consumer Product Safety Standard Act of 1978," Pub. L. 95-319, became law. This legislation amended the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051 et seq.) by adding a new section, section 35, that requires the Commission to issue an interim consumer product safety standard for cellulose insulation, based on the requirments for flame resistance and corrosiveness in the General Services Administration specification HH-I-515C, as effective February 1, 1978.

Pursuant to the statute, the Commission, on August 8, 1978, published the interim consumer product safety standard addressing the flammability and corrosiveness of cellulose insulation (43 FR 35240). All cellulose insulation manufactured after September 7, 1978, must comply with the standard.

The "Emergency Interim Consumer Product Safety Standard Act of 1978" also provides that until a final consumer product safety standard is in effect, the Commission must publish for public comment amendments to the interim standard to incorporate each revision GSA issues that supersedes the requirements for flame resistance and corrosiveness in GSA specification HH-I-515C. The Commission may make appropriate changes in the GSA revisions before proposing the amendment for public comment. The Commission must issue the amendment unless the Commission determines, after consulting with the Secretary of Energy, that the amendment is not necessary to protect consumers from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation or that implementation of the amendment will create an undue burden on persons who are subject to the interim consumer product safety standard.

Revision of GSA Specification

The General Services Administration has informed the Commission that, effective June 15, 1978, it has issued GSA specification HH-I-515D. Since this specification contains requirements for flame resistance and corrosiveness for cellulose insulation that supersede the requirements of GSA specification HH-I-515C, the Commission is required by Pub. L. 95-319 to publish the flame resistance and corrosiveness provisions of HH-I-515D as a proposed amendment to the interim standard.

Pub. L. 95-319 requires that within 45 days after the effective date of the act (July 11, 1978), the Commission must publish the flame resistance and corrosiveness provisions of HH-I-515D as a proposed amendment to the interim standard. The Commission may extend this time period for an additional 150 days if the Commission determines that more time is necessary to study the technical and scientific basis or the safety and economic consequences of the GSA revision. An additional 45-day extension may be made for the same purpose if the Commission provides Congress with a notice of the extension, along with a statement of the reasons for the extension and an estimate of the length of time required for the Commission to complete its action on the revision. Additional 45-day extensions beyond the first 45-day extension discussed above may be made if the Commission follows the same procedure and if Congress has not disapproved further extensions within 15 days after having received notice of the first additional 45-day extension. After the proposed amendment has been published, the act provides 30 days for interested persons to submit comments. Within 90 days after the end of the 30-day public comment period, the Commission must publish the amendment as a final amendment.

The Commission has extended, for 150 days, from August 24, 1978, until January 22, 1979, the time in which it must publish the proposed amendment to the interim standard (43 FR 35238, August 8, 1978). The purpose of this extension is to provide the Commission with additional time to study the technical and scientific basis and the safety and economic consequences of the requirements of HH-I-515D. In addition to publishing the proposed amendment by January 22, 1979, the Commission plans to publish on the same day a proposed certification rule under section 14 of the CPSA (15 U.S.C. 2063). That rule would prescribe requirements manufacturers would have to follow to certify that their cellulose insulation complies with the requirements of the amended standard. Certification of compliance is required by section 14 (these provisions are further explained in the section of this notice titled, "Request for Comments on Possible Content of the Proposed Certification Rule"). Within the next 2 months, the Commission also plans to publish a proposed rule under section 27(e) of the CPSA (15 U.S.C. 2076(e)) that would require manufacturers of cellulose insulation to provide purchasers with performance and technical data relating to the proper installation of cellulose insulation.

Reason for Publishing Notice of Intent

In this notice of intent the Commission is seeking public comments on all

aspects of the proposed amendment and proposed certification rule in order to assist the Commission in preparing these documents. The Commission will consider all timely received comments. When published in the FEDERAL REGISTER the proposed amendment and proposed certification rule will give interested persons another opportunity to submit written comments on these proposals.

The legislative history of Pub. L. 95-319 emphasizes that the Commission must adopt the flame resistance and corrosiveness provisions of HH-I-515D as an amendment to the interim standard unless the Commission finds either (1) that the amendment is not necessary to protect consumers from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation, or (2) that implementation of the amendment will create an undue burden on persons subject to the interim standard. In the conference report, the conferees stated their expectation that any member of the public who objects to the amendment will make available to the Commission whatever informaton is necessary in order for the Commission to fully analyze the impact of the amendment (H.R. Rept. 95-1322, 95th Cong., 2d sess. 8 (1978)).

The Commission strongly encourages interested persons to submit comments on the issues raised in this notice of intent. In order to be most helpful to the Commission, comments should discuss specific issues raised in this notice as well as any other issues the commenters believe are important. Wherever possible comments should include all of the information and data forming the basis of any conclusions or opinions stated in the comment. The specific issues on which the Commission seeks comment are listed below in the section entitled Request for Comments.

GENERAL DESCRIPTION OF HH-I-515D

The revised GSA specification HH-I-515D supersedes the flame resistance provisions of GSA specification HH-I-515C by replacing the flame resistance test methods of HH-I-515C with two new tests for determining flame resistance, the attic floor radiant panel test (see paragraph 4.8.7 of the GSA specification) and the smoldering combusion test (see paragraph 4.8.8 of the GSA specification). (The full text of the flame resistance and corrosiveness provisions of HH-I-515D is reprinted at the end of this notice.) The present interim standard based on HH-I-515C requires cellulose insulation to have a flame spread rating not greater than 25 when tested in a Steiner tunnel. Insulation must also pass a flame resistance permanency test that uses the Steiner tunnel and a 2-foot version of the tunnel. Unlike the tunnel test methods of HH-I-515C, which measure how quickly a given material burns, the radiant panel test and the smoldering combustion test evaluate the fire performance of cellulose insulation by specifying both open flame and smoldering ignition sources in an attempt to simulate real-life conditions. The radiant panel test is designed to measure the potential of a material to propagate open flames across its surface. To accomplish this the test uses a panel to generate heat which is reflected on the surface of the test specimen. The amount of heat received by the specimen decreases as the distance from the heat source increases. The length of char present on the exposed specimen is measured and reported as "critical radiant flux." At paragraph 3.1.9, HH-I-515D requires test specimens to have a critical radiant flux equal to or greater than 0.12 watts/cm^2 in order to pass the test.

The smoldering combustion test is designed to determine the potential of a material to undergo sustained combustion when exposed to a moderate heat source. A lit cigarette (lit end up) is placed in a small sample of conditioned insulation in a stainless steel box. The cigarette and specimen are allowed to burn for at least 2 hours or until the smoldering has ended. After the burning has ended, the specimen holder with its material are weighed, and the percent weight loss of the original specimen is calculated. In order to pass the requirements of HH-I-515D for smoldering combustion, the insulation must have no evidence of flaming combustion and a weight loss of less than or equal to 15 percent of the initial weight of each of the specimens tested.

At paragraphs 3.1.7 and 4.8.5, HH-I-515D includes requirements for the corrosiveness of insulation that supersede the requirements of HH-I-515C. The test method of HH-I-515D provides that insulation samples are saturated with distilled water and placed in contact with a thin metal coupon. Aluminum, copper, and steel coupons are used. The saturated insulation and metal coupon assembly is placed in a humidity chamber at high temperature and high relative humidity for 14 days. After the test the corrosion products are removed from the test specimens, which are then examined over a light bulb for perforations. If the metal coupon is observed to have any perforation, the insulation has failed the corrosiveness requirement. (The corrosiveness requirements of the present interim standard, at §§ 1209.3(c) and 1209.6 differ from those of HH-I-515D in the procedure for preparing the metal coupons and insulation samples, the type of coupons used in the test, and the amount of time the specimens are left in the humidity chamber.)

COMMISSION STAFF SUGGESTED CHANGES IN THE PROVISIONS OF HH-I-515D

Section 35(c)(2)(C) of Pub. L. 95.319 authorizes the Commission to make changes in the flame resistance and corrosiveness provisions of HH-I-515D in order to make these provisions suitable for issuance as an amendment to the interim standard. The legislative history of the act indicates that the Commission could modify the existing test methods in HH-I-515D or develop a new test method for flame resistance or corrosiveness in order to insure reproducible results, adequately simulate a home situation, or deal with a problem that is not adequately addressed by the GSA revision. The Commission may also make technical nonsubstantive changes, such as numbering changes, correction of typographical errors, and the addition of tolerances, to insure that the revision is suitable for issuance as a mandatory product safety rule (H.R. Rept. 95-1322; 95th Cong., 2d sess. 13 (1978); and H.R. Rept. 95-1116; 95th Cong., 2d sess. 7-8 (1978)).

The full text of the flame resistance and corrosiveness provisions of HH-I-515D are published at the end of this notice. Listed in this section are the changes in HH-I-515D that the Commission staff is considering at the present time. Although these suggested changes have not been approved by the Commission, and although it is possible that additional changes will be included in the proposed amendment, the Commission encourages persons to comment on these suggested changes to assist the Commission in developing the proposed amendment. The paragraph references are to the sections of HH-I-515D that have been reprinted below.

(1) At paragraph 4.8.1 Settled density, which prescribes the procedures for determining settled density of loose fill insulation, the staff recommends that the phrase "and the density thus determined shall be the density on which the coverage chart is determined" be deleted. This phrase is not part of the flame resistance or corrosiveness provisions of HH-I-515D. The coverage chart referred to is used for labeling on the bag to indicate the number of pounds of insulation to install per cubic foot of floor space to obtain a given R value.

(2) In the description of the apparatus for determining settled density in paragraph 4.8.1, the staff recommends that the description of the humidity chamber be changed from one capable of maintaining 97 percent ±3 percent relative humidity to one capable of maintaining 90 percent ±3 percent rel-

ative humidity. This change is also recommended in the procedure section of this same paragraph. The reason for the suggested change is that in using presently available equipent it is extremely difficult to obtain this humidity at this temperature. Equipment manufacturers have indicated to the Commission staff that they do not believe their equipment can duplicate these environmental conditions.

(3) In paragraph 4,8.1, the Commission staff also recommends that the description of the sample preparation for pneumatic applications be changed to allow the blowing hose to be pointed "approximately" 10° upwards. The reason for this change is that it is extremely difficult to maintain an exact 10° angle of the blowing hose when preparing a sample in this manner.

(4) The staff recommends that the word "fluff" be deleted from the last sentence of the description of the sample preparation for pneumatic applications in paragraph 4,8.1. The staff has been informed that this word was mistakenly included in the final specification issued by GSA.

