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highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

For workshops in Washington, D.C., see notice on inside front cover.

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HOW TO USE THE FEDERAL REGISTER WORKSHOPS

Washington, D.C., Workshops

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

WHAT: Free Friday workshops presenting:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. 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.

WHEN: February 9 or 23; March 9 or 23; or April 6 or 20—9–11:30 a.m.

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.

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Title 3—
The President

Proclamation 4643 of March 6, 1979

Cancer Control Month, 1979

By the President of the United States of America

A Proclamation

Cancer strikes more than three-quarters of a million Americans a year.

Experts no longer believe that the disease occurs spontaneously, but suspect that it is largely a response to environmental factors. If these factors can be eliminated, substantially reduced, or counteracted, then some cancers may be prevented. Therefore, the trend toward increased emphasis in cancer prevention has accelerated during the past year.

Cause and prevention is not the entire story, however. Most cancers have a lengthy latent period. Over the next 20 or more years, the disease will manifest itself in millions of people who already have been exposed to cancer-causing agents. To overcome this serious threat, we must continue to seek effective methods of early detection and treatment.

The National Cancer Program, established in 1971, is being conducted devotedly and on a massive scale by both Federal agencies and non-Federal organizations under the aegis of the National Cancer Institute. A substantial portion of the Institute's research is in such areas as cell and molecular biology, virology, immunology and tumor biology. There is also growing attention and progress in continuing care activities, such as hospices and rehabilitation programs.

Despite our aggressive attack on cancer, current statistics reveal that about 395,000 Americans will die of the disease in 1979. Only through unbending support of cancer research and control can we reverse this trend, and eventually reduce this figure to a minimum.

As a means of giving continued emphasis to the cancer problem, the Congress, by a joint resolution of March 28, 1938 (52 Stat. 148), requested the President to issue annually a proclamation setting aside the month of April as Cancer Control Month.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the month of April, 1979, as Cancer Control Month. I encourage the determination of the American people to meet the challenge of this critical health problem. And I ask the medical and health professions, the communications industries, and all other interested citizens to unite in public reaffirmation of our Nation's abiding commitment to control cancer.

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

Jimmy Carter

[FR Doc. 79-7182
Filed 3-6-79; 3:12 pm]

Billing code 3195-01-M

THE PRESIDENT

Proclamation 4644 of March 6, 1979

Pan American Day and Pan American Week, 1979

By the President of the United States of America

A Proclamation

Each year the peoples of the Americas celebrate our common origins and continuing mutual ties. To the people of the United States Pan American Day commemorates the importance of mutual respect and cooperation which characterize the Inter-American system and its central institution, the Organization of American States.

No region of the world can boast a greater tradition of peace and tranquility among nations. No nations of the world have worked more consistently or harder to find solutions to the political and economic problems which they face in the world today. Our Organization of American States, the birth of which we will celebrate on April 14, has been and continues to be vital to this continuing effort.

In the past year alone, the Organization of American States has made important contributions to the welfare of the people of the hemisphere. It has helped to promote the cause of human rights and dignity in the Americas and to diffuse tensions in Central and South America.

The United States, on Pan American Day 1979, salutes the other nations of this hemisphere, and pledges its solidarity with them, and with the Organization of American States, in the continuing efforts to achieve the visionary democratic ideals of the founding heroes of our hemisphere. It is from these ideals that we derive our desire and our ability to cooperate for a common good and for the benefit of all our people.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Saturday, April 14, 1979 as Pan American Day and the week beginning April 15, 1979 as Pan American Week, and I call upon the Governors of the fifty States, the Governor of the Commonwealth of Puerto Rico, and appropriate officials of all other areas under the flag of the United States to issue similar Proclamations.

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

Jimmy Carter

[FR Doc. 79-7183
Filed 3-6-79; 3:13 pm]

Billing code 3195-01-M

rules and regulations

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

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

[3410-02-M]

Title 7—Agriculture

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

[Orange, Grapefruit, Tangerine, and Tangelo Regulation 2, Amendment 11]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Minimum Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers the minimum diameter (size) requirements for Honey tangerines for domestic and export shipments from 2 9/16 inches to 2 5/16 inches through October 14, 1979. This action recognizes current market demand for smaller sizes of Honey tangerines and is consistent with the size composition of the available crop in the interest of growers and consumers.

EFFECTIVE DATE: March 2, 1979, through October 14, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the marketing agreement and Order No. 905, both as amended (7 CFR Part 905) regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the recommendations of the committee established under the marketing agreement and order, and upon other available information, it is found that the regulation of shipments of Florida Honey tangerines as herein after provided will tend to effectuate the declared policy of the act.

This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

(2) The minimum size requirements, herein specified, for domestic and export shipments of Honey tangerines reflect the Department's appraisal of the need for the amendment of the current regulation to permit handling of smaller sizes based on current supply and demand conditions. Relaxation of the minimum size requirements for Honey tangerines will make additional supplies available to meet market needs and will tend to promote orderly marketing.

The Citrus Administrative Committee, at an open meeting on February 27, 1979, reported there is a good market demand for larger quantities of smaller size Honey tangerines.

It is concluded that the amendment of the size requirement, hereinafter set forth, is necessary to establish and maintain orderly marketing conditions and to provide acceptable size fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necesaary to effectuate the declared policy of the act. Growers, handlers, and other interested persons were given an opportunity to submit information and views on the amendment at an open meeting, and the amendment relieves restrictions on the handling of Florida Honey tangerines. It is necessary to effectuate the declared purposes of the act to make the regulatory provisions effective as specified, and handlers have been apprised of such provisions and effective time.

Accordingly, it is found that the provisions of § 905.302 (Orange, Grapefruit, Tangerine, and Tangelo Regulation 2) (43 FR 43013; 52197; 53027; 54617; 57139; 58175; 58353; 59335; 44 FR 6349; and 9589) should be and are hereby amended by revising Table I, paragraph (a) applicable to domestic shipments, and Table II, paragraph (b) applicable to export shipments, to read as follows:

§ 905.302 Orange, Grapefruit, Tangerine, and Tangelo Regulation 2

(a) * * *

TABLE I

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
Tangerines: Honey	Mar. 2, 1979, thru Oct. 14, 1979	Florida No. 1 Golden	2 5/16

(b) * * *

TABLE II

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
Tangerines: Honey	Mar. 2, 1979, thru Oct. 14, 1979	Florida No. 1 Golden	2 5/16

* * * * * * *

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

Dated: March 2, 1979.

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

[FR Doc. 79-7017 Filed 3-7-79; 8:45 am]

[Navel Orange Reg. 456; Navel Orange Reg. 455, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period March 9-15, 1979, and increases the quantity of such oranges that may be so shipped during the period March 2-8, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective March 9, 1979, and the amendment is effective for the period March 2-8, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on March 6, 1979, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is reasonably good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 907.756 Navel Orange Regulation 456.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period March 9, 1979, through March 15, 1979, are established as follows:

(1) District 1: 765,000 cartons;

(2) District 2: 135,000 cartons;

(3) District 3: Unlimited.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

Paragraph (a)(1) and (a)(2) in § 907.755 Navel Orange Regulation 455 (44 F.R. 11745), is hereby amended to read:

(1) District 1: 893,000 cartons;

(2) District 2: 157,000 cartons.

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

Dated: March 7, 1979.

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

[FR Doc. 79-7301 Filed 3-7-79; 12:02 pm]

[3410-02—M]

[Papaya Regulation 9, Amendment 3]

PART 928—PAPAYAS GROWN IN HAWAII

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment relaxes the quality requirement applicable to export shipments of Hawaiian papayas during the period March 5-April 30, 1979. (The amendment continues to require that fresh shipments of Hawaiian papayas meet the Hawaii No. 1 grade except that it permits slightly higher tolerance for defects.) Such action recognizes that current and prospective marketing situation for Hawaiian papayas and is consistent with the composition of the crop.

EFFECTIVE DATE: March 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Pursuant to the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Papaya Administrative Committee, established under this marketing order, and upon other information, it is found that this amendment will tend to effectuate the declared policy of the act. This amendment has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The Papaya Administrative Committee reports that heavy rains are continuing in much of the production area increasing the incidence of defects and reducing the supply of papayas meeting current requirements to an amount less that needed to meet present and prospective market demand. The amendment recognizes demand conditions for papayas and is consistent with the quality of much of the potential supply in the period

specified. The amendment is designed to permit movement of available supplies of papayas consistent with the interests of producers and consumers.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of papayas grown in Hawaii.

In § 928.309 (Papaya Regulation 9; 44 FR 30, 3669, 6706) paragraph (b) is amended to read as follows:

§ 928.309 Papaya Regulation 9.

(a) * * *

(1) * * *

(2) * * *

(b) Notwithstanding the provisions of paragraph (a)(2) of this section, any handler may during the period March 5 through April 30, 1979, handle papayas to any export destination which meet the requirements of the Hawaii No. 1 grade, except that allowable tolerances for defects may total 10 percent: *Provided,* That not more than 5 percent shall be for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further,* That such papayas shall individually weigh not less than 11 ounces each.

* * * * *

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

Dated: March 2, 1979.

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

[FR Doc. 79-7016 Filed 3-7-79; 8:45 am]

[3410-07-M]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER H—PROGRAM REGULATIONS

PART 1980—GENERAL

Subpart B—Farmer Program Loans

AMENDMENT

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its Guaranteed Farmer Program Loan regulations. The intended effect of this action is to incorporate provisions of the Agricultural Credit Act of 1978 and to clarify and simplify regulations for obtaining and servicing Guaranteed Farmer Programs Loans. This action results from recently enacted legislation and a general revision of Farmer Program regulations.

EFFECTIVE DATE: March 8, 1979.

FOR FURTHER INFORMATION CONTACT:

James E. Lee (202) 447-6257.

SUPPLEMENTARY INFORMATION: Subpart B of Part 1980 of Chapter XVIII, Title 7, Code of Federal Regulations is amended. The only change in format of this Subpart is that § 1980.180 now applies only to Farm Ownership loans. Previously this section applied to Farm Ownership, Soil and Water, and Recreation loans. Sections 1980.185 and 1980.190 have been added to apply to Soil and Water and Recreation loans respectively. This change is being made to clarify the requirements of each program. The following are the major substantive changes being made in this Subpart:

1. § 1980.106(b) has been revised to include definitions of certain terms needed to implement provisions of the Agricultural Credit Act of 1978.

2. § 1980.108(d) sets out the relationship of guaranteed Economic Emergency loans to other FmHA guaranteed loans.

3. § 1980.109(a) has been revised to delete the requirement that certain language pertaining to graduation be added to lender's notes and security agreements. This section now includes signature requirements for notes when loans are made to cooperatives, corporations, and partnerships.