(5) At paragraph 4.8.5, which describes the procedures for corrosiveness testing the staff recommends that the word "steel" be deleted and replaced with the word "test" in the description of the procedure for degreasing coupons in the corrosiveness test. This change has been made since the test procedure involves the use of aluminum and copper coupons in addition to steel coupons. The staff is considering various additional degreasing procedures to effectively clean the test coupons. In this paragraph the staff also recommends that the words "for each coupon" be added to the sentence: "Presaturate the insulation samples by mixing 20 grams (gms) of insulation with distilled water." This change is needed since the present wording does not clearly state that 20 gms of insulation should be added per coupon. In the formula for determining the quantity of distilled water to be used for each 20-gm sample, the staff recommends that the abbreviation "pcf" be replaced by the phrase "pounds per cubic foot."

The staff also recommends that the description of the concentration of nitric acid be changed from "15.9 N" to "15.9 Normal" for clarification.

(6) Paragraph 4.8.7, which prescribes for radiant panel testing, describes the radiant panel as being located in a draft-protected laboratory. The staff believes that the word "laboratory" should be replaced by the word "area," since only the area in which the specimen is tested, rather than the entire laboratory, needs to be draft protected.

In this same paragraph, the staff suggests that the requirement that the radiant panel heat chamber be capable of operating at temperatures up to 816° C be changed to 750° C. The staff does not believe that the 816° temperature is needed for the testing of cellulose insulation.

In this same paragraph, the staff recommends that the description of the range of the total heat flux transducer used in the test chamber be changed from "0-1/5" to "0-1.5" watts/cm^2 and from "0-1/32" to "0-1.32" Btu/ft^2 in order to correct a typographical error in the GSA specification.

The Conditioning section of paragraph 4.8.7 requires the test specimens to be conditioned to equilibrium or a minimum of 48 hours, whichever is greater. The staff recommends that the requirement that test specimens be conditioned a minimum of 48 hours be deleted. The staff believes that 48 hours is not always needed for equilibrium to be reached. By eliminating the minimum 48 hour requirement, testing can be conducted more rapidly in some instances.

In the Test Procedure section of paragraph 4.8.7, the Commission staff recommends that the amount of time for leaving the pilot burner flame in contact with the test specimen be changed from 5 minutes to 2 minutes. Tests conducted in the CPSC lab indicate that if a specimen is going to ignite, it will ignite within the first 2 minutes.

(7) In the description of the smoldering combustion apparatus at paragraph 4.8.8 the Commission staff recommends that the words "or equivalent" be added to the description of the glass fiberboard. In discussions with laboratory personnel the staff has learned that glass fiberboard is difficult to work with when conducting tests.

In the description of the balance used in the smoldering combustion test, the staff recommends that the phrase "and provided with a suitable scale plan" be deleted. This change will allow different types of equipment to be used that may be more accurate than the weighing device specified in this paragraph.

In the description of the test procedure for the smoldering combustion test, the conditioning requirements for test specimens are 69° F and 50 percent relative humidity. The Commission staff is examining these requirements to determine if they are necessary.

(8) The Commission is considering including a labeling requirement in the proposed amendment that would enable consumers to distinguish insulation that meets the requirements of the interim standard based on HH-I-515D from insulation that has been manufactured before September 8, 1978, the effective date of the present interim standard based on HH-I-515C. As required by Pub. L. 95-319, the present interim standard, at § 1209.9, requires containers of cellulose insulation to bear the following statement: "Attention: This material meets the applicable minimum Federal flammability standard. This standard is based upon laboratory tests only, which do not represent actual conditions which may occur in the home." Insulation manufactured before September 8, 1978 is not required to bear this label statement, and may be legally sold without such labeling after the present interim standard becomes effective on September 8, 1978. The proposed amendment will not contain the labeling requirement of § 1209.9 of the present interim standard, since Pub. L. 95-319 provides that this labeling requirement remains in effect only during the time in which the present interim standard based on HH-I-515C is in effect. As a result, unless the Commission includes a labeling provision in the amended interim standard, consumers would not be able to distinguish cellulose insulation that meets the requirements of the proposed amendment from insulation that has been manufactured before the effective date of the present interim standard.

The labeling provision in the amended interim standard would require containers of cellulose insulation to bear a statement indicating that the insulation meets the HH-I-515D interim standard. The proposed text of the labeling provision will appear in the FEDERAL REGISTER notice proposing the amendment to the interim standard. It is anticipated that the provisions of 1209.9(b) governing the prominence and conspicuousness of the labeling statement for the present interim standard will be the same in the proposed amendment. The Commission encourages interested persons to submit comments on the possible labeling to be included in the proposed amendment.

REQUEST FOR COMMENTS ON PROVISIONS OF HH-I-515D

In addition to technical information, the Commmission is seeking information to help it determine whether the provisions of HH-I-515D are unnecessary to protect consumers from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation and whether implementation of the amendment will create an undue burden on persons who are subject to the interim consumer product safety standard. In order to assist the Commission in studying the technical and scientific basis for the proposed amendment, as well as the safety and economic consequences of the pro-

posed amendment, the Commission is especially interested in receiving information and data concerning the following issues:

1. Whether the provisions of HH-I-515D published in this notice are the provisions of that specification that supersede the requirements for flame resistance and corrosiveness of HH-I-515C and an explanation of the reasons for the views that these provisions are not the appropriate provisions, or that additional provisions should be included.

2. Whether the changes suggested by the Commission staff should be made and an explanation of why these changes should or should not be made.

3. The reproducibility and repeatability of the test methods in HH-I-515D.

4. The degree to which the criteria in HH-I-515D addresses an unreasonable risk of injury associated with flammable and corrosive cellulose insulation.

5. Suggested improvements in the test methods and criteria in HH-I-515D which will make the test more convenient, more reproducible, or more closely related to the unreasonable risk of injury.

6. Any alternative test methods which might replace or be added to the test methods in HH-I-515D in order to make the standard more directly related to the risk of injury. (The Commission specifically requests comments and data concerning test methods which simulate the risk of ignition or smoldering of cellulose insulation when installed over a recessed electric light fixture.)

Request for Comments on Economic Considerations

The Commission is especially interested in receiving comments on the economic burden of a proposed amendment based on HH-I-515D. Specifically, the Commission is interested in receiving information concerning changes in manufacturing costs, selling prices, performance of the product, sales volume, and employment which are expected to result from compliance with an amendment based on HH-I-515D when compared with the present interim standard based on HH-I-515C. The Commission is particularly interested in receiving information concerning the impacts on small businesses, and information concerning the availability of component materials, such as paper and boric acid (and substitutes).

Information available to the Commission indicates the demand for cellulose insulation appears to have declined significantly in recent months. Although the reasons for this decline have not been clearly identified, it is possible that the cellulose insulation industry is already involved in a long term downward trend in sales volumes, employment, and number of firms. The Commission encourages commentors to furnish information on this topic as well as information on industry structure in general.

Request for Comments on Effective Date

At the present time the Commission is considering publishing the proposed amendment to the interim standard on or before January 22, 1979. A final amendment would be published on or before May 20, 1979, with an effective date 60 days after publication. All cellulose insulation covered by the interim standard manufactured after the effective date would be required to comply with the amended standard. The Commission encourages interested persons to submit data and arguments concerning the most appropriate effective date of a final amendment to the interim standard.

Requests for Comments on Environmental Considerations

At the present time the Commission is preparing an environmental assessment of the regulatory alternatives concerning an amendment to the interim standard for cellulose insulation. The assessment will address the potential effects of Commission action on the production, distribution, consumption, and disposal of products subject to the standard to determine whether the effects of the regulatory alternatives will lead to any significant impact on air and water quality, solid waste disposal, land use, energy use, or any other aspects of the physical environment. The Commission encourages interested persons to submit comments on the environmental considerations of the proposed amendment. In preparing the environmental assessment the Commission will consider any such comments received.

Request for Comments on Possible Content of the Proposed Certification Rule

If the Commission issues a final amendment to the interim standard, manufacturers of cellulose insulation will be required to comply with the certification provisions of section 14(a)(1) of the act (15 U.S.C. 2063(a)(1)) after the effective date of the amended standard. (The certification provisions based on HH-I-515C is in effect.) Section 14(a)(1) requires manufacturers (and private labelers, if the product bears a private label) to issue a certificate which states that the product conforms to the insulation standard. The certificate must be based on a test of each product or on a reasonable testing program and must state the name of the manufacturer or private labeler issuing the certificate and include the date and place of manufacture. Section 14(b) provides that, at the option of the person required to certify the product, testing may be conducted by an independent third party qualified to perform such tests or testing programs. Section 35(f)(1) of the act authorizes the Commission to require that any person required to comply with the certification requirements of section 14 for cellulose insulation must provide for the performance of any test or testing program through the use of an independent third party qualified to perform such test or testing program.

In addition, section 14 of the act allows, but does not require, the Commission to issue regulations which would (1) prescribe a reasonable testing program, (2) specify which manufacturer shall issue the certificate when a product has more than one "manufacturer," and (3) require labeling of products subject to the safety standard. Manufacturers of products subject to a consumer product safety standard are required to issue a certificate under section 14(a)(1) based on a test of each product or on a reasonable testing program even if the Commission has not issued a regulation under section 14(b). At this time, the Commission plans to propose for public comment a certification rule under section 14(b) at the same time it proposes the HH-I-515D amendment to the interim standard. Listed below are various alternatives the staff is presently considering for the content of the certification rule. It is possible that the staff will develop additional alternatives after the notice of intent has been published. In addition, the Commission may decide not to issue a certification rule, and thus manufacturers would be required to issue a certificate based on a test of each product or on a reasonable testing program the manufacturers develop themselves.

The Commission seeks comment on the following alternatives the staff is now considering to form the substance of a proposed certification rule. The Commission will review any timely comments before deciding whether to propose a rule and what form the proposal should take.

(1) One alternative is to develop a proposed certification rule based on the quality assurance provisions in paragraph 4 of HH-I-515D. These provisions, as specified in Military Standard 105 (MIL-STD-105) "Sampling Procedures and Tables for Inspection by Attributes," define sample inspection requirements based on the quantity of the manufactured product to be certified. The sample of product selected would be subject to the full compliance tests set out in the standard using the flooring radiant panel,

the smoldering combustion test, and the corrosiveness test procedures.

For a manufacturing facility in continuous production, this procedure would require holding lots until the results of testing were available. (This alternative may require the manufacturer to hold lots for as long as 14 days, while awaiting corrosiveness test results.)

This procedure would also require quick access to a radiant panel tester to obtain test results on a regular basis.

2. A second alternative would prescribe testing when the insulation produced undergoes changes after initial testing or certification. Under this alternative the product would be tested at least daily for smoldering combustion, pH, the grain size of the chemicals used to treat the cellulosic fibers, and for the percent of chemicals added by weight. If any of these changed significantly, or if the type of chemicals or the cellulosic materials are changed, the product would have to be recertified by retest using radiant panel and corrosiveness tests.