4. § 1980.110 concerning loan subsidy rates now applies only to Emergency actual loss loans.

5. § 1980.124 has been revised to include provisions for consolidating, rescheduling, reamortizing, and deferring payments on loans.

6. § 1980.147 has been revised to eliminate the graduation requirement for guaranteed loans as provided in the Agricultural Credit Act of 1978.

7. § 1980.170(b) prohibits joint operators from being eligible to receive Emergency loan assistance unless they reorganize their operation to form a cooperative, corporation or partnership.

8. § 1980.170(c) provides revised procedures for determining qualifying losses, eligibility, and the maximum amount of a loss loan(s).

9. § 1980.170(d) is revised to conform as closely as possible with those loan purposes authorized and set forth in §§ 1980.175(c) and 1980.180(d) of this Subpart.

10. § 1980.170(f) is revised for clarity and to eliminate certain unnecessary restrictive requirements.

11. § 1980.175(b)(1) has been revised to provide guidelines for determining the eligibility of individuals with off-farm income for guaranteed Operating loans.

12. § 1980.175(b)(2) provides eligibility requirements for cooperatives, corporations, and partnerships for guaranteed Operating loans.

13. § 1980.175(d) contains a new $200,000 loan limit for guaranteed Operating loans as provided in the Agricultural Credit Act of 1978.

14. § 1980.175(e) provides that the interest rate on guaranteed Operating loans will be negotiated between the borrower and lender in accordance with the Agricultural Credit Act of 1978.

15. § 1980.180(c)(1) has been revised to provide guidelines for determining the eligibility of individuals with off-farm income for guaranteed Farm Ownership loans.

16. § 1980.180(c)(2) provides eligibility requirements for cooperatives, corporations, and partnerships for Farm Ownership loans.

17. § 1980.180(d) outlines Farm Ownership loan purposes in detail. For added emphasis, paragraphs (2) and (3) include pollution control and energy saving measures as specific loan purposes.

18. § 1980.180(e) contains a new loan limit for guaranteed Farm Ownership loans of $300,000 or the market value of the security, whichever is less. This is required by the Agricultural Credit Act of 1978.

19. § 1980.180(f) provides that the interest rate on guaranteed Farm Ownership loans will be negotiated between the borrower and lender in accordance with the Agricultural Credit Act of 1978.

20. § 1980.180(g) eliminates the requirements that guaranteed Farm Ownership loans be secured by real estate only.

21. § 1980.185(c)(2) provides eligibility requirements for cooperatives, corporations, and partnerships for Soil and Water loans.

22. § 1980.185(d) outlines Soil and Water loan purposes in detail. For added emphasis, paragraphs (1) and (2) include pollution control and energy saving measures as specific loan purposes.

23. § 1980.185(e) contains a new loan limit for guaranteed Soil and Water loans of $300,000 or the market value of the security, whichever is less. This

is required by the Agricultural Credit Act of 1978.

24. § 1980.185(f) provides that the interest rate on guaranteed Soil and Water loans will be negotiated between the borrower and lender in accordance with the Agricultural Credit Act of 1978.

25. § 1980.185(g)(3) increases from $60,000 to $100,000 the maximum amount of Soil and Water funds that can be loaned when chattel security is the only type of security.

26. § 1980.190(c)(2) provides eligibility requirements for cooperatives, corporations, and partnerships for Recreation loans.

27. § 1980.190(d) outlines Recreation loan purposes in detail. For added emphasis paragraph (2) includes pollution control and energy saving measures as specific loan purposes.

28. § 1980.190(e) contains new loan limit for guaranteed Recreation loans of $300,000 or the market value of the security, whichever is less. This is required by the Agricultural Credit Act of 1978.

29. § 1980.190(f) provides that the interest rate on guaranteed Recreation loans will be negotiated between the borrower and lender in accordance with the Agricultural Credit Act of 1978.

30. § 1980.190(g)(3) increases from $60,000 to $100,000 the maximum the amount of Recreation funds that can be loaned when chattel security is the only type of security.

This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044. A copy of the Impact Statement prepared by FmHA is available at the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These regulations, however, are being published as final rules. Publication for comment is unnecessary because the majority of the changes were made to clarify existing guaranteed Emergency, Operating, Farm Ownership, Soil and Water, and Recreation loan regulations and incorporate provisions of the Agricultural Credit Act of 1978. Also, due to the demand for loans and the financial condition of farmers, any delay in issuing these regulations would be contrary to the public interest. This determination was made by James E. Lee, Assistant Administrator, Farmer Programs, Farmers Home Administration, U.S. Department of Agriculture, Room 5019, Washington, D.C. 20250.

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements". It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, P.L. 91-190 an Environmental Impact Statement is not required.

Accordingly, Subpart B of Part 1980 is amended and reads as follows:

Subpart B—Farmer Program Loans

Sec.
1980.101 Introduction.
1980.102-1980.105 [Reserved]
1980.106 Abbreviations and definitions.
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1980.109 Promissory notes, security instruments, and financing statements.
1980.110 Loan subsidy rates, claims, and payments (For EM actual loss loans only).
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1980.113 Receiving and processing applications.
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1980.117 Conditions precedent to issuance of the Loan Note Guarantee.
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1980.120-1980.121 [Reserved]
1980.122 Substitution of lenders.
1980.123 Transfer and assumption of Farmer Program loans.
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1980.125-1980.128 [Reserved]
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1980.153 FmHA forms.
1980.154-1980.169 [Reserved]
1980.170 Emergency loans.
1980.171-1980.174 [Reserved]
1980.175 Operating loans.
1980.176-1980.179 [Reserved]
1980.180 Farm ownership loans.
1980.181-1980.184 [Reserved]
1980.185 Soil and water loans.
1980.186-1980.189 [Reserved]
1980.190 Recreation loans.
1980.191-1980.200 [Reserved]

SUBPART B—FARMER PROGRAM LOANS

§ 1980.101 Introduction.

(a) *Policy.* This Subpart supplemented by Subpart A of this Part, contains regulations for making the following Farmer Program loans guaranteed by the Farmers Home Administration (FmHA): Operating (OL), Farm Ownership (FO), Soil and Water (SW), Recreation (RL), and Emergency (EM), loans. It is the policy of FmHA to make loans to any otherwise qualified applicant without regard to race, color, religion, sex, national origin, marital status, age or physical/mental handicap providing the applicant can execute a legal contract. These regulations apply to lenders, holders, borrowers, FmHA personnel, and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans.

(b) *Program administration.* Farmer Programs are administered by the FmHA Administrator through a State Director, who serves each State through District Directors and County Supervisors. The County Supervisor is the focal point for the program and is the local contact person for processing and servicing activities, even though this Subpart refers in various places to the duties and responsibilities of other FmHA employees.

(c) *Administrative provisions.* Within this subpart there are administrative provisions which, for the benefit of the State Directors, District Directors and County Supervisors, set out the internal duties and responsibilities of FmHA personnel, and outline the procedures to be followed in carrying out the requirements of the program. These provisions are identified as "ADMINISTRATIVE" and correspond to the sections of this Subpart which they follow.

(d) *References.* §§ 1980.101-1980.169 pertain to FO, EM, OL, RL and SW loan programs. The requirements set forth in Subpart A of Part 1980 of this Chapter which are not in conflict with the provisions set forth in this Subpart must also be met.

§ 1980.102-1980.105 [Reserved]

§ 1980.106 Abbreviations and definitions.

(a) *Abbreviations.* See § 1980.6 of Subpart A of this Part.

(b) *Definitions.* The following definitions are applicable to the terms used in this Subpart. Additional definitions may be found in § 1980.6 of Subpart A of this Part.

(1) *Applicant.* The party applying for a guaranteed loan.

(2) *Approval official.* A FmHA field official who has been delegated loan and grant approval authorities within applicable loan programs, subject to

the dollar limitations contained in tables available in any FmHA office.

(3) *Aquaculture.* (EM only) The husbandry of aquatic organisms in a controlled or selected environment. An aquatic organism is any fish (as defined in this section), amphibian, reptile, or aquatic plant. An aquaculture operation is considered to be a farm only if it is conducted on the grounds which the applicant owns, leases, or has an exclusive right to use. An exclusive right to use must be evidenced by a permit issued to the applicant and the permit must specifically identify the waters available to be used by the applicant only.

(4) *Borrower.* All parties liable for the loan or any part thereof.

(5) *Calendar year.* (EM only) The 12 month period beginning January 1 and ending December 31.

(6) *Cooperative.* An entity which has farming as its purpose and whose members have agreed to share the profits of the farming enterprise. The entity must be recognized as a farm cooperative by the laws of the State(s) in which the entity will operate a farm(s).

(7) *Corporation.* For the purpose of this Subpart, a private domestic corporation recognized as a corporation by the laws of the State(s) in which the entity will operate a farm(s).

(8) *Eligible area.* (EM only) A county or similar political subdivision in which EM loans are made available.

(9) *Established farmer.* (EM only) A farmer who was participating in the operation and management of the farm at the time of the disaster, spends a substantial portion of time in carrying out the farming operation and is recognized in the area as a farmer.

(10) *Family farm.* A farm which:

(i) Produces agricultural commodities for sale in sufficient quantities so that it is recognized in the community as a farm rather than a rural residence.

(ii) Provides enough agricultural income by itself, including rented land, or together with any other dependable income to enable the borrower to:

(A) Pay necessary family living and operating expenses;

(B) Maintain essential chattel and real property; and

(C) Pay debts.

(iii) Is managed by:

(A) The borrower when a loan is made to an individual.

(B) The members, stockholders, or partners responsible for operating the farm when a loan is made to a cooperative, corporation or partnership.

(iv) Has a substantial amount of the labor requirements for the farm and nonfarm enterprise provided by:

(A) The borrower and the borrower's family for a loan made to an individual.

(B) The members, stockholders or partners responsible for operating the farm and the families of these members, stockholders or partners, for a loan made to a cooperative, corporation or partnership.

(v) May use a reasonable amount of full-time hired labor and seasonal labor during peak load periods.

(11) *Farm.* A tract or tracts of land, improvements, and other appurtenances considered to be farm property which is used or will be used in the production of crops or livestock. This includes aquaculture operations which meet the requirements set forth in paragraph (b)(3) of this section and for guaranteed EM loans includes nonfarm and recreation enterprises as defined in this section which supplement farm income. It will also include a residence which, although physically separate from the farm acreage, is ordinarily treated as a part of the farm in the local community.

(12) *Farming enterprise.* (EM only) The business of producing crops, livestock, livestock products and aquatic organisms through the utilization and management of land, water, labor, capital and basic raw materials including seed, feed, fertilizer and fuel.

(i) Single enterprise. An operation which constitutes a part of an applicant's total farming operation. The following are examples of single enterprises:

(A) Individual cash field crops.

(B) Individual feed crops to be fed to, or pasture to be grazed by, livestock owned by the applicant.

(C) Individual types of livestock operations such as swine, beef, dairy, poultry and aquaculture operations.

(D) Low acreages of several cash crops may be combined to constitute a single enterprise.

(ii) Basic part of a farming operation. Any single enterprise which normally generates sufficient income to be considered essential to the success of the total farming operation.

(13) *Fish.* Any aquatic gilled animal commonly known as "fish," as well as mollusks, or crustaceans (or other invertebrates) produced under controlled conditions (that is, feeding, tending, harvesting and such other activities as are necessary to properly raise and market the products) in ponds, lakes, streams, or similar holding areas.

(14) *Fixture.* Generally an item attached to a building or other structure or to land in such a way that it cannot be removed without defacing or dismantling the structure, or substantially damaging the structure itself.

(15) *Incidence period.* (EM loans only) The specific date or dates during which a disaster occurred.

(16) *Indefinite parole.* (SW only) To verify that applicants other than citizens are legally admitted to the U.S. on indefinite parole, such applicants must provide their Form I-94, "Immigrants on Indefinite Parole" card.

(17) *Majority interest.* Any individual or a combination of individuals owning more than a 50 percent interest in a cooperative, corporation, or partnership.

(18) *Market value.* The amount which a willing buyer would pay a willing but not forced seller in a completely voluntary sale.

(19) *Mortgage.* Any form of security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to any security interest in chattel property.

(20) *Nonfarm enterprise.* Any business enterprise which provides income to supplement farm income. It must provide goods or services for which there is a need and a reasonably reliable market.

(21) *Normal year's production.* (EM only) The yield per acre or production per animal which is established by eliminating the poorest year of the 5 year production history taken from actual farm records, ASCS records of acres grown and *proven* yields for the county, or county averages or State averages (where county averages are not available), immediately preceding the disaster year and averaging the remaining 4 year's production. The applicant may select the year to be eliminated. The year selected to be eliminated must be the same year for all enterprises and for all crops, livestock and livestock products that constitute a part of the applicant's farming operation in that year. Average yield or production records used will be provided by the State Crop and Livestock Reporting Service, State Office of the Statistical Reporting Service (SRS) or similar State or Federal body. When this information is published by county, county averages will be used. If published only by State, the State average will be used throughout the State. A uniform source(s) will be used throughout the State for the yield per acre or production per animal data and the source(s) will be provided in a State supplement. For tobacco and other crops under acreage-poundage control and normal year's production will be the pounds per acre as authorized by ASCS for the disaster year.

(i) In those States where neither a county nor State average is published, the State Director with the advice of representatives of other Federal and State Agricultural agencies, will establish county averages or State averages

and advise county offices of these in a State Supplement. State Directors and Farmer Program Chiefs in adjoining States should consult with each other before releasing the figures.

(ii) If an applicant presents actual reliable records for at least 4 of the 5 years immediately preceding the disaster which verify a higher normal production than that established in accordance with paragraph (b)(21)(i) of this section, the higher normal year's production may be used in calculating the loss.

(22) *Partnership.* An entity consisting of individuals who have agreed to operate a farm. The entity must be recognized as a partnership by laws of the State(s) in which the entity will operate a farm and must be authorized to own both real and personal property and to incur debts in its own name.

(23) *Physical loss.* (EM only) Damage to or destruction of physical property including farmland (except sheet erosion); structures on the land such as buildings, fences, dams, etc.; machinery, equipment and tools; livestock; livestock products; harvested crops and supplies. This includes actual expenses incurred for crops not planted or to be replanted.

(24) *Production loss.* (EM only) The reduction in normal production, directly attributable to the natural disaster, of yield per acre and/or quality of crops produced, of quantity and/or quality of livestock products produced per animal unit, and of weight gain and/or natural increase in numbers of livestock units.

(25) *Qualifying disaster.* (EM only) A major disaster, Presidential emergency, or natural disaster as defined in Subpart A of part 1945 of this Chapter.

(26) *Qualifying production loss.* (EM only) The production loss an applicant must have sustained to qualify for EM loan assistance. In order to qualify for EM loan assistance, such loss must be equivalent to at least a 20 percent loss of normal per acre or per animal production as a result of the disaster in one basic part of the farming operation. Losses of livestock increases (i.e., calves, pigs, etc.) are considered production losses except when living animals are destroyed, which is considered a physical loss. Reductions in the production of livestock, livestock products or reductions in weight gains of animals due to home grown feed crop losses will not be considered production losses when replacement feed is available to purchase, regardless of the cost of that feed. When the disaster has severely disrupted the usual feeding schedule of a livestock enterprise because of extended utility failure or inaccessibility to the livestock, losses in production of milk, eggs, weight losses, etc., may be considered as production losses. However, the applicant will have the option of whether to consider such items as a production or a physical loss. Production losses will be calculated based on the reduction from normal which occurs during the disruption period and the period needed to bring production back up to the normal level. If no livestock production losses are sustained, the normal year and the disaster year gross value of production will be the same.

(27) *Recreation enterprise.* (For all except EM) An outdoor, income producing enterprise which will supplement or supplant farm or ranch income.

(28) *Security.* Property of any kind subject to a real or personal property lien. Any reference to "collateral" or "security property" shall be considered a reference to the term "security."

(i) Basic security. All real estate and fixtures and personal property such as foundation herds, flocks, aquatic animals and plant organisms, machinery, and equipment serving as security and crops when crops are the only security.

(ii) Normal income security. All security planned to be marketed in the regular course of business unless liquidation is approved. If liquidation is approved, such security becomes basic security.

(iii) Additional security. All security not covered by subparagraphs (i) or (ii) above.

(29) *State or United States.* The United States itself, each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(30) *Subsequent loans.* Any loans processed by the Finance Office after it processes an initial loan for a borrower. For EM loans the disaster designation number has no effect in determining whether an EM loan is a subsequent loan.

(31) *Termination date.* (Applies to EM loans) The dates specified in a disaster authorization which establishes the final date after which EM loan applications may no longer be received. However, applications will be accepted for EM loans after the termination dates have passed if the applicant filed an application for disaster assistance with the Small Business Administration (SBA) during the period SBA would accept applications and not more than 6 months has elapsed since the FmHA's termination date.

(32) *Veteran.* One who has been discharged or released from the active forces of the United States Army, Navy, Air Force, Marine Corps or Coast Guard under conditions other than dishonorable, who served on active duty in such forces: (1) during the period of April 6, 1917, through March 31, 1921; (2) during the period of December 7, 1941 through December 31, 1946; (3) during the period of June 27, 1950, through January 31, 1955; or (4) for a period of not more than 180 days, any part of which occurred after January 31, 1955, but on or before May 7, 1975. Discharges under conditions other than dishonorable include "clemency discharges."

§ 1980.107 Full faith and credit.

See § 1980.11 of Subpart A of this Part.

§ 1980.108 General provisions.

(a) *Security, personal and corporate guarantees, and other requirements.* See §§ 1980.170(f), 1980.175(g), 1980.180(g), 1980.185(g) and 1980.190 (g) for specific security requirements for the type of loan being considered.

(1) *Security.*

(i) The lender is responsible for seeing that proper and adequate security is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA.

(ii) All security must secure the entire loan. The lender may not take separate security to secure only that portion of the loan not covered by the guarantee. The lender may not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan. However, compensating balances or certificates of deposit as used in the ordinary course of business are not prohibited.

(2) *Personal and corporate guarantees.*

(i) For EM and OL loans, personal guarantees from principal members of cooperatives, stockholders of corporations, and all partners of a partnership will be required. For this purpose, any member or stockholder owning or controlling a 20 percent interest in a cooperative or corporation is considered a principal member or stockholder. If no member or stockholder owns or controls at least a 20 percent interest, all members or stockholders will be considered principal members or stockholders. For FO, RL and SW loans, personal guarantees from members holding a majority interest in cooperatives, stockholders of corporations and all partners of a partnership will be required. Guarantees of parent, subsidiary, or affiliated companies may also be required. Guarantees will be required in an amount which reasonably assures repayment of the loan and provides sufficient security. If a review of all credit factors indicates the need for additional security, the lender

and/or FmHA may require additional personal and corporate guarantees. The lender and/or FmHA also may require that such guarantees be secured.

(ii) The lender may ask FmHA to make an exception to the requirement for personal or entity guarantees if the proposed guarantors cannot provide such guarantees due to other existing contractual obligations or legal restrictions. Applicants will give the lender written evidence of any such obligations or restrictions. FmHA's concurrence is required before an exception is made.

(iii) *Guarantors of applicants will:*

(A) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing) signed by the guarantors, and disclosing community or homestead property.

(B) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing) certified by an officer of the corporation.

(3) *Other requirements.*

(i) The lender must ascertain that there are no claims or liens of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment or other parties against the security of the borrower, and that no suits are pending or threatened that would adversely affect the borrower's interest in the collateral when the security instruments are filed and when final loan disbursement is made.

(ii) Appropriate hazard insurance with a standard mortgage clause naming the lender as beneficiary may be required by the lender when deemed necessary.

(iii) When the lender believes it is necessary, life insurance will be required for the individual borrower or the principals and key employees of the entity borrower and will be assigned or pledged to the lender. This life insurance may be decreasing term insurance. A schedule of life insurance available will be included as part of the application.

(iv) Workmen's compensation insurance will be obtained as required by State law.

(b) *Person entitled to veteran's preference.* An application on hand from a veteran as defined in § 1980.106 of this Subpart will be given preference by the lender over an application from a nonveteran on file at the same time when it appears that available funds will be inadequate to meet the needs of all applicants. This applies to FO, SW, RL and OL guaranteed loans.

(c) *Determining whether credit elsewhere is available.* The lender will certify on the appropriate forms that the applicant is unable to obtain the requested loan without the guarantee from the Government. Property and interests in property owned and income received by an individual applicant, a cooperative and its members as individuals, a corporation and its stockholders as individuals, and a partnership and its members as individuals will be considered and used by an applicant in obtaining credit without a guarantee.

(d) *Relationship between FmHA loans and guaranteed or insured economic emergency loans.*

(1) If an applicant for assistance is eligible for an FO, RL, OL or SW loan, and an economic emergency (EE) loan for the same purposes and an FO, RL, OL or SW loan will meet the needs of the applicant, it will be the policy to process an FO, RL, OL or SW loan provided loan funds are available. If the FO, RL, OL or SW loan will not meet the *total* needs of the applicant, it will normally be the policy to process an EE loan. An EE loan can be made simultaneously with an FO, RL, OL or SW loan(s) to meet the applicant's total needs.