3. A third alternative would prescribe the daily use of simplified, screening tests which could predict results which would be obtained by testing products with the radiant panel and corrosiveness tests. Since the smoldering combustion test can be performed quickly and inexpensively on a daily basis, a substitute screening test for smoldering combustion is not needed. The Commission has not yet identified adequate screening tests for either the radiant panel or corrosiveness tests, but among those tests under consideration are:

RADIANT PANEL

Oxygen index test.
Factory mutual inclined channel test.
The applied research methanamine pill test.
The terralab radiant panel.
The 2-foot tunnel test.

CORROSIVENESS

Chemical analysis for aluminum.
Chemical analysis for ammonium.
Chemical analysis for sulfates.
Portable corrosometer or potentiostat.

Copies of these tests will be available in the Commission's Office of the Secretary, Third Floor, 1111 18th Street NW., Washington, D.C. 20207.

Interested persons are invited to submit comments on the three alternatives discussed above, as well as on any other alternatives. The Commission is especially interested in receiving comments on the relative economic burden on persons subject to the certification alternatives discussed above. The Commission is also interested in receiving data which would indicate the extent to which any screening test predicts test results from the radiant panel and corrosiveness test as specified in HH-I-515D.

TEXT OF HH-I-515D

In order to assist interested persons in commenting, the Commission is reprinting below the flame resistance and corrosiveness provisions of HH-I-515D. The text and numbering of these paragraphs are the same as those used in HH-I-515D, as it became effective on June 15, 1978. When the Commission issues its proposed amendment these provisions, with any changes the Commission decides to incorporate, will be in a form suitable for publication as a mandatory standard and will bear numbering assigned by the Commission for purposes of codification. The proposed amendment will also include a scope and application section, and a definitions section, similar to those sections in the present interim standard. The proposed amendment will not contain the labeling requirements of § 1209.9 of the interim standard, since Public Law 95-319 provides that this labeling requirement remains in effect only during the time in which the interim standard based on HH-I-515C remains in effect. The proposed amendment will also not include the flame resistance permamency requirement of § 1209.3(b) of the interim standard, since this provision has been superseded by the flame resistance provisions of HH-I-515D.

The Commission has not reproduced the following paragraphs of HH-I-515D since these paragraphs do not contain provisions superseding the requirements for flame resistance and corrosiveness in GSA specification HH-I-515C: Paragraph 1, *Scope and Classification;* paragraph 2, *Applicable Documents;* paragraph 3, *Requirements;* 3.1 *Material;* 3.1.1 *Qualification;* 3.1.3 *Starch;* 3.1.4 *Thermal Resistance;* 3.1.5 *Moisture Absorption;* 3.1.6 *Odor Emission;* 3.1.8 *Fungi Resistance;* 3.2 *Marking;* 3.2.3 *Workmanship;* paragraph 4, *Quality Assurance Provisions;* 4.1 *Responsibility for Inspection;* 4.2 *Classification of Inspections;* 4.3 *Qualification Tests;* 4.4 *Sampling for Qualification Tests;* 4.5 *Quality Assurance Inspection;* 4.6 *Sampling;* 4.7 *Examination Tests;* 4.8.2 *Thermal Resistance;* 4.8.3 *Odor Emission;* 4.8.6 *Fungi Resistance;* 4.8.9 *Starch;* 4.9 *Quality Assurance Test Methods;* paragraph 5, *Preparation for Delivery;* paragraph 6, *Notes.*

The following provisions of HH-I-515D supersede the requirements for flame resistance and corrosiveness in HH-I-515C:

FEDERAL SPECIFICATION INSULATION THERMAL (LOOSE FILL FOR PNEUMATIC OR POURED APPLICATION): CELLULOSIC OR WOOD FIBER

3. REQUIREMENTS

3.1.2 *Settled density.* The settled density shall be determined in accordance with 4.8.1.

3.1.7 *Corrosiveness.* The loose fill insulation material shall be tested for corrosiveness as specified in 4.8.5. The composition of the insulation material shall be such tme after testing, no perforation of the 3 mil metal specimens shall be evident when the specimens are observed over a chrome reflected 40-W appliance light bulb.

3.1.9 *Critical radiant flux.* When tested in accordance with the Attic floor radiant panel test (see 4.8.7), the critical radaint flux of each of the specimens tested shall be equal to or greater than 0.12 W/cm^2. Specimens submitted for the critical radiant flux test shall be blown as specified in the settled density test procedure (see 4.8.2).

3.1.10 *Smoldering combustion.* When tested in accordance with the smoldering combustion tests (see 4.8.8), the insulation shall meet the following requirements:

No evidence of flaming combustion.

Weight loss 0 15 percent of initial weight, of each of the specimens tested.

4. QUALITY ASSURANCE PROVISIONS

4.8 *Qualification test methods.* The following tests shall be conducted on materials at the measured settled density: Corrosiveness and smoldering combustion. For radiant panel and smoldering combustion, all material shall be blown prior to testing.

4.8.1 *Settled density.* Determination of settled density of loose fill insulation shall be in accordance with the following procedure; and the density thus determined shall be the density on which the coverage chart is determined.

Apparatus

Loose fill insulation sample containers. The sample containers shall be made of construction grade plywood and shall have inside dimensions of 36 inches long by 14 inches wide by 6 inches deep (914.4 x 355.6 x 152.4 mm) and 18 inches long by 14 inches wide by 12 inches deep (457.2 x 355.6 x 304.8 mm), and 11 inches long by 11 inches wide by 12 inches deep (279.4 x 279.4 x 304.8 mm), plus or minus ⅛ inch.

Depth guage. The depth guage shall be as specified in ASTM C 167 Except: The pin shall be 12 inches (304.8 mm) long.

Blowing machine. The blowing machine shall be typical of standard blowing machines and shall be equipped with 100 feet (30.5 M) of 2

inches (50.8mm), standard flexible blower hose.

Humidity chamber. The humidity chamber shall be capable of maintaining 40° F±2° F (4.4° C±1.1° C) and 97 percent±3 percent relative humidity.

Sample preparation for pneumatic applications. The loose fill sample container shall be located at the same level as the blowing machine on a level floor in front of an operator directing the blowing hose. When blowing, the hose shall be pointed 10 degrees upward and the end of the hose shall be kept 11 inches above the floor surface for the 6-inch deep containers and 17 inches above the floor surface for the 12-inch deep containers. the air setting shall be selected by conducting a series of tests with the given machine. A minimum of four air settings should be used. Widely different air settings shall be used first. The lowest setting should be that which will give a uniform flow of material and the highest that which will not produce excessive dust. Two intermediate air settings shall then be used. The air setting which produces the minimum or near minimum as blown density shall be used for the actual test. Place the loose fill insulation into the hopper of the blowing machine. When the insulation is blowing at a steady rate, start filling the container so that the main stream of the material is falling over the rear wall; slowly move backward maintaining the height and direction of the flexible hose as specified. Continue filling the container at an even rate until the material falls over the front wall of the container. Screed fluff the insulation to the top of the container, taking care not to compact the insulation or leave large voids in the surface of the material.

Sample preparation for pouring application. Pour loose fill insulation into a simulated attic space until full. The attic space shall be formed by four 8-feet long, 2 x 6-inch joists placed 16 inches on center with ½-inch plywood nailed to the ends and bottom. Fluff the material with a 20-inch wide garden rake, applying a series of small amplitude strokes while moving the rake slowly along the joist. Repeat the fluffing process six times, and then with a shovel, place the insulation material into the sample containers.

Procedure

First weigh the empty 36 x 14 x 6 inches (914.4 x 355.6 x 152.4 mm) and 18 x 14 x 12 inch (457.2 x 355.6 x 304.8 mm) containers. Blow or pour the material, as specified in the sample preparation, into four 36 x 14 x 6 inches (914.4 x 355.6 x 152.4 mm) containers, four 18 by 14 by 12 inches (457.2 x 355.6 x 304.8 mm) containers as specified weigh the filled containers and determine the density as blown/poured. Blow or pour two containers 11 by 11 by 6 inches (279.4 x 279.4 x 152.4 mm) and two containers 11 by 11 by 12 inches (279.4 x 279.4 x 304.8 mm) using the same techniques. Measure the thickness with accuracy of at least ±1/16 inch (1 mm) of the insulation in the center of the container and four additional measurements at locations in each quarter of the container, and calculate the average thickness. Drop the four 36 by 14 by 6 inches (914.4 x 355.6 x 152.4 mm) and the four 18 by 14 by 12 inches (457.2 x 355.6 x 304.8 mm) containers 6 times from 6 inches (152.4 mm) height, making sure containers are dropped flat onto a concrete floor. Measure the thickness with the same accuracy as above in the same spots as used above; determine the average thickness and calculate the percent decrease in thickness during the drop test (designated as S_d). Note: There will be a S_d for the 6-inch deep containers and a S_d for the 12-inch deep containers. Place the two 11 by 11 by 6 inches (279.4 x 279.4 x 152.4 mm) filled containers and the two 11 by 11 by 12 inches (279.4 x 279.4 x 304.8 mm) filled containers in a climatic chamber at 40° F±2° F (4.4° C) and 97±3 percent relative humidity for 4 days. Remove the containers from the chamber and place in a conditioned room with climate 73° F±2° F and 50±5 percent relative humidity for at least 3 days. Repeat the 4-day cycle and the 3-day cycle until four 3-day cycles have been completed. The final cycling being 3 days at 73° F±2° F (22.8° C) at 50±5 percent relative humidity. Measure the thickness in the same spots as used above; determine the average thickness and calculate the percent decrease (designated S_c). Note: There will be an S_c for the 6-inch deep containers and an S_c for the 12-inch deep containers. Determine the settled density by multiplying the density as blown into 36 × 14 × 6 inches (914.4 x 355.6 x 152.4 mm) and the 18 by 14 by 12 inches (457.2 x 355.6 x 304.8 mm) containers by the factor $s=(100\pm S_d\pm S_c)/100$. The settled densities for the 6 inch (152.4 mm) and the 12-inch (304.8 mm) thick specimens shall be averaged and reported. The drop test and cycling in the climate chambers shall be performed on the pouring application materials in the same manner as for the blown application materials and settled density measurements reported separately.

* * * * *

4.8.5 *Corrosiveness.* Determination of corrosion shall be in accordance with the following test procedure: (see 3.1.7).

Apparatus and Materials

Humidity chamber capable of maintaining 120°±1° F and a relative humidity of 97±1.5 percent.

Evaporating dishes: Six, glass, 90 mm diameter by 50 mm height.

Test specimens: Two each, 2 by 2 inches (50.8 mm) by 0.003 inch (0.0762 mm) thick metal free of tears, punctures, or crimps as follows:

(1) 3003 bare aluminum, zero temper.

(2) ASTM B 152, type ETP, Cabra No. 110 soft copper.

(3) Low carbon, commercial quality, cold rolled, less than 30 carbon content, shim steel.

Insulation sample: Samples of the loose fill thermal insulation submitted for test.

Procedure: Degrease the steel coupons until completely free of waterbreaks by scrubbing in 1,1,1-trichloroethane followed by ultrasonic cleaning in a fresh portion of the same solvent for 30 minutes. Rinse in at least two successive portions of distilled water or deionized water (glass containers only) and drain to inspect for water-breaks. Hot air dry. Handle degreased coupons only with clean forcepts. Presaturate the insulation samples by mixing 20 grams (gms) of insulation with distilled water. The quantity of distilled water to be used for each 20 g sample shall be determined using the following formula:

ml distilled water = 2.5 x 150/determined settled density (pcf)

For each 20 g sample of presaturated insulation, place approximately one-half of the insulation sample into an evaporating dish, tamp level, using a clean stainless steel spatula. Place a metal specimen centered on this one-half sample pad in a horizontal plane. Place the remaining half of the presaturated 20 g insulation sample into the evaporting dish on the metal specimen and tamp to assure an even distribution of this material and to assure good contact of the insulation with the metal. Do not cover the evaporating dishes. If dripping occurs in the chamber, position a drip guard in the chamber to divert condensation to the chamber floor. Repeat the above for the six specimens of the 3 mil material. Place all six specimens into the chamber preconditioned to 120° F±3° F (49° C) and 97±1.5 percent relative humidity) for 14 days.

Upon completion of the test, thoroughly wash the metal specimens under running water and lightly brush them to remove loose corrosion products. Remove the remaining corrosion products from the copper, aluminum and steel specimens by immersing the test specimens in a solution of 10 parts distilled water and 1 part nitric acid, 15.9 N. The samples shall be immersed

in the acid rinse no longer than 30 seconds for any one period between rinsing and light brushing; and shall be immersed no more than twice to remove corrosion products and/or sealed insulation materials.

After cleaning, examine the 0.003 inches aluminum, copper, and steel specimens over a chrome reflected 40 W appliance light bulb for perforation (see 3.1.8).

* * * * *

4.8.7 *Critical radiant flux.* Critical radiant flux shall be determined in accordance with the following test procedure: Method of test for critical radiant flux of exposed attic floor insulation using a radiant heat energy source (see 3.1.9).

Apparatus

The basic elements of the test chamber (figure 1[1]) are: (1) An air-gas fueled radiant heat energy panel inclined at 30° and directed at (2) a horizontally-mounted attic floor insulation specimen (figure 2). The radiant panel generates a radiant energy flux distribution ranging along the 100-cm length of the test specimen from a nominal maximum of 1.0 watts/cm² to a minimum of 0.1 watts/cm². The test is initiated by open flame ignition from a pilot burner. The distance burned to flame-out is converted to watts/cm² from the flux profile graph (figure 8) and reported as *critical radiant flux*, watts/cm².

The radiant panel test chamber shall be constructed and instrumentated as follows:

The radiant panel test chamber employed for this test shall be located in a draft-protected laboratory. The radiant panel test chamber, figures 3 and 4, shall consist of an enclosure 140 cm (55 inches) long by 50 cm (19½ inches) deep by 71 cm (28 inches) above the test specimen. The sides, ends, and top shall be of 1.3 cm (½ inch) calcium silicate board, such as Marinite XL, 0.58 g/cm³ (36 lbs/ft³) nominal density, with a thermal conductivity at 200° F of 0.96 cal (g)/hr cm² deg C per cm [0.77 Btu/(hr) (ft²) (deg F per in)]. One side shall be provided with an approximately 10 cm x 110 cm (4 x 44 inches) draft tight fire resistant glass window so that the entire length of the test specimen may be observed from outside the fire test chamber. On the same side and below the observation window is a door which, when open, allows the specimen platform to be moved out for mounting or removal of test specimens. A draft tight fire resistant observation window may be installed at the low flux end of the chamber.

The bottom of the test chamber shall consist of a sliding steel platform which has provisions for rigidly securing the test specimen holder in a fixed and level position. The free, or air access, area around the platform shall be in the range of 1,950–3,550 cm² (300–500 square inches). The top of the chamber shall have an exhaust stack with interior dimensions of 12.5 cm (5 inches) wide by 38 cm (15 inches) deep by 30 cm (12 inches) high at the opposite end of the chamber from the radiant energy source. The radiant heat energy source shall be a panel of porous refractory material mounted in a cast iron frame, with a radiation surface of 30.5 x 45.7 cm (12 by 18 inches). It shall be capable of operating at temperatures up to 816° C (1,500° F). The panel fuel system shall consist of a venturi-type aspirator for mixing gas and air at approximately atmospheric pressure, a clean dry air supply capable of providing 28.3 NTP m³ per hr (1,000 standard cubic feet per hour) at 7.6 cm (3.0 inches) of water, and suitable instrumentation for monitoring and controlling the flow of fuel to the panel.

The radiant heat energy panel shall be mounted in the chamber at 30° to the horizontal specimen plane. The horizontal distance from the 0 mark on the specimen fixture to the bottom edge (projected) of the radiating surface of the panel is 8.9 cm (3½ inches). The panel to specimen vertical distance is 14 cm (5½ inches) (see figure 3). The angle and dimensions given above are critical in order to obtain the required radiant flux. The radiation pyrometer for standardizing the thermal output of the panel shall be suitable for viewing a circular area 25.4 cm (10 inches) in diameter at a range of about 1.37 m (54 inches). It shall be calibrated over the black body temperature range of 490–510° C (914–950° F) in accordance with the procedure described in appendix A. A high impedance potentiometer voltmeter with a suitable millivolt range shall be used to monitor the output of the radiation pyrometer described. The dummy holder (see figure 5), shall be constructed from heat-resistance stainless steel (ANSI Type 300 (UNA-N08330)) or equivalent, thickness 0.198 cm (0.078 inch), having overall dimension of 115 cm (45 inches) by 32 cm (12¾ inches) with a specimen opening of 20 cm (7.9 inches) by 100 cm (40 inches). Six slots are cut in the flange on either side of the holder to reduce warping. The holder is fastened to the platform with two stud bolts at each end.

The specimen tray (see figure 6) shall be constructed from heat-resistant stainless steel (ANSI Type 300 (UNA-N08330)) or equivalent, thickness 0.198 cm (0.078 inch), having overall dimensions of 110 cm (43.3 inches) by 27.3 cm (10.8 inches) the depth of the tray is 5 cm (2 inches). The flanges of the specimen tray are drilled to accommodate two stud bolts at each end; the bottom surface of the flange is 2.1 cm (0.83 inch) below the top edge of the specimen tray.

The pilot burner, used to ignite the specimen shall be a propane venturi torch with an axially symmetic burner tip having a propane supply tube with an orifice diameter of 0.0076 cm (0.003 inch). In operation, the propane flow is adjusted to give a pencil flame blue inner cone length of 1.3 cm (½ inch). The pilot burner is positioned so that the flame generated will impinge on the centerline of the specimen at the zero distance burned point at right angles to the specimen length (see figures 3 and 4). The burner shall be capable of being swung out of the ignition position so that the flame is horizontal and at least 5 cm (2 inches) above the specimen plane.

Two 3.2 cm (⅛ inch) stainless steel sheathed grounded junction Chromel Alumel thermocouples are located in the flooring radiant panel test chamber (see figures 3 and 4). Thermocouples shall be kept clean to insure accuracy of readout. The chamber thermocouple is located in the longitudinal central vertical plane of the chamber 2.5 cm (1 inch) down from the top and 10 cm (4 inches) back from the inside of the exhaust stack. The exhaust stack thermocouple is centrally located 15.2 cm (6 inches) from the top. An indicating potentiometer with a range of 100–500° C (212–932° F) may be used to determine the chamber temperatures prior to a test.

An exhaust duct with a capacity of 28.3–85 NTP m³ per minute (1,000–3,000 scfm) decoupled from the chamber stack by at least 7.6 cm (3 inches) on all sides and with an effective area of the canopy slightly larger than the plane area of the chamber with the specimen platform in the out position shall be used to remove combustion products from the chamber. With the panel turned on and dummy specimen in place, there shall be no measurable difference in air flow through the chamber stack with the exhaust on or off.

The dummy specimen which is used in the flux profile determination shall be made of 1.9 cm (¾ inch) inorganic 0.58 g/cm³ (36 lbs/ft³) nominal density calcium silicate board, such as Marinite XL (see figure 5). It is 25 cm (10 inches) wide by 107 cm (42 inches) long with 2.7 cm (1 1/16 inches) diameter holes centered on and along the centerline at the 10, 20, 30, 40, 50, 60, 70, 80, 90 cm locations, measured from the maximum flux end of the specimen. The total heat flux transducer used to determine the flux profile of the

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Note: Figures 1 through 10 appear at end of document.

chamber in conjunction with the dummy specimen should be of the Schmidt-Boelter type, have a range of 0-⅛ watts/cm² (0-1/32 Btu/ft² s), and shall be calibrated over the operating flux level range of 0.10 to 1.5 watts/cm² in accordance with the procedure outlined in appendix A. A source of 15-25° C cooling water shall be provided for this instrument. A high impedance or potentiometric voltmeter with a range of 0-10 m.v. and reading to 0.01 m.v. shall be used to measure the output of the total heat flux transducer during the flux profile determination. A timer shall be used for measuring preheat and pilot contact time.

Safety Procedures

The possibility of a gas-air fuel explosion in the test chamber should be recognized. Suitable safeguards consistent with the sound engineering practice should be installed in the panel fuel supply system. These may include one or more of the following: (1) A gas feed cutoff activated when the air supply fails, (2) a fire sensor directed at the panel surface that stops fuel flow when the panel flame goes out, (3) a commercial gas water heater or gas-fired furnace pilot burner control thermostatic shutoff which is activated when the gas supply fails, or other suitable and approved device. Manual reset is a requirement of any safeguard system used. In view of the potential hazard from products of combustion, the exhaust system must be so designed and operated that the laboratory environment is protected from smoke and gas. The operator should be instructed to minimize his exposure to combustion products by following sound safety practice, e.g., insure exhaust systems is working properly, wear appropriate clothing including gloves, et al.