(2) If an applicant qualifies for an EM loan in an authorized area, the applicant's total credit needs will be considered under EM loan authorities.

(3) Borrowers indebted to FmHA and/or an FmHA guaranteed lender for FO, RL, OL or SW loans may be considered for EE loans provided the total outstanding principal indebtedness to FmHA and/or an FmHA guaranteed lender would not exceed *$650,000.*

Administrative: The County Supervisor will determine whether the lender is requiring the necessary security. If necessary, the assistance of the District Director or Farmer Programs Staff will be obtained.

§ 1980.109 Promissory notes, security instruments, and financing statements.

(a) *Promissory notes, mortgages, and security agreements.* The lender will use its own promissory notes, real estate mortgages (including deeds of trust and similar instruments), and security agreements (including chattel mortgages in Louisiana and Puerto Rico), provided such forms do not contain any provisions that are in conflict or are inconsistent with the provisions of this Subpart of Subpart A of this Part.

(1) For OL and EM guaranteed loans, when the applicant is a cooperative or a corporation, the promissory note(s) will be executed so as to evidence liability of the entity as well as each principal member or stockholder as an individual except in those unusual circumstances where an exemption is obtained in accordance with § 1980.108 of this Subpart. Any member or stockholder owning or controlling a 20 percent interest in a cooperative or corporation is considered a principal member or stockholder. If no member or stockholder owns or controls at least a 20 percent interest, all members or stockholders will be considered principal members or stockholders.

(2) For OL, EM, FO, SW and RL guaranteed loans, when the applicant is a partnership, the promissory note(s) will be executed so as to evidence liability of the partnership as well as each and every partner as an individual except in those unusual circumstances where an exemption is obtained in accordance with § 1980.108 of this Subpart.

(3) For FO, SW and RL guaranteed loans, when the applicant is a cooperative or corporation, the promissory note(s) will be executed so as to evidence liability of the entity as well as liability of member(s) or stockholder(s) holding a majority interest in the entity as individuals except in those unusual circumstances where an exemption is obtained in accordance with § 1980.108 of this Subpart.

(b) *Financing statements.* Commercial financing statement forms that comply with State laws and regulations may be used. They must be adapted to meet FmHA requirements by inserting provisions:

(1) Covering the "proceeds and products" of the collateral described, and

(2) Stating that "disposition of the collateral is not authorized hereby."

§ 1980.110 Loan subsidy rates, claims and payments. (For EM actual loss loans only).

Loan subsidies are payments made by FmHA to lenders to induce them to make, service and collect guaranteed Farmer Program loans.

(a) *Subsidy rates.* FmHA will establish subsidy rates periodically. Thus the subsidy rate may vary from time to time. However, the subsidy rate set forth in the Loan Note Guarantee will remain constant during the life of the loan guarantee. The subsidy rate will be a rate equal to the difference, if any, between the interest rate charged to the borrower and any higher annual rate prevailing in the private market for similar loans as determined by the Secretary of Agriculture. The lender may contact the local County Supervisor servicing the area to obtain the current subsidy rate. (See FmHA Instruction 440.1, Exhibit B a copy of which is available in any FmHA Office.)

(b) *Subsidy payments.* Loan subsidy payments will be calculated by FmHA using a 360 or 365 day year method on a declining balance. The lender will indicate on Form FmHA 449-19, "Guarantee Fee Report," the preferred method which, once established, cannot be changed.

(c) *Annual subsidy claims and payments.* The initial subsidy claim will be prepared by the lender using Form FmHA 449-24, "Loan Subsidy Claim," on or about a date 12 months from the date of the note. The original will be mailed by the lender to the Finance Office with a copy to the appropriate County Supervisor. Subsequent subsidy claims will be filed by the lender on or about a date 12 months thereafter but no later than the anniversary date of the filing of the initial subsidy claim. The Finance Office will mail the loan subsidy payment to the lender within 10 days after receipt of the claim. Upon full payment of a note the lender will immediately prepare Form FmHA 449-24 and mail a copy to the County Supervisor and the original to the Finance Office.

(d) *When subsidy payments cease.* When the FmHA purchases a guaranteed portion of a loan, subsidy payments on that portion will cease. Loan subsidy payments will also cease when the Loan Note Guarantee terminates.

§ 1980.111-1980.112 [Reserved]

§ 1980.113 Receiving and processing applications.

An applicant and/or lender may file either a preliminary or complete application. A preliminary application may be used when an applicant or lender wants FmHA to determine eligibility, feasibility, or the availability of guarantee authority before filing a complete application. The County Supervisor will cooperate with the lender and applicant and will provide appropriate assistance in connection with loan application processes. The degree of this assistance will be determined by the lender's experience with FmHA guaranteed loan processing, the lender's farm lending experience, and the complexity of the proposal. The lender and applicant should contact the local FmHA office serving the area where the farming operation is conducted for guidance and assistance in preparing the request and for obtaining the guarantee. The County Supervisor will provide copies of all applicable FmHA forms and regulations.

(a) *Preliminary application.* This will consist of:

(1) Form FmHA 449-6, "Application for Guaranteed Loan (Farmer Programs)."

(2) Verification of off-farm employment, if any.

(3) Commercial credit report or other information concerning an applicant's credit history.

(4) For an EM loan, Form FmHA 441-22, "Certification of Disaster Losses."

(5) For a cooperative, corporation or partnership, those additional items listed below in § 1980.113(b) of this Subpart.

(b) *Cooperative, corporate or partnership applicants.* If the applicant is a cooperative, corporation, or partnership, the following additional information will be obtained and included in the loan docket:

(1) A complete list of members, stockholders, or partners, showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or of stock held in the cooperative or corporation by each or the percentage of interest held in the partnership by each.

(2) A current personal financial statement from each of the principal members of a cooperative, partners of a partnership or stockholders of a corporation. For this purpose, a principal is one owning or controlling as much as 20 percent of the ownership, stock or interest of a cooperative, corporation, or partnership. If no member, partner, or stockholder owns or controls as much as 20 percent, each member, partner, or stockholder will be considered as a principal. Any other member, partner or stockholder whose financial statement, in the judgment of the loan approval official, would be pertinent to a consideration of the financial strength of the cooperative, corporation or partnership will also be required to provide personal financial statements.

(3) A current financial statement from the cooperative, corporation or partnership itself.

(4) A copy of the cooperative or corporation's charter, or any partnership agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing) and a resolution(s) adopted by the Board of Directors or members or stockholders authorizing specified officers of the corporation to apply for and obtain the desired loan and execute required debt, security, and other instruments and agreements.

(c) *Preliminary determination by FmHA.* If it appears, after a review of the preliminary application, that the applicant is not eligible, of if funds for guarantee authority are not available, the County Supervisor will sent the lender a "Denial Letter" using Form FmHA 449-13. The lender will notify the applicant in writing of all the reasons for the decision. If it appears that the applicant is eligible and loan guarantee authority is available, the County Supervisor will inform the lender in writing within 15 days, unless unusual circumstances exist, and request that a complete application be prepared.

(d) *Complete application.* The complete application will consist of:

(1) Those items listed in Subsections (a) and (b) of this section.

(2) Applicable items required by §§ 1980.40, 1980.41, 1980.42, 1980.43, 1980.44, and 1980.45 of Subpart A of this Part.

(3) Form FmHA 449-12, "Request for Loan Note Guarantee."

(4) A copy of any lease, contract or agreement entered into by the applicant which may be pertinent to consideration of the application, or when a written lease is not obtainable a statement setting forth the terms and conditions of the ageement will be included in the loan docket.

(5) Form FmHA 440-32, "Request for Statement of Debts and Collateral."

(6) (For EM loans only.) Form FmHA 441-29, "ASCS Verification of Farm Production History and Payments," if needed, and Form FmHA 1945-26, "County Supervisor's Calculations and Verification of Qualifying Production Losses."

(7) Proposed loan agreements between the applicant and lender. (See paragraph VIII of Form FmHA 449-35, "Lender's Agreement.") Ordinarily, agreements will include information such as the following:

(i) Any improved management practices to be implemented.

(ii) Requirements for accounting and recordkeeping and periodic financial reporting.

(iii) A list of security for the loan and plans for at least an annual accounting for security.

(iv) Prohibitions against assuming liabilities or obligations of others.

(v) Restrictions on patronage refunds if the applicant is a cooperative, dividend payments if the applicant is a corporation or distribution if the applicant is a partnership.

(vi) Limitations on purchase or sale of equipment and/or fixed assets.

(vii) Limits on compensation of officers and/or owners if not a sole proprietorship.

(viii) Minimum working capital requirements.

(ix) Minimum debt to net worth ratio.

(x) Restrictions concerning consolidation, mergers or other circumstances if the applicant is a corporate entity.

(xi) Purposes for which loan funds will be used.

(xii) Interest rate.

(xiii) The plan for repayment, reamortization or rescheduling of the loan.

(8) Production history and operation forecast provided by lender and/or applicant. This will indicate a production history (up to 5 years for EM loans); current financial condition; projected production; income and expenses; and loan repayment plan. Forms ordinarily used by the lender or Form FmHA 431-2, "Farm and Home Plan," Form

FmHA 431-1, "Long-Time Farm and Home Plan," or Form FmHA 424-1, "Development Plan," may be used.

(9) Appraisal report.

(i) Real estate or chattel property that will serve as collateral for a loan will be appraised by a qualified appraiser selected by the lender. The lender is responsible for determining that appraisers have the necessary qualifications and experience to make appraisals. If the lender has any questions in this regard, FmHA should be consulted before an appraisal is made. Appraisal reports may be on forms approved by the lender and/or Form FmHA 422-1, "Appraisal Report Farm Tract," and Form FmHA 440-21, "Appraisal of Chattel Property."

(ii) A real estate appraisal report will be based on at least two comparable sales made within two years. If the real estate has been appraised by FmHA or by a qualified appraiser within the last three years and if no significant changes in the market value of real estate have occurred in the area within the three-year period, a new appraisal does not have to be made.

(iii) a *current* chattel appraisal is required when chattels are taken as security.

(10) The lender's plan for servicing the loan and providing management assistance to the borrower, including the steps necessary to see that the requirements of the loan agreement are met.

(11) Notices of compliance with the Privacy Act of 1974.

Administrative: (A) Regardless of whether the applicant is acting as an individual or as a representative of a cooperative, corporation or partnership, when FmHA solicits personal information, the individual will be given Form FmHA 410-9, "Statement Required by the Privacy Act."

(B) If FmHA desires to obtain information concerning an individual from any source, FmHA will provide such source with Form FmHA 410-10, "Privacy Act Statement to References."

§ 1980.114 FmHA evaluation of applications.