Test Specimens

The test specimen shall be attic floor insulation of sufficient size to fill the specimen tray to a depth of 5 cm (2 inches). Insofar as possible, the attic floor insulation specimen should simulate actual installation practice. Typical example follow: Loose-fill insulation blown in to fill the tray, then carefully screeded to provide a depth of 5 cm in the tray. Loose-fill insulation poured in to fill the tray, then carefully screeded to provide a depth of 5 cm in the tray. A minimum of three specimens per sample shall be tested.

Radiant Heat Energy Flux Profile Standardization

Mount the dummy specimen in the mounting frame and attach the assembly to the sliding platform. With the sliding platform out of the chamber, ignite the radiant panel. Allow the unit to heat for 1 hour. The pilot burner is off during this determination. Adjust the fuel mixture to give an air-rich flame. Make fuel flow settings to bring the panel to an apparent black body temperature as measured by the radiation pyrometer, of about 500° C (932° F), and the chamber temperature to about 180° C (356° F). When equilubrium has been established, move the specimen platform into the chamber. Allow 0.5 hour for the closed chamber to eqilibrate.

Measure the radiant heat energy flux level at the 40 cm point with the total flux meter instrumentation. This is done by inserting the flux meter in the opening so that its detecting plane is 0.16-0.32 cm (1/16-⅛ inch) above and parallel to the plane of the dummy specimen and reading its output after 30±10 seconds. If the level is within the limits specified, the flux profile determination is started. If it is not, make the necessary adjustments in panel fuel flow. A suggested flux profile data log format is shown in figure 7.

The test shall be run under chamber operating conditions which give a flux profile as shown in figure 8. The radiant heat energy incident on the dummy specimen shall be between 0.87 and 0.95 W/cm² (0.77 and 0.83 Btu/ft² sec) at the 20 cm point between 0.48 and 0.52 W/cm² (0.42 and 0.46 Btu/ft² sec) at the 40-cm point and between 0.22 and 0.26 W/cm² (0.19 and 0.23 Btu/ft² sec) at the 60-cm point. Insert the flux meter in the 10-cm opening following the procedure given above. Read the millivolt output at 30±10 seconds and proceed to the 20-cm point. Repeat the 10-cm procedure. The 30-90-cm flux levels are determined in the same manner. Following the 90-cm measurement, make a check reading at 40 cm. If this is within the limits set forth, the test chamber is in calibration and the profile determination is completed. If not, carefully adjust fuel flow, allow 0.5 hour for equilibrium and repeat the procedure. Plot the radiant heat energy flux data as a function of distance along the specimen plane on rectangular coordinate graph paper. Carefully draw the best smooth curve through the data points. This curve will hereafter be referred to as the flux profile curve.

Determine the open chamber apparent black body and chamber temperatures that are identified with the standard flux profile by opening the door and moving the specimen platform out. Allow 0.5 hour for the chamber to equilibrate. Read the radiation pyrometer output and record the apparent black body temperature in °C. This is the temperature setting that can be used in subsequent test work in lieu of measuring the radiant flux at 20 cm, 40 cm, and 60 cm using the dummy specimen. The chamber temperature also shall be determined again after 0.5 hour and is an added check on operating conditions.

Conditioning

Test specimens shall be conditioned to equilibrium or a minimum of 48 hours, whichever is greater, at 21±3° C (69.8±5.4° F) and a relative humidity of 50±5 percent immediately prior to testing.

Test Procedure

With the sliding platform out of the chamber, ignite the radiant panel. Allow the unit to heat for 1 hour. It is recommended that a sheet of inorganic millboard be used to cover the opening when the hinged portion of the front panel is open and the specimen platform is moved out of the chamber. The millboard is used to prevent heating of the specimen and to protect the operator. Read the panel apparent black body temperature and the chamber temperature. If these temperatures are in agreement to within ±5° C with those determined previously, as above, the chamber is ready for use.

Mount the specimen tray with insulation on the sliding platform and position with stud bolts (see figure 9). Ignite the pilot burner, move the specimen into the chamber, and close the door. Start the timer. After 2 minutes preheat, with the pilot burner on and set so that the flame is horizontal and 5 cm above the specimen, bring the pilot burner flame into contact with the center of the specimen at the 0 cm mark. Leave the pilot burner flame in contact with the specimen for 5 minutes, then remove to a position 5 cm above the specimen and leave burning until the test is terminated.

If the specimen does not ignite within 5 minutes following pilot burner flame application, the test is terminated by extinguishing the pilot burner flame. For specimens that do ignite, the test is continued until the flame goes out. When the test is completed, the door is opened, the specimen platform is pulled out.

Measure the distance burned, i.e., the point of farthest advance of the flame front, to the nearest 0.1 cm. From the flux profile curve, convert the distance to watts/cm² critical radiant heat flux at flame out. Read to two significant figures. A suggested date log format is shown in figure 10.

Remove the specimen tray from the movable platform. The succeeding test can begin as soon as the panel apparent black body temperature and chamber temperature are verified. The specimen tray should be at room temperature prior to insertion of the next specimen.

4.8.8. *Smoldering combustion.* Smoldering combustion shall be determined in accordance with the following test procedure: Method of test for smoldering combustion characteristics of materials used for thermal insulation (see 3.1.10).

Apparatus

The specimen holder shall be an open-top 20±0.2-cm square box, 10±0.2 cm in height, fabricated from a single piece of 0.61±0.08 mm thick (24 U.S. standard gauge) stainless steel sheet with the vertical edges of the box overlapped, not to exceed to 7 mm in seam width, and soldered so as to be watertight. The specimen holder during test use shall rest upon a pad of glass fiberboard having dimensions equal to or greater than those of the bottom of the specimen holder. The glass fiberboard shall be approximately 2.5 cm thick with a density of 40±8 kg/m³ (note 1).

NOTE 1.—Glass fiberboard which meets Federal specification HH-I-558B (form A, class 1, plain faced) is suitable for this purpose.

Ignition source. The ignition source shall be a cigarette without filter tip made from natural tobacco, 85±2 mm long with a tobacco packing density of 0.270±0.020 g/cm³ and a total weight of 1.1±0.1 gm.

Balance. A balance of 1 kg capacity, accurate at least to 0.1 g, and provided with a suitable scale pan is required.

Test area. The test area shall be draft protected and equipped with a suitable system for exhausting smoke and/or noxious gases produced by testing. Air velocities as measured by a hot wire anemometer in the vicinity of the surface of the sample shall not exceed 0.5 m/sec. The test area shall be maintained at 21±3° C (69.8±5.4° F) and 50±5 percent relative humidity.

Test Procedure

Samples and cigarettes shall be conditioned in air at a temperature of 21±3° C (69.8±5.4° F) and a relative humidity of 50±5 percent for at least 48 hours prior to test. Samples and cigarettes shall be removed from any packaging and exposed in a suitable manner to permit free movement of air around them during conditioning. Calculate the weight of material necessary to fill the holder (volume 44, 0.14 ft³) at the settled density as determined in 4.8.1. The material shall be loaded uniformly into each specimen holder, level and flush to the top edge of the holder. The weight of each specimen shall be measured to the nearest 0.2 g or less by weighing the holder before and after filling. If the weight of the specimen is less than that calculated, the loaded holder shall be dropped from a height no greater than 3 inches (7.6 cm) onto a hard flat surface and additional material added up to the top edge of the holder. This process shall be repeated until the calculated weight of material has been added and completely fills the holder. With the sample in the holder and placed on the insulated pad, a rod of 8 mm diameter with a pointed end shall be inserted vertically into the approximate center of the material being tested and withdrawn to form an appropriate cavity for the ignition source, such that the cigarette fits snugly and maintains uniform contact with the specimen. A well-lit cigarette, burned not more than 8 mm (0.3 inch), shall be inserted using tweezers in the formed cavity, with the lit end upward and flush with the sample surface. Burning of the cigarette and specimen shall be allowed to proceed undisturbed in the test area for at least 2 hours or until the smoldering is no longer progressing.

After completion of burning and after the holder has cooled down to 25° C, the specimen holder with its material residue shall be weighed, at least to the nearest 0.2 g, and the percent weight loss of the original specimen calculated. The weight of the cigarette residue is ignored in this calculation.

* * * * *

APPENDIX A—PROCEDURE FOR CALIBRATION OF RADIATION INSTRUMENTATION

RADIATION PYROMETER

Calibrate the radiation pyrometer by means of a conventional black body enclosure placed within a furnace and maintained at uniform temperatures of 490, 500, and 510° C (914, 932, 950° F). The black body enclosure may consist of a closed Chromel metal cylinder with a small sight hole in one end. Sight the radiation pyrometer upon the opposite end of the cylinder where a thermocouple indicates the black body temperature. Place the thermocouple within a drilled hole and in good thermal contact with the black body. When the black body enclosure has reached the appropriate temperature equilibrium, read the output of the radiation pyrometer. Repeat for each temperature.

Total heat flux meter. The total flux meter shall be calibrated by the National Bureau of Standards (direct request for such calibration services to the Optical Radiation Section, 232.04, National Bureau of Standards, Washington, D.C. 20234), or alternatively, its calibration shall be developed by transfer calibration methods with an NBS calibrated flux meter. This latter calibration shall make use of the radiant panel tester as the heat source. Measurements shall be made at each of the nine dummy specimen positions and the mean value of these results shall constitute the final calibration.

It is recommended that each laboratory maintain a dedicated calibrated reference flux meter against which one or more working flux meters can be compared as needed. The working flux meters should be calibrated according to the procedure of A2.1 at A2.1 at least once per year.

PROCEDURE FOR SUBMITTING COMMENTS

Interested persons are invited to submit written data or views regarding this notice of intent to propose an amendment and a certification rule on or before October 6, 1978. Comments should be accompanied, to the extent possible, by supporting data or documentation. Requests for confidentiality of documentation will be handled in accordance with the Freedom of Information Act as amended (5 U.S.C. 552) the Commission's regulations under that act (16 CFR Part 1015, February 22, 1977) and the provisions of section 6(a)(2) of the CPSA (15 U.S.C. 2055(a)(2)).

Written submissions and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

All written comments that are received, and all other material which the Commission has that is relevant to this proceeding may be seen in or copies obtained from the Office of the Secretary, Third Floor, 1111 18th Street NW., Washington, D.C. 20207.

(Sec. 35(a), Pub. L. 95-319, 92 Stat. 386; (15 U.S.C. 2082).)