When the County Supervisor receives a complete application, the proper independent investigations, inspections, and appraisal reviews will be made to determine whether the applicant is eligible, whether the proposed loan is for authorized purposes, whether there is reasonable assurance of repayment ability and whether there is sufficient collateral and equity. The determinations will be recorded on Form FmHA 449-23, "Guaranteed Loan Evaluation." This evaluation is for the benefit of FmHA and not the lender.

(a) *Indication of unacceptability.* If the evaluation indicates that the guarantee cannot be approved for reasons that would not be affected by the County Committee certification, the County Supervisor will inform the lender on Form FmHA 449-13 of these reasons and will discuss with the lender ways to overcome the denial of the guarantee. The foregoing will be recorded in the County Office file.

(b) *Indication of acceptability.* If the evaluation indicates that the guarantee may be approved, the County Supervisor will present the application to the County Committee for certification or rejection.

Administrative: The County Supervisor will:

A. Determine if the material and information submitted is complete.

B. Determine that the requirements of §§ 1980.40 through 1980.45 of Subpart A of this Part are met.

C. When Form FmHA 449-10, "Applicant's Environmental Impact Evaluation" is required, follow the requirements of Subpart G of Part 1901 of this Chapter.

§ 1980.115 County committee review.

The County Committee will review the application and determine whether the applicant meets FmHA eligibility requirements.

(a) *Favorable action.* If the County Committee finds the applicant eligible, the members will sign Form FmHA 440-2, "County Committee Certification or Recommendation." This form will be retained in the County Office file.

(b) *Unfavorable action.* If the County Committee finds the applicant ineligible, the members will complete Form FmHA 440-2 and the County Supervisor will inform the lender of the reasons for disapproval, using Form FmHA 449-13, and will inform the lender of the applicant's right of appeal.

Administrative: A. *After County Committee certification is obtained, the County Supervisor will:*

1. Prepare Form FmHA 449-14, "Conditional Commitment for Guarantee." The loan subsidy rate will be indicated for EM loss loans. If the loan is within the County Supervisor's approval authority, any special conditions of approval will be listed in the space provided on the form, including requirements for security, improved management practices, and the type and frequency of financial reports required by FmHA but not required by the lender. An attachment to the form may be used if necessary. Form FmHA 449-14 will be executed immediately and properly distributed if the loan is within the County Supervisor's approval authority.

2. Prepare Form FmHA 440-1, "Request for Obligation of Funds," in accordance with the Forms Manual Insert (FMI). If the loan is within the County Supervisor's approval authority, execute the form and distribute the copies in accordance with the FMI. The Finance Office will obligate funds and notify the County Supervisor by forwarding the original and one copy of Form FmHA 440-57, "Acknowledgement of Obligated Funds/Check Request."

3. Forward the loan docket to the appropriate approval official if the loan is not within the County Supervisor's approval authority.

B. *The approval official will:*

1. Set forth in the space provided on Form FmHA 449-14 any special conditions of approval, including requirements for securities improved management practices, and type and frequency of financial reports required by FmHA but not required by the lender. An attachment to the form may be used if necessary. Return Form FmHA 449-14 to the County Supervisor for execution and proper distribution.

2. Sign original and one copy of Form FmHA 440-1 distributing copies in accordance with the FMI, making sure the lender receives a signed copy.

3. Forward the loan docket to the National office for approval when the loan exceeds the State Director's approval authority or when the State Director needs assistance in handling any complaints of noncompliance.

§ 1980.116 Review of requirements.

The lender and applicant, after reviewing approval conditions and security requirements as set forth in Form FmHA 449-14, will complete and execute the "Acceptance or rejection of Conditions" and return a copy to the County Supervisor. If the conditions cannot be met, the lender and applicant may propose alternatives to the County Supervisor. These alternatives will be considered and the lender will be advised of FmHA's decision to accept or reject the alternatives. If accepted, Form FmHA 449-14 will be so revised.

§ 1980.117 Conditions precedent to issuance of the Loan Note Guarantee.

See § 1980.60 of Subpart A of this Part. The provisions of § 1980.60 (a)(2) are *not* applicable to Farmer Program loans.

Administrative: The County Supervisor will:

A. Consult with the lender and applicant concerning any changes made to the initially issued or revised Form FmHA 449-14. A copy of Form FmHA 449-14 and any amendments will be included in the loan file.

B. Review the loan agreement between the borrower and lender which provides for the periodic submission of financial statements to the County Supervisor. An annual analysis report will be required.

C. Review plans for inspection on construction projects.

D. Review basic credit requirements of all loans.

E. review cost overruns, if any, and how they will be met.

§ 1980.118 Issuance of lender's agreement, loan note guarantee, and assignment guarantee agreement.

(a) See § 1980.61 of Subpart A of this Part.

(b) A guaranteed portion of the loan may not be sold by the lender until at least an equal amount of guaranteed loan funds have been disbursed to the borrower.

(c) The amount to be entered in the blank in paragraph X (C)(5) of Form FmHA 449-35 for a loan secured by chattels will be the lesser of $10,000 or 20 percent of the loan for OL loan purposes and the lesser of $25,000 or 20 percent of the loan for EM loan purposes.

(d) Paragraph X (C)(10) of Form FmHA 449-35 will be changed by striking the word "semiannually," inserting the word "annually" in its place and eliminating the words "and June 30."

Administrative: A. *Section § 1980.61(a).* The original Form FmHA 449-35 will be kept in the County Office.

B. *Section § 1980.61 (b)(1).* Cop(ies) of the Loan Note Guarantee(s) will be kept in the County Office. Additional copy(ies) may be retained by the State Office. Copies of all issued Loan Note Guarantees will be kept in the loan file.

C. *Section § 1980.61 (b)(3).* For reporting purposes where multi-notes are issued, the loan will be counted as one loan regardless of the number of notes issued.

§ 1980.119 Substitution of loan note guarantee for contract of guarantee issued.

See § 1980.61 of Subpart A of this Part. As used in § 1980.61(b)(2), the term "State Director" will be construed to mean "County Supervisor."

Administrative: County Supervisor will:

A. Verify that the approval requirements have been met.

B. Review the submitted request and, if in order, send the guarantee fee and guarantee fee report to the Finance Office with a notation of the date the new Loan Note Guarantee will be issued. (Note: The substitution of a Loan Note Guarantee for the Contract of Guarantee is not to be considered as a new loan for recordkeeping purposes.)

C. Execute Form FmHA 449-35.

D. Complete Form FmHA 449-34, "Loan Note Guarantee," (appropriate number for attachment to each note), date and sign the instrument. The following statement will be entered at the top of the form: "This Loan Note Guarantee is issued in substitution of Contract of Guarantee dated ————." The County Supervisor will transfer from the Contract of Guarantee all information pertaining to the Loan Note Guarantee.

E. Cancel the original Contract of Guarantee.

F. Transmit to the lender the original Loan Note Grarantee and an executed copy of the Lender's Agreement. Retain in the loan file copies of the Loan Note Guarantee with attached original cancelled Contract of Guarantee, copy of a Guarantee Fee Report, and the original Lender's Agreement.

G. Forward the lender's guarantee fee check and the original of Form FmHA 449-19 "Guarantee Fee Report," to the Finance Office. A copy of Form FmHA 449-19 will be retained in the FmHA loan file.

§§ 1980.120-1980.121 [Reserved]

§ 1980.122 Substitution of lenders.

With prior written approval of the FmHA State director, a new eligible lender may be substituted for the original lender provided the new lender agrees to assume all servicing responsibilities and acquires the unguaranteed portion of the loan. Such substitution may be made without the holder's consent but not without notice to holder(s) by the substituted lender. The new lender will execute Form FmHA 449-35 at the same time of the substitution. After approval of the lender, Form FmHA 1980-42, "Notice of Substitution of Lender," will be completed by the FmHA servicing representative and mailed to the Finance Office.

§ 1980.123 Transfer and assumption of Farmer Program loans.

(a) All transfers and assumptions must be approved in writing by FmHA. Such transfers and assumptions must be to an eligible applicant. EM actual loss loans may only be transferred to a co-obligor.

(b) The transferee will submit Form FmHA 449-6, and other needed information to the lender for evaluation.

(c) Available transfer and assumption options to eligible applicants include transferring the *total* indebtedness to another borrower on the same terms, or on different terms not to exceed those terms for which an initial loan can be made.

(d) In any transfer and assumption case, the transferor, including any guarantor(s), may be released from liability by the lender with FmHA written concurrence only when the value of the collateral being transferred is at least equal to the amount of the loan. If the transfer is for less than the entire debt:

(1) FmHA must determine that the transferor has no reasonable debt-paying ability considering assets and income at the time of the transfer.

(2) The FmHA County Committee must certify that the transferor has cooperated in good faith, used due diligence to maintain the collateral against loss, and has otherwise fulfilled all of the regulations of this Subpart to the best of the transferor's ability.

(e) Any proceeds received from the sale of security before a transfer and assumption will be credited to the transferor's graranteed loan debt in inverse order of maturity before the transfer and assumption transaction is closed.

(f) The lender is responsible for getting an appraisal of the fair market value of all the collateral securing the loan. Subject to the approval of the transferor and transferee, and appraisal can be made by either independent fee appraisers or qualified appraisers on the lender's staff. The appraisal report fee and other related costs will be paid by the transferor and transferee, as they agree.

(g) The market value of the security being acquired by the transferee, plus any additional security the transferee proposes to give, must be adequate to secure the balance of the total guaranteed loan, plus any prior liens.

(h) If any cash down payment is made, it may be paid directly to the transferor as payment for the transferor's equity in the project provided:

(1) The lender recommends and FmHA approves the cash downpayment be released to the transferor.

(2) Any downpayment that is made by the transferee to the transferor does not suspend the transferee's obligation to continue to make the guaranteed loan payments as they come due under the terms of the assumption.

(3) The transferor agrees not to take any actions against the transferee in connection with such transfer in the future without first obtaining the approval of FmHA and the lender.

(4) The lender determines that the transferee has the ability to repay the guaranteed debt assumed and any other indebtedness.

(i) The lender will issue a statement to FmHA that the debt can be properly transferred and the conveyance instruments must be filed, registered, or recorded, as appropriate, and must be legally sufficient.

(j) FmHA will not guarantee any additional loans to provide equity funds for a transfer and assumption.

(k) The assumption will be made on the lender's form of assumption agreement.

(l) The assumption agreement must contain the FmHA case number of the transferor and transferee.

(m) The assumption agreement may change loan terms and/or interest rates only if a new loan note guarantee will be executed.

(n) In the case of a transfer and assumption at the same rates and terms, the lender must give any holder(s) notice of the transfer and notice that future payments will be made under a different name and case number. It is the lender's responsibility to see that the transfer and assumption is noted on all originals of the Loan Note Guarantee. The lender must provide FmHA with a copy of the transfer and assumption agreement.

(o) Before allowing a transfer and assumption at *different* rates and terms, the lender must consult with any holder(s). If the holder(s) consents to the transfer, the lender must provide FmHA with a copy of the transfer and assumption agreement and must note the transfer and assumption on all originals of the Loan Note Guarantee.

Administrative: A. *Loan approval officials may consent:*

1.To all transfer and assumption cases.

2. To the release of the transferor and guarantor(s) from liability on the loan. The approval official will notify the lender and the appropriate parties of the decision in writing.

3. To any changes in the loan terms and/or interest rates provided the holder(s), if any, and lender agree.

B. The Loan Note Guarantee will be endorsed in the space provided on the form.

C. A copy of the Assumption Agreement will be retained in the County Office file. The County Supervisor will notify the Finance Office of all approved transfer and assumption cases so that Finance Office records may be adjusted accordingly.

§ 1980.124 Consolidation, rescheduling, reamortizing, and deferral.

(a) General requirements. All borrowers are expected to repay their loans according to the planned repayment schedule. However, circumstances may arise which will not permit borrowers to pay as scheduled. When rescheduling, reamortization, or deferral will assist in the orderly collection of a loan, such action *may* be taken provided:

(1) The borrower meets the eligibility and security requirements for an initial loan as set out in this Subpart;

(2) Such action is not used in lieu of or to delay liquidation;

(3) Such action is not taken to remove a delinquency;

(4) The lender determines that the borrower is making satisfactory progress;

(5) The borrower is cooperating in servicing the account and is maintaining the security;

(6) Such action will enable the borrower to continue farming; and

(7) Any holder(s) agrees to the rescheduling, reamortization, and deferral. The holder(s) must understand that they will not receive any payments from the lender or from FmHA during any deferral period.

(b) Consolidation and rescheduling.

(1) The term "consolidate" means to combine the outstanding principal and interest balances of two or more EM loans *made for operating loan (Subtitle B) purposes* or two or more OL loans.

(2) The term "reschedule" means to rewrite the rates and/or terms of a single Promissory Note which acknowledges indebtedness for a loan made for operating purposes (EM or OL).

(3) EM loans made for operating loan purposes may be consolidated only with other EM loans made for operating loan purposes, including EM loans for annual operating purposes and EM major adjustment loans for operating (Subtitle B) purposes. Whenever a subsequent EM loan for operating purposes is approved, it may be consolidated with all outstanding EM loans for operating purposes into a single new note. OL loans may be consolidated only with other OL loans.

(4) An EM loan made for operating loan purposes or an OL loan may be rescheduled when it is in the best interest of the borrower and the lender to do so.

(5) EM loans for actual losses, EM major adjustment loans for real estate purposes and OL loans secured by real estate will *not* be consolidated. When special circumstances exist and an EM loan is scheduled to be repaid over a period of more than seven years, rescheduling will *not* take place (see § 1980.170 (e)(2)(i)(A) of this Subpart).

(6) There is no limit on the number of times a consolidation or rescheduling action may take place.

(7) The interest rate for a consolidated or rescheduled EM loan for operating purposes will be the current rate established by the Secretary of Agriculture for similar type loans in effect at the time of the action. This information is available from any FmHA office (See FmHA Instruction 440.1, Exhibit B).

(8) The interest rate for a consolidated or rescheduled OL loan will be the negotiated rate agreed upon by the lender and the borrower subject to the limitations set out in § 1980.175 (e) of this Subpart.

(9) The new note which exists after a consolidation or rescheduling occurs must be repaid over a period *not to exceed seven years* from the date of the action.

(10) When a consolidation occurs, a new Form FmHA 449-34 will be executed.

(c) Reamortization. The term "reamortize" means to rearrange the rates and/or terms of a loan(s) made for real estate purposes, i.e., FO, SW, RL, EM actual loss loans having basic security consisting of real estate, and EM major adjustment loans *made for real estate (Subtitle A) purposes.* Scheduled payments may be rearranged over the remaining term of the original repayment period established for the loan or assumption agreement (new terms), or be rearranged over a period not to exceed the maximum statutory period which is set at 40 years from the date of the original note.

(1) The interest rate for a reamortized EM actual loss loan will be at the same rate as the original loan.

(2) The interest rate for a reamortized EM major adjustment loan for real estate purposes will be the current market rate in effect for similar type loans at the time of reamortization as established by the Secretary of Agriculture. This information is available from any FmHA office. (See FmHA Instruction 440.1, Exhibit B).

(3) The interest rate for a reamortized FO, SW or RL loan will be the negotiated rate agreed upon by the lender and the borrower at the time of the action subject to the limitations set out in §§ 1980.180, 1980.185 and 1980.190 of this Subpart.

(d) Deferral. The term "defer" means to postpone the payment of interest and/or principal on an FO, SW, RL, OL or EM loan. Principal may be deferred in whole or in part. Interest may be deferred only in part. A partial payment of interest will be required during the deferment period.

(1) Deferred interest will not be capitalized.

(2) Payments may be deferred for no more than three years, but in no case will the deferral period extend beyond the final due date of the note.

(3) The lender must determine that scheduled payments cannot be made for reasons beyond the borrower's control and must also determine that there are reasonable prospects that the borrower will be able to resume full payments at the end of the deferral period.

(e) The new note will not increase the amount of principal which the borrower would have been required to pay if the consolidation, rescheduling or reamortized had not been made.

(f) The new note will describe the note(s) being consolidated, deferred, reamortized or rescheduled and will state that the indebtedness evidenced by such note(s) is *not* satisfied. The original note(s) will be retained for identification purposes.

(g) Additional security instruments will be required if needed to maintain lien priority or to protect the interests of the lender and FmHA.

§§ 1980.125–1980.128 [Reserved]

§ 1980.129 Planning and performing development.

The lender is responsible for seeing that any buildings or other improvements or major land development to be paid for with loan funds are properly completed within a reasonable period of time. The security must be free of any mechanic's, materialmen's or other liens which would affect the priority of the lien which the lender told FmHA would be taken on the security. All major construction, major repairs, and major land development must be performed under contract. As soon as such construction, repair, or land development involving the use of loan funds has been completed in accordance with the plans and specifications, Form FmHA 449-11, "Certificate of Acquisition or Construction," will be completed and given to the County Supervisor. This form will be used by a lender, borrower, and/or contractor to certify that the security has been acquired or the construction completed.

In connection with construction the lender is responsible for:

(a) Making sure there is compliance with applicable laws, ordinances, codes and regulations, including FmHA regulations, which affect all phases of construction. The lender may inspect the site and any construction or development work at any stage whenever the lender considers it necessary.

(b) Seeing that the plans, specifications, and estimates are adequate.

(c) Making sure of the rights to an adequate water supply of sufficient quantity and quality.

(d) Identifying whether the construction or development will be performed by contract or other method.

(e) Checking to see that any necessary bonds covering contractors are in proper form.

(f) Seeing that all equal opportunity and nondiscrimination requirements are met. (See § 1980.41 of Subpart A of this Part.)

(g) Limiting periodic or partial payments for construction or development to a reasonable percentage of the actual value of work and material in place. The lender will make final payment only after seeing that the final inspection has been made.

(h) Ascertaining that after planned development is completed, the requirements § 1980.108(a)(3)(i) of this Subpart are met.

Administrative: A. The County Supervisor will:

1. Check to see that the construction, repair or land development has been completed.

2. Forward Form FmHA 449-11 to the lender for completion and execution by the lender, borrower and contractor.

§ 1980.130 Loan servicing.

The lender is responsible for loan servicing as required by paragraph X of Form FmHA 449-35.

Administrative: A. The lender has the responsibility for loan servicing and protecting the collateral. The County Supervisor is responsible for monitoring the loan to see that the required servicing is properly accomplished. Prompt followup on delinquent payments and early recognition of problems are keys to resolving many delinquent loans.

B. The County Supervisor will:

1. Make timely investigations during acquisition and development and at least annually thereafter to determine whether any security that was to be acquired or constructed after issuance of the Loan Note Guarantee has been acquired or constructed, and whether the guaranteed loan is being properly serviced. If a problem develops the County Supervisor will promptly contact the lender to resolve it.

2. Review all of the borrower's financial statements furnished by the lender and remind the lender of its servicing responsibilities required in paragraph X of Form FmHA 449-35 when deficiencies are noted.

3. Contact the State Office when information indicates the lender or the borrower has failed to fulfill any of the loan approval conditions and the resulting problem cannot be resolved by the County Supervisor and the lender.

4. Take the action required in paragraph XI of Form FmHA 449-35.

5. Use an office management system for guaranteed loans to assure timely followup on all required financial statements, and to make sure any special requirements for loan servicing conditions are met.

6. Notify the Finance Office when the lender makes any protective advances.

7. Submit to the Finance Office immediately after December 31 of each year, the lender's statement required in paragraph X C 10 of Form FmHA 449-35 as modified by requirements set out in § 1980.118 (d) of this Subpart, reflecting the unpaid principal balances on the loan.

C. The District Director will:

1. Provide guidance and assistance to the County Supervisor in loan making and servicing.

2. Review all field visit reports and make recommendations or comments and transmit them to the State Director, if necessary.

D. County Supervisors are authorized to approve or concur in:

1. Alterations in the loan approval conditions which will not prejudice the Government's interest.

2. Any replacement of collateral for the loan.

3. All lien coverage and lien priorities on the collateral established by the lender before issuance of the Loan Note Guarantee.

4. Any deferral, rescheduling or reamortization of the loan.

5. The use of proceeds from the disposition of collateral complying with the provisions of paragraph X of Form FmHA 449-35.

§ § 1980.131-1980.135 [Reserved]

§ 1980.136 Protective advances.

It is not intended that protective advances be made in lieu of additional loans. See paragraph XIII of Form FmHA 449-35.

Administrative: A. The County Supervisor is authorized, as per paragraph XIII of Form FmHA 449-35, to approve protective advances in excess of $500 and will consult with the lender on future servicing of the account. To determine if the loan is to be continued with the borrower, the borrower's ability to pay the remaining loan balance and any future advances in accordance with the existing repayment schedule will be considered.

§ 1980.137-1980.138 [Reserved]

§ 1980.139 Termination of loan note guarantee.

See paragraph 12 of Form FmHA 449-34.

Administrative: The County Supervisor will advise the Finance Office by memorandum when a Loan Note Guarantee is terminated.

§ § 1980.140-1980.144 [Reserved]

§ 1980.145 Defaults by borrower.

(a) See paragraph XI of Form FmHA 449-35.

(b) The lender will arrange with the County Supervisor to meet with the borrower to resolve the problems.