Dated: August 31, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

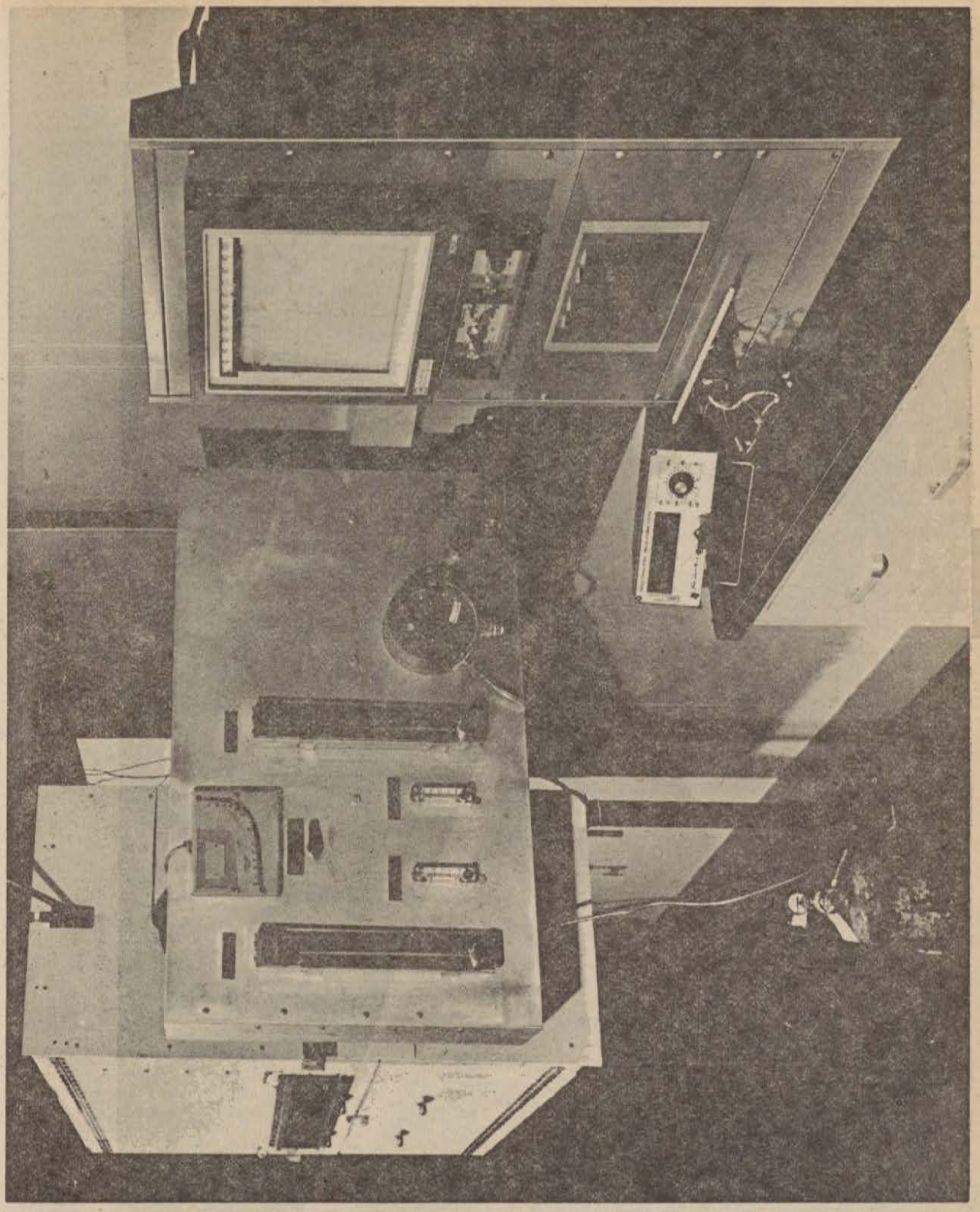


Figure 1

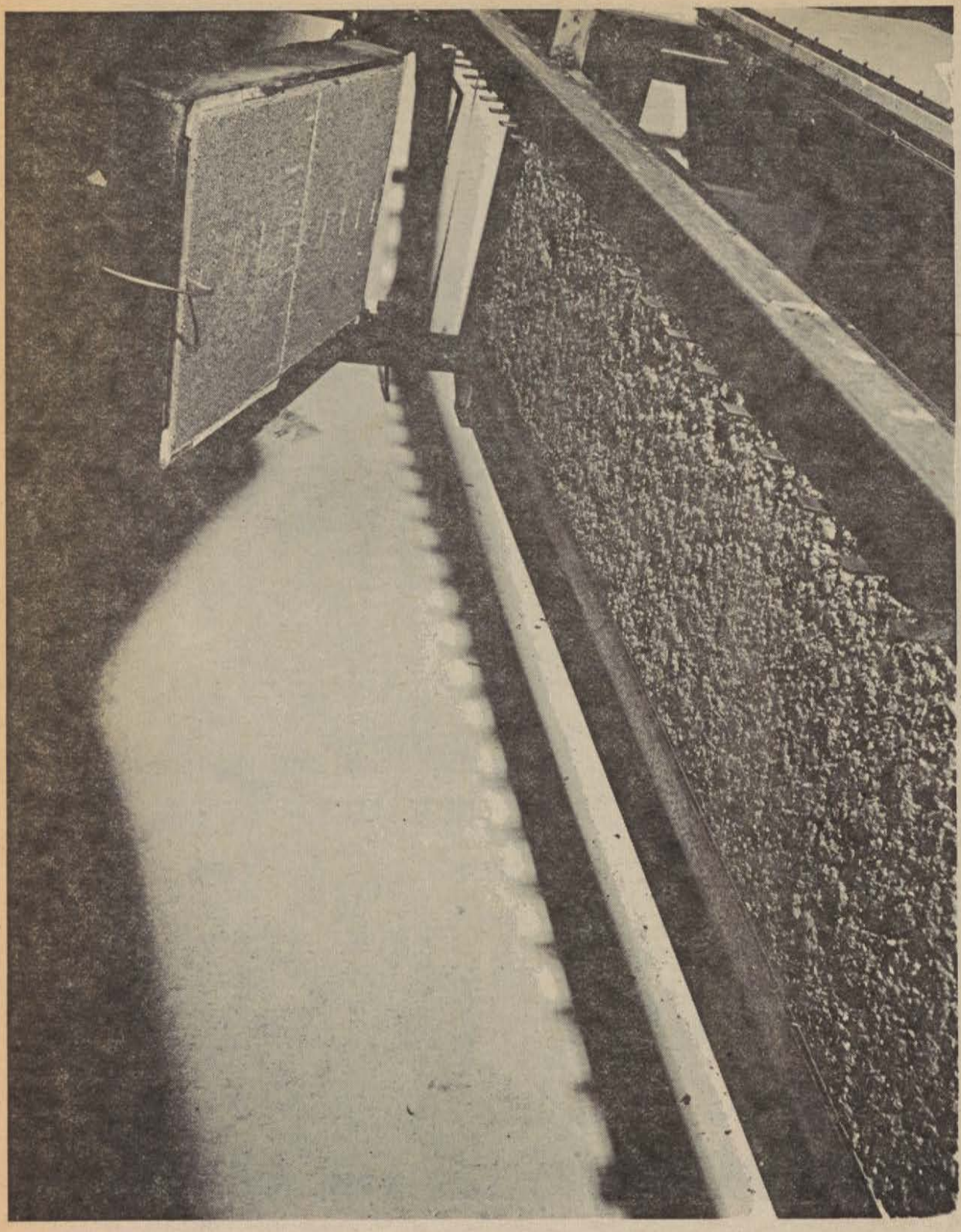
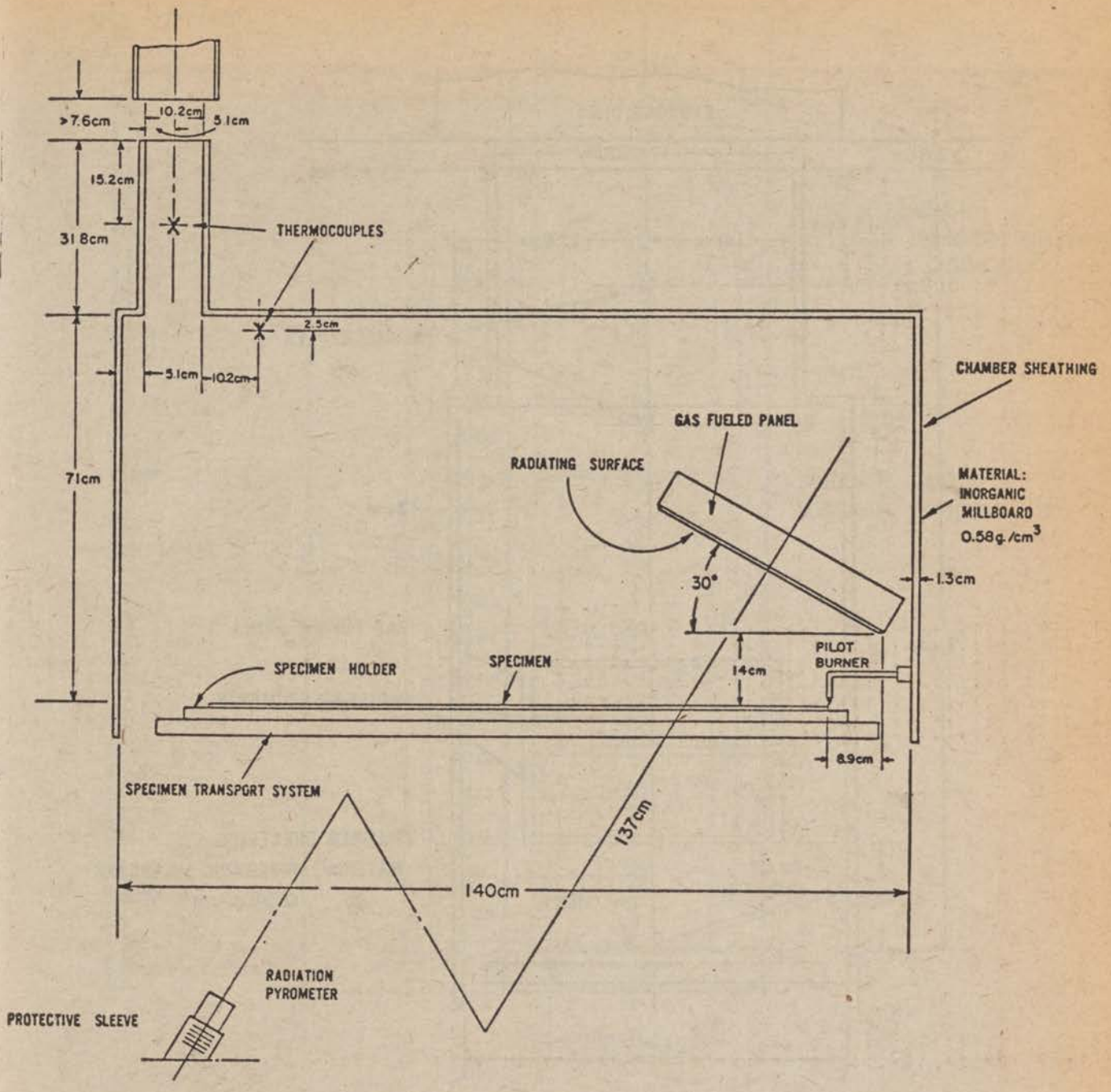
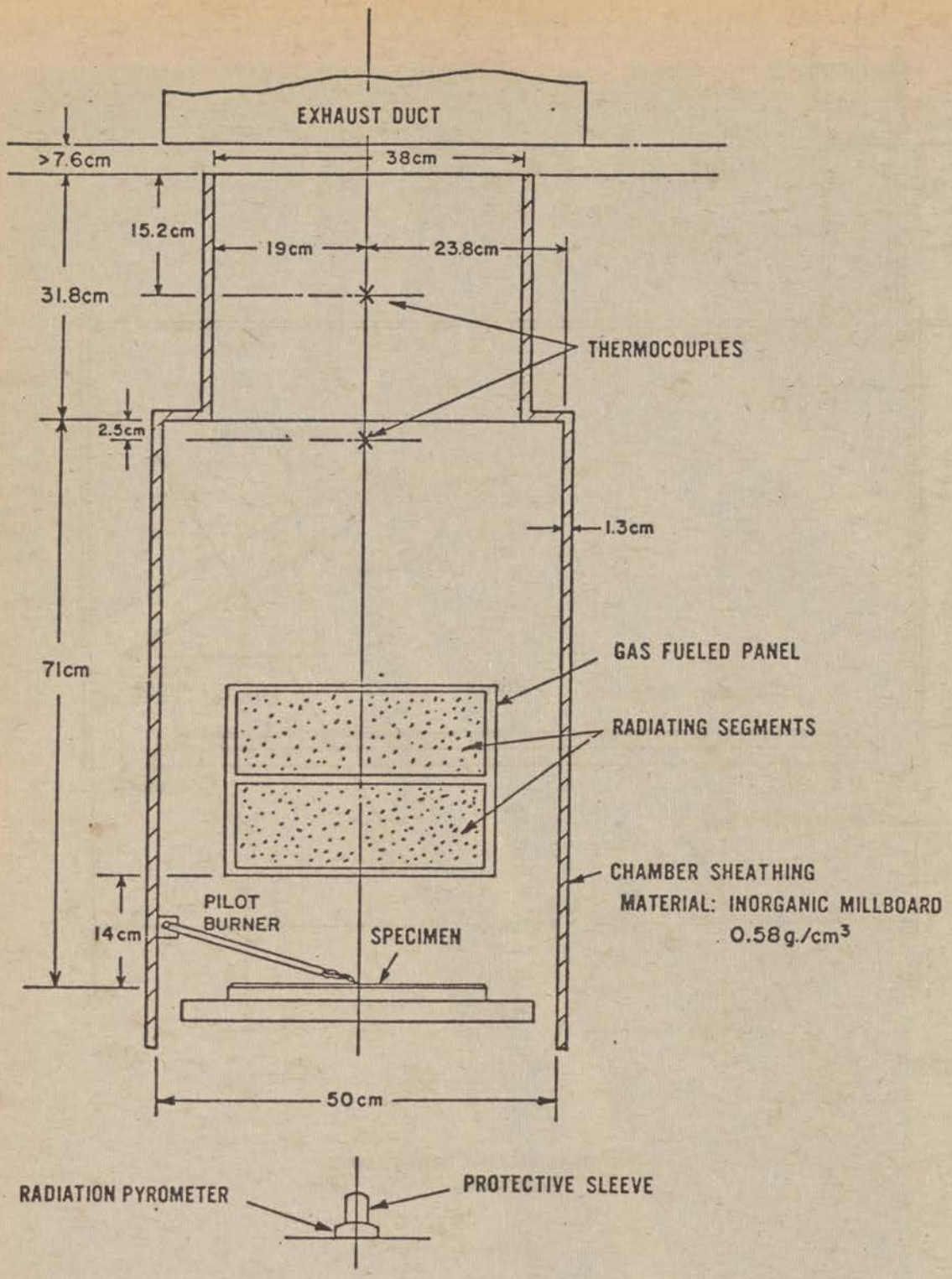


Figure 2



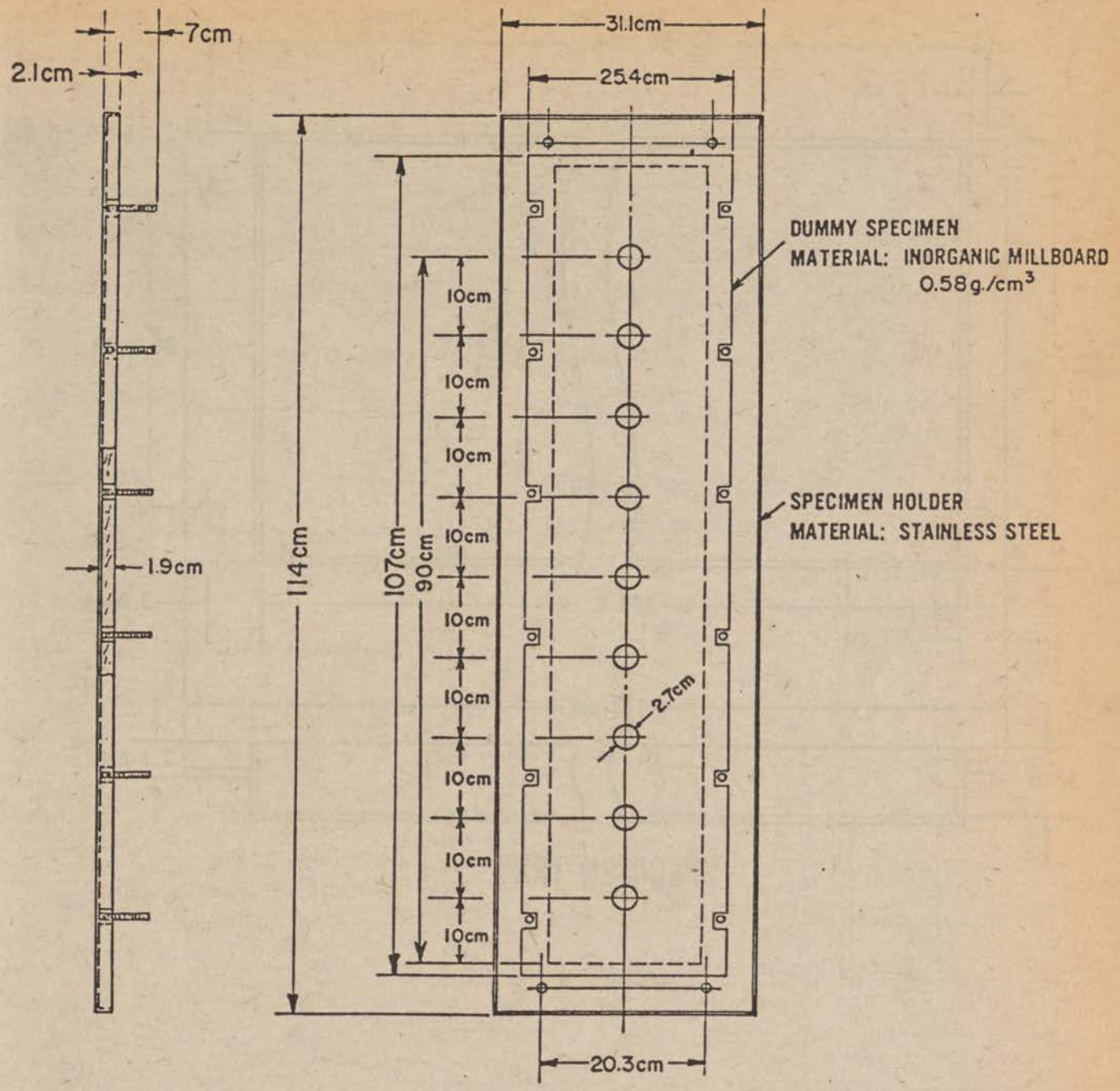
FLOORING RADIANT PANEL TESTER SCHEMATIC
SIDE ELEVATION

Figure 3



FLOORING RADIANT PANEL TESTER SCHEMATIC
LOW FLUX END, ELEVATION

Figure 4



DUMMY SPECIMEN IN SPECIMEN HOLDER

Figure 5

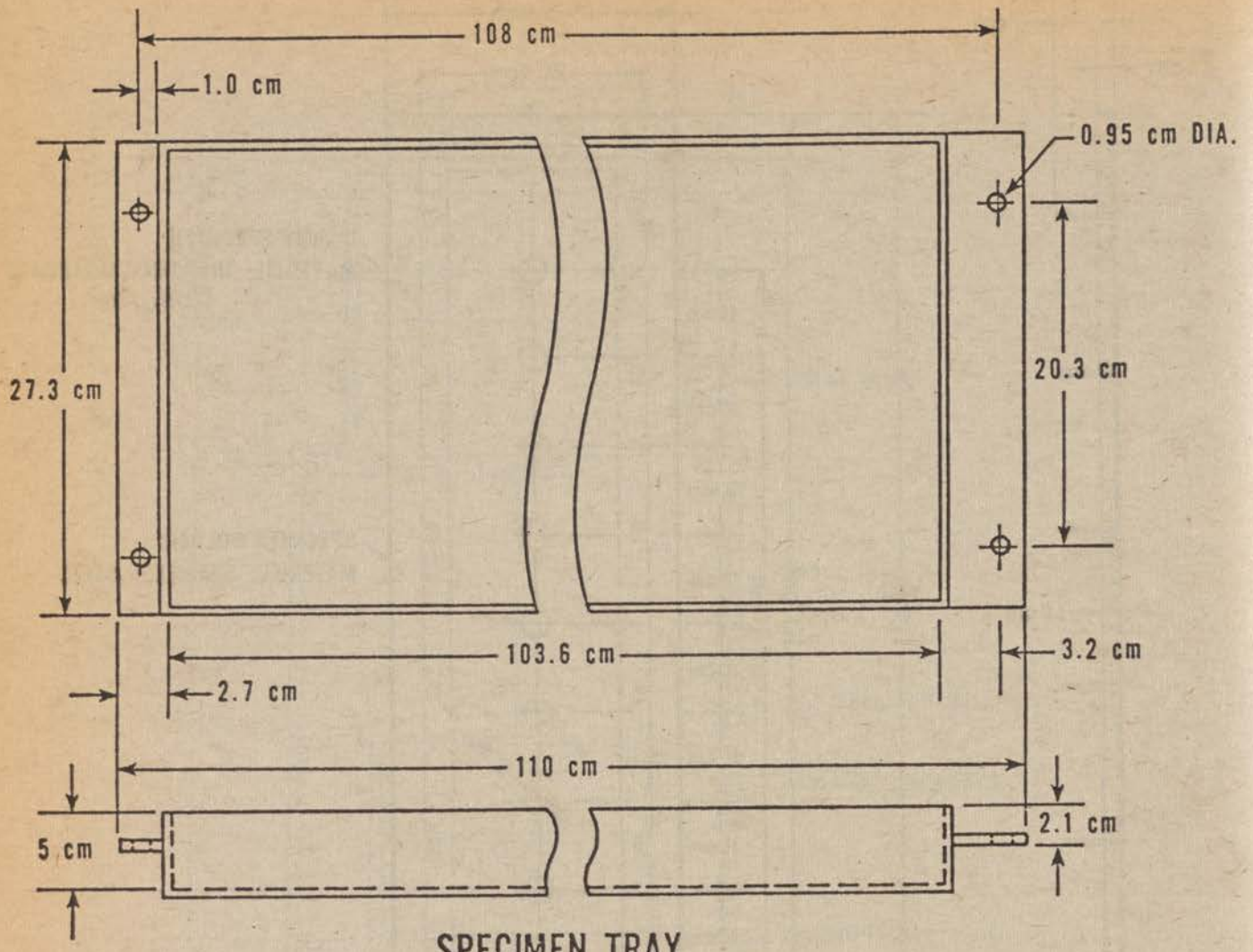

108 cm
1.0 cm
0.95 cm DIA.
27.3 cm
20.3 cm
103.6 cm
3.2 cm
2.7 cm
110 cm
5 cm
2.1 cm
SPECIMEN TRAY

Figure 6

RADIANT FLUX PROFILE

Date_____

Black Body Temperature_____m.v. _____°C (°F)

Gas Flow_____$NTPm^3H$ (SCFH) Air Flow_____$NTPm^3H$ (SCFH)

Room Temperature_____°C (°F)

Air Pressure _____ Gas_____cm (in) of H_2O

Flux Meter

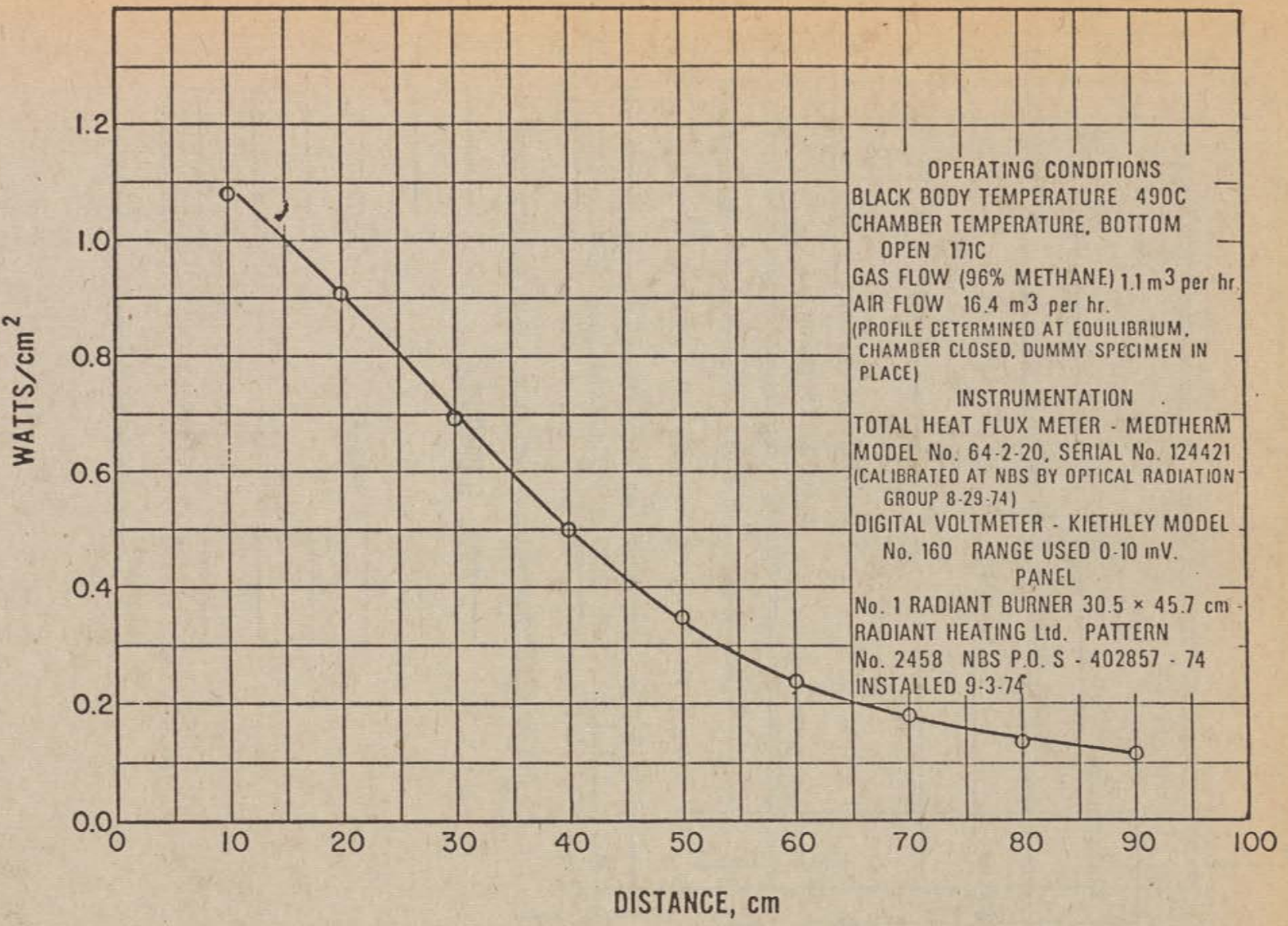
Radiometer No._____ Conversion Factor_____

from Calibration on_____

Distance (cm)	MV	Watts/cm^2
10	_____	_____
20	_____	_____
30	_____	_____
40	_____	_____
50	_____	_____
60	_____	_____
70	_____	_____
80	_____	_____