(c) A record of the meeting will be prepared, which will at least include a list of the individuals who attend, and a summary of the problem and proposed solutions. The original will be retained in the lender's loan file and a copy will be submitted to the County Supervisor.

Administrative: A. The County Supervisor will coordinate and process any request for FmHA to purchase (as outlined in paragraph XI D of Form FmHA 449-35) when the holder(s) is located in close proximity to the local lender. If any holder is located outside the area, the State Director will designate an employee to handle the repurchase arrangements. If the employee is not the County Supervisor, the County Supervisor will be notified of the transaction.

B. The County Supervisor will verify the amounts due the holder(s), and transmit the holder's demand for payment by memorandum to the State Director. Copies of evidence of the holder's ownership will be included. Any original evidence of ownership will be retained in the County Office. A proposed payment date will be established in order to calculate the interest due the holder(s).

C. In the event of default or servicing problems, the County Supervisor will use Form FmHA 449-37, "Request for Check Issuances—FmHA's Purchase of Guaranteed Portion" to request a check to pay the guaranteed portion of a loan(s) to the holder(s) when necessary. The Finance Office will forward the check within 10 days after receipt of the request.

D. Any evidence of ownership retained in the County Office will be considered in any future report of loss calculations. A record of any purchase will be maintained in the loan file.

§ 1980.146 Liquidation.

See paragraph XII of Form FmHA 449-35.

Administrative: A. *Meetings.* The County Supervisor will meet with the lender when the lender or FmHA determines that liquidation is necessary and will inform the District Director and the State Director of the results.

B. *Form FmHA 449-35, paragraph XII B.* FmHA will exercise the option to liquidate only when there is reason to believe the lender's liquidation plan is not likely to provide for a reasonably adequate recovery. The County Supervisor will approve lender liquidation plans or exercise the FmHA option to liquidate. The District Director or State Office may be consulted on complex cases for advice if necessary.

C. *Form FmHA 449-35, paragraph XII D.* County Supervisors are responsible for seeing that the lender complies with the requirements of Paragraph XII D. The County Supervisor will accept or reject the accounting reports as submitted by the lender and will obtain the advice of the District Director or State Office when necessary. When FmHA liquidates the security, the County Supervisor will submit these reports to the lender and will send copies to the District Director and the State Office.

D. *Form FmHA 449-35, paragraph XII E 2.* County Supervisors are authorized to accept Report of Loss determinations on Form FmHA 449-30 "Loan Note Guarantee Report of Loss," in those cases where the loss will not exceed $55,000. The State Director is authorized to accept the determinations in all other cases. A copy of the form will be given to the District Director. The State Director will submit Form FmHA 449-30 to the Finance Office for payment of any losses.

The Finance Office will forward loss payment checks within 10 days of receipt of the request to the County Supervisor for delivery to lender.

E. *Form FmHA 449-35, paragraph XII E 3.* Final loss payments will be made within 60 days after the review of the accounting of the collateral. These payments will be reduced if necessary after considering the Conditions of Guarantee in Form FmHA 449-34. State Directors are responsible for seeing that such reviews are accomplished in time to be evaluated and accepted or otherwise resolved within the 60-day period. The County Supervisor may conduct such reviews when the loss does not exceed $55,000. The State Director will conduct all other reviews. The State Director may request National Office assistance in conducting any review.

§ 1980.147 Graduation.

There is no graduation requirement for guaranteed loans.

§ 1980.148

Appeal procedure.

See § 1980.80 of Subpart A of this Part for the method of having adverse decisions of County Supervisors, District Directors and State Directors reviewed. Any adverse decision by a County Committee will, upon request of the aggrieved party, be reviewed by the State Director or Acting State Director. The method of review set forth in § 1980.80 will be followed with the following exceptions:

(a) The aggrieved party will be offered an opportunity to present material before the county committee for their reconsideration prior to a formal determination by the State Director.

(b) Prior to issuance of any determination on an appeal to the aggrieved party which is overturning or modifying a county committee decision, the committee will be given an explanation of the determination(s) by a member delegated by the State Director. The County Committee will be given an opportunity to reconsider their initial decision once more prior to issuance of the determination to the aggrieved party.

§ 1980.149 Access to lender's records.

See § 1980.81 of Subpart A of this Part for this requirement.

§§ 1980.150-1980.152 [Reserved]

§ 1980.153 FmHA forms.

See § 1980.83 of Subpart A of this Part.

General Administrative: A. *Office of the General Counsel (OGC,):* In performing administrative functions with respect to Farmer Program loans, FmHA may ask for the advice and assistance of OGC on any legal matter. However, in loan making, it is the responsibility of the lender to ascertain that all requirements for making, securing, and servicing the loan are met. If FmHA has any questions concerning the lender's resolution of these matters, it should consult with OGC.

B. *Delegation of Authority:* State Directors should delegate to their staff members those administrative duties and responsibilities stipulated in the Administrative sections of this Subpart.

§§ 1980.154-1980.169 [Reserved]

§ 1980.170 Emergency loans.

(a) *Objectives.* The basic objective of EM loan guarantees is to provide financial assistance to eligible farmers, ranchers, and aquaculture operators to cover losses, make major adjustments, pay operating expenses, and provide for other essential needs so that they may maintain sound farming, livestock, or aquaculture operations. No ceiling has been established on the size of operations that may be financed with EM loans or on the size of loans that may be guaranteed except as set forth in § 1980.170(e)(1)(i) of this part. Annual production loans may be guaranteed but in no event will a loan be guaranteed for more than six full calendar years after the disaster.

(b) *Loan eligibility requirements.* To be eligible for an EM loan guarantee, the lender's applicant must possess the following characteristics:

(1) *Test for credit.* The applicant must be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. The applicant's equity in real estate, chattels and other assets will be considered in determining ability to obtain such credit from other sources. Cooperatives, corporations, and partnerships and the principal members, stockholders and partners, both individually and collectively, must be unable to obtain the required funds with their own resources or with credit obtained from other sources. Any member, stockholder, or partner owning or controlling a 20 percent interest in a cooperative, corporation or partnership is considered a principal member, stockholder, or partner. If no member, stockholder, or partner owns or controls at least a 20 percent interest, all members, partners or stockholders will be considered principal members, partners or stockholders. The facts concerning the findings in either case must be documented.

(2) *Citizenship.*

(i) If an individual, the applicant must be a *citizen of the United States.* (see § 1980.106(b)(29) of this Subpart for the definition of "United States")

(ii) A cooperative, corporation or partnership must meet the requirements set out in § 1980.106(b)(6), (b)(7) or (b)(23). In addition, more than a 50 percent interest in the cooperative, corporation or partnership must be owned by United States citizens. (see § 1980.106(b)(30) of this Subpart for the definition of "United States") The member, stockholder, or partner who manages the farming operation must be a United States citizen. Also, the entity must be authorized to conduct the farming operation(s) in the State(s) in which the farming operation is conducted.

(3) *Established farmer.* An applicant must be an established farmer (as defined in § 1980.106(b)(9) of this Subpart) doing business either as an owner-operator or tenant-operator. An individual applicant must manage the farming operation. If the applicant is an entity, at least one member, stockholder or partner must manage the farming operation. One who does not devote full time to the farming operation may be considered a manager provided the person visits the farm at sufficiently frequent intervals to exercise control over the farming operation, give directions as to how it should be run, and see that the operation is being carried on properly. Any operation that involves an outside full-time hired manager or management service does not qualify regardless of the number of visits made.

(i) An estate or trust; a corporation owned primarily by an estate, trust, another corporation or partnership; or an individual partnership composed primarily of an estate, trust, or corporation is not considered to be a farmer for EM loan purposes.

(ii) An individual engaged in a joint farming operation and/or owning an undivided interest in the property of such an operation is not considered to be an eligible farmer for EM loan purposes.

(4) *Operate in a disaster area.* An applicant must operate in an area in which the availability of EM loans for actual losses has been determined in accordance with Subpart A of § 1945 of this Chapter and have filed an application before the termination date.

(5) *Losses.* An applicant must have suffered qualifying production losses to property in which the applicant has an ownership or interest in which a se-

curity interest may be obtained. An applicant must have suffered qualifying physical losses to property in which the applicant has an ownership interest. See § 1980.170(c) of this Subpart for the explanation of calculating losses.

(6) *Legal capacity.* An applicant must possess the legal capacity to contract for the loan.

(7) *EM loan(s) to cooperatives, corporations or partnerships.* When an EM loan is made to a cooperative, corporation or partnership, only one EM loan can be made to the entity constituting the farming operation to cover the losses. However, an individual member, partner or stockholder may obtain a separate EM loan to cover losses in a *separate farming operation* which the applicant conducts as an individual on a different farm tract. If the members of a partnership change after the disaster occurs, but before a loan is made, the new partnership may be considered for a loan provided the new partnership consists of members of the original partnership of heirs of members of the original partnership.

(8) *County Committee Certification.* The County Committee shall certify to the following eligibility conditions by using Form FmHA 440-2:

(i) An applicant must possess the training and/or experience, character (as related solely to debt repayment ability and reliability) managerial competence, ability and industry necessary to carry out the proposed farming operations and honestly endeavor to carry out the undertakings and obligations required of the applicant in connection with the loan.

(ii) An applicant must show an intent to continue the operation after the disaster. Those applicants who were required to stop temporarily because of the disaster loss or damage to their operations but intend to continue farming with EM loan assistance to meet this requirement.

(c) *Determining qualifying losses, eligibility for loss loan(s) and the maximum amount of a loss loan(s).* Disaster year production will be reported by applicants on Form FmHA 1945-22, "Certification of Disaster Losses," which indicates physical and production losses suffered as the result of the authorized disaster. On Form 1945-22 the applicant will report acres and yields for all crops being planted or to be grown in the disaster year and the number of all animal units and production per unit being maintained at the time of the disaster from the applicant's own records or from ASCS records of acres grown and proven yields. Applicants will report their previous 5-year production levels as set forth in § 1980.170(c)(1) of this section. This form will be completed and submitted to the County Office with the application, as soon as the losses and/or damages can be accurately assessed. The information provided by applicant's on Form FmHA 1945-22 will be the primary basis for the lender's calculation of qualifying losses, eligibility for EM loss loan(s) based on production losses, and an applicant's maximum amount of a loss loan. Therefore, applicants are required to certify, subject to penalties of law, that the accuracy and completeness of the information provided on Form FmHA 1945-22 can be supported by written records. Applicants will be asked to identify on that form one or more farming enterprises which they consider basic to the success of their total farming operation and in which they have suffered a loss. When an applicant's loss claims seem unreasonable, they will be verified by the lender and FmHA.