90	_____	_____

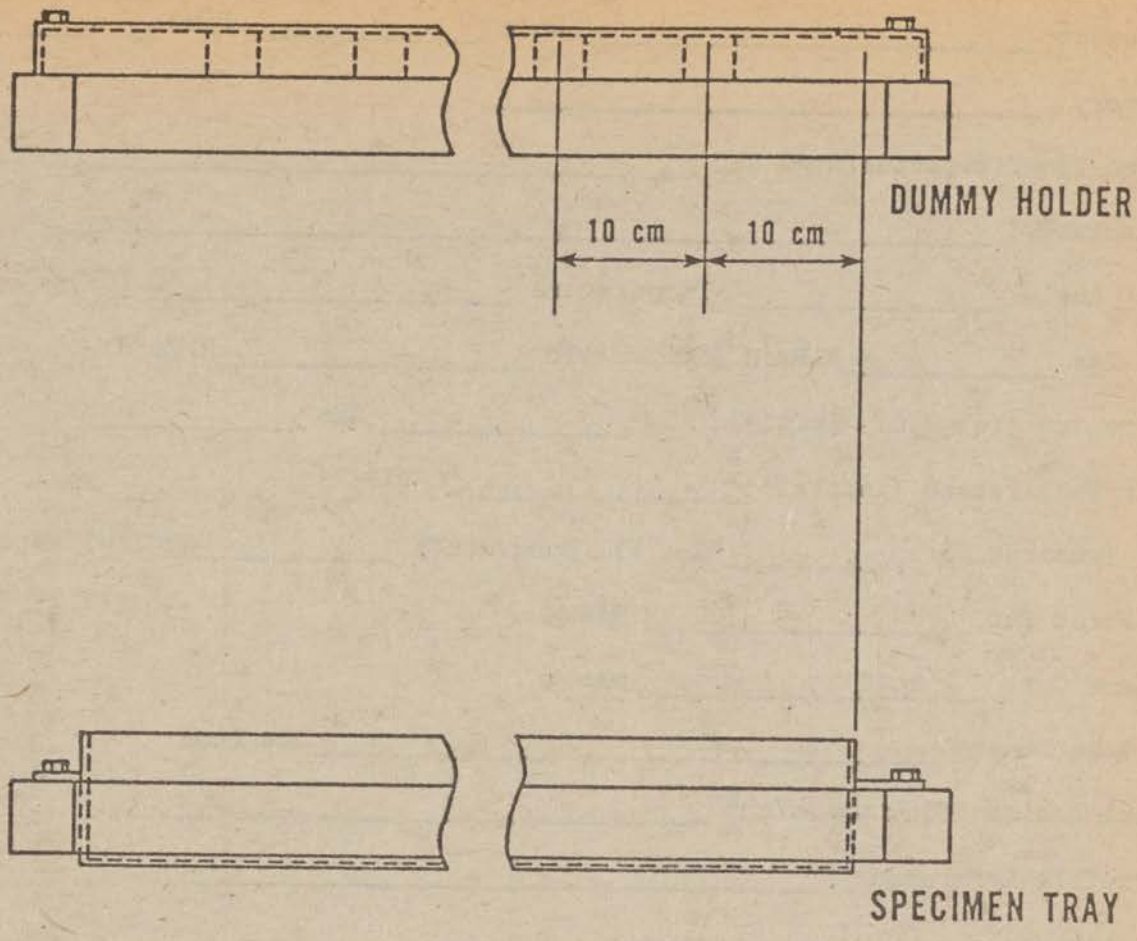
Signed _____

Figure 7. Flux Profile Data Log Format



STANDARD RADIANT HEAT ENERGY FLUX PROFILE

Figure 8



SPECIMEN TRAY MOUNTING POSITION

Figure 9

Test Number _____ Date _____ Time _____

Laboratory _____

Specimen Identification/Code No. _____

Test Assembly: _____

Panel: Angle _____° Temperature _____°C (°F)

Flow: Gas _____ $NTPm^3H$ (SCFH) Air _____ $NTPm^3H$

Pressure, cm (in) H_2O: Initial, Air _____ Gas _____

Chamber Temperature (Initial) _____°C (°F)

Room: Temperature _____°C (°F) Hood Draft _____cm (in) water

Flame Front Out _____ min.

All Flame Out _____ min.

Total Burn Length _____cm (in)

Critical Radiant Flux watts/cm^2 _____

Flux Profile Reference _____

Observations:

Signed _____

Figure 10. Insulation Radiant Panel Test Data Log Format

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