(1) *Production losses.*

(i) Applicants have several options under which their normal year's production may be reported and calculated for the farm currently being operated. (References herein to "County averages" is taken to be "State averages" when State averages are set in accordance with § 1980.106(a)(21) of this part.)

(A) Applicants may elect to use their own accurate farm records of acres grown and yields obtained for all crops; and the number of all animal units and production per unit for all livestock being maintained at the time of the disaster, for the 5 years immediately preceding the disaster year.

(B) Applicants may elect to accept county average yields per acre for crops and county average production per animal unit for livestock and livestock products which have been established as set forth in § 1980.106(a)(21) of this subpart for the 5 years immediately preceding the disaster year. When this option is selected, applicants need provide only the number of acres and yield per acre for each crop grown and the production per animal unit produced for all livestock being maintained in the disaster year.

(C) Applicants may elect to use the applicant's ASCS records of acres grown and proven yields for crops grown in the 5 years immediately preceding the disaster year. For tobacco and other crops under acreage-poundage control, the normal year's production will be the pounds per acre as authorized by ASCS for the disaster year.

(D) Applicants may elect to combine their own farm records and the ASCS records of acres grown and proven yields when neither the applicant nor ASCS can provide records of acres grown and proven yields for every crop grown in the 5 years immediately preceding the disaster year.

(E) Applicants may elect to combine the county average and the ASCS records of acres grown and proven yields when neither the county averages nor the ASCS can provide complete records for every crop grown in the 5 years immediately preceding the disaster year.

(F) When neither (A), (B), (C), (D), or (E) above can be used, applicants may be permitted to use combinations of their own farm records, the ASCS records of acres grown and proven yields and county averages provided:

(*1*) The applicant has been farming for fewer than 6 production years, or

(*2*) The applicant operated a different farm or conducted farming enterprises different from those conducted in the disaster year for one or more years of the 5 years prior to the disaster year.

(G) If none of the above options can be used, county averages will be used.

(H) Under all options of this subsection, the same established unit prices will be used for the disaster year and the normal year in computing the dollar value of each enterprise.

(ii) Form FmHA 1945-26, "County Supervisor's Calculations and Verifications of Qualifying Losses" will be completed by the lender.

(A) Disaster year and normal year production information for only those enterprises in which a loss occurred will be transposed from Form FmHA 1945-22, "Certification of Disaster Losses," for the conservatively estimated (estimates will not exceed the applicant's normal year's production level) or actual disaster year crop yields for each crop grown in the disaster year and each livestock enterprise maintained at the time of the disaster, to the appropriate places on Form FmHA 1945-26. The official completing Form FmHA 1945-26 is responsible for verifying loss information provided by the applicant when there is any question concerning the accuracy of such information. When the applicant's disaster loss is due to a reduction in *quality* that can be substantiated rather than due to a reduction in *quantity*, the applicant will be given credit for this by adjusting actual production downward enough to compensate for the quality loss.

(B) The gross dollar amount of production losses will be computed for each basic part of the farming operation by calculating the value of the disaster year's production and subtracting that amount from the calculated production value in the normal year. Unit prices for agricultural commodities to be used in these calculations will be established by the FmHA State Director *for the calendar year immediately preceding the disaster year* and this information *will be available in a State supplement* in all

FmHA County Offices affected by the disaster. These prices will be determined by averaging the market price for each commodity, for the calendar year immediately preceding the disaster, on a countywide basis, if available, or on a Statewide basis. If Statewide figures are not available, the State Director will consult with other agricultural agency representatives and agricultural leaders in the local area before establishing commodity prices. State Directors and Farmer Program Chiefs in adjoining States should consult each other before releasing the figures. These prices will be based on information provided by the State Crop and Livestock Reporting Service, the State Office of the Statistical Reporting Service, USDA, or a similar State or Federal agency or body. The County Supervisor will provide lender's with these prices.

(C) The actual or net dollar amount of production losses sustained in each basic part of the farming operation will be determined by subtracting all compensatory disaster payments related to the disaster that are received or to be received as described in § 1980.170(c)(3) of this part, *i.e.*, crop insurance claims settlements and ASCS disaster program payments will be subtracted from the gross dollar amount of production losses as calculated in subparagraph (c)(1) (ii)(B) of this Section.

(D) The actual dollar loss in production for each basic part of the farming operation will be divided by the previously calculated normal year's gross income for that enterprise. This establishes the percentage reduction in production from normal for that enterprise. If the percentage loss in *any* basic part of the farming operation equals or exceeds 20 percent, the applicant is eligible for EM loan assistance.

(E) Once eligibility is established, the total production loss sustained by the applicant and directly attributed to the disaster is computed by adding together the actual dollar amount of production losses of *all* single enterprises, whether or not they constitute a basic part of the farming operation.

(F) Losses to pasture to be grazed by livestock are production losses and calculated by one of two methods if approved by the State Director. The State Director will decide the method(s) that will be used throughout the State to calculate losses to pasture by issuance of a State supplement.

(*1*) The price per acre method. Determine the percentage pasture loss by dividing the number of months during which livestock could not be grazed because of disaster damage by the number of months in the normal grazing season. Multiply the percentage pasture loss by the number of acres involved. Multiply this figure by the established normal rental charge; the result is the disaster year gross dollar value. Multiply the number of acres grazed in the disaster year by the average rental charge per acre for the highest four out of five years immediately preceding the disaster; the result is the normal year gross dollar value. The total production loss is determined by subtracting the disaster year gross dollar value from the normal year gross dollar value.

(*2*) The charge per head or per animal unit method. Determine the percentge pasture loss as set out in (*1*) above. Multiple the percentage pasture loss by the number of animal units grazed. Multiply this figure by the rental charge per animal unit; the result is the disaster year gross dollar value. Multiply the number of animal units grazed in the disaster year by the average charge per animal unit for the highest four out of five years immediately preceding the disaster; the result is the normal year gross dollar value. Determine the total production loss as set out in (*1*) above.

(G) When a crop cannot be planted or can be only partially planted due to a disaster *or* when perennial crops (such as fruits or nuts) already growing cannot be produced or can be only partially produced due to a disaster, the applicant will have a choice of having the loss treated as a production loss or as a physical loss. The production loss will be calculated as follows: Add together any income that may be derived from the enterprise and the variable and fixed costs which will not be incurred because of the disaster. (The cost figures will be derived from current crop enterprise budgets prepared by State Agricultural Extension Service economists, based on normal farming conditions in the area.) Subtract this figure from the normal year's production; the result is the total production loss.

(H) The maximum production loss loan(s) is limited to the amount of the total production loss sustained by the applicant.

(I) When a crop is planted and completely destroyed by a disaster, a yield of "zero" may be shown on Form FmHA 1945-22 during the disaster year only if no part of the crop could be harvested and no substitute crop could be planted and harvested. If a substitute crop is planted and harvested during the same crop year, a yield of "zero" should be shown for the original crop on Form FmHA 1945-22 and the yield from the substitute crop must be subtracted from the normal year's production of the destroyed crop.

(J) When a crop cannot be planted, an applicant may treat the loss as a production loss (see § 1980.170(c)(1)(ii)(G)) or as a physical loss (see § 1980.170(c)(2)(xii)).

(K) Eligibility for production losses to livestock enterprises will usually be based on loss of feed crops to be fed and pasture to be grazed, and they should be calculated as crop losses rather than livestock losses. A livestock enterprise must be a basic part of the farming operation for losses to feed crops to be used in determining eligible qualifying production losses. (See § 1980.106(a)(26)).

(L) Losses to crops to be fed to livestock will be established by determining the normal year's gross dollar value of feed produced for livestock and subtracting the disaster year's gross dollar value of feed produced for livestock from this figure. The difference established the disaster year's gross dollar loss for crops to be fed to livestock. The gross value of feed produced for livestock is derived by multiplying the number of crop acres to be fed to livestock by the yield per acre by the unit price.

(M) When an applicant elects to sell livestock at an earlier date or lighter weight than usual rather than purchase feed to replace that which was lost as a result of the disaster, the difference between what the sale price would have been if the livestock had been fed for the normal period and the disaster year's sale price may not be claimed as a loss.

(N) Claims of production losses from the applicant will be verified by the lender and FmHA when the applicant's claims appear to be unreasonable.

(2) *Physical losses.*

(i) Physical losses as reported by applicants on Form FmHA 1945-22, "Certification of Disaster Losses" will be verified through on-site inspections by the lender when practicable.

(ii) The claimed value of all physical losses due to disaster damage or destruction must be supported by written estimates for the necessary repair or replacement requested.

(iii) Physical loss loan funds can be used to pay for only contracted or hired labor and materials and supplies purchased. Labor, machinery, equipment, and materials contributed by the applicants or borrower will not be chargeable to the cost of necessary repair and replacement.

(iv) Damage to or destruction of nonessential buildings, structures or other items will not be repaired or replaced with EM physical loss loan funds. Any insurance compensation received or to be received for such losses will be considered as compensation for losses to essential farm buildings, structures and other items which need to be repaired or replaced.

(v) The maximum physical loss loan(s) will be determined by subtracting all insurance claims and any other compensation received or to be received for physical disaster losses from the value of all actual physical losses caused by the disaster.

(vi) The actual physical loss equals the market value at the time of the disaster for the following items lost or destroyed by or as a result of the disaster:

(A) Basic livestock.

(B) Livestock products.

(C) Harvested or stored crops.

(D) Supplies on hand.

(vii) The actual physical loss for farm dwellings to be used by the operator and existing labor is the lesser of:

(A) The market value of the property at the time it was damaged or destroyed; or

(B) The amount required to repair the dwelling or replace it with one of like quality and size which will meet all applicable code requirements and which will provide permanent, adequate, decent, safe, sanitary and modest living quarters.

(viii) The actual physical loss for farm service buildings and farm real estate other than buildings is the amount required to repair the property or replace it with a building or property of like quality and capacity which will meet all applicable code requirements and which will adequately meet the needs of the farming operation. This amount cannot exceed the market value of the property at the time of the disaster.

(ix) If, in addition to the maximum physical loss loan made under this Subpart, an additional loan must be made to repair, restore or replace damaged or destroyed essential farm property, the loan will bear the market rate of interest.

(x) The actual physical loss for income-producing trees is the cost of removing the damaged or destroyed trees, cleaning debris and preparing the land for replanting, plus the cost of suitable replacement trees and other expenses necessary to re-establish income-producing trees.

(xi) The actual physical loss for crops or pasture is the cost of cleaning debris, preparing the land for replanting, seed, fertilizer, and other expenses necessary to re-establish the crops or pasture. These costs can exceed the market value of the crops or pasture at the time of the disaster.

(xii) When a crop cannot be planted during the disaster year due to the disaster and the applicant chooses to treat the loss as physical loss, the actual physical loss is limited to the cost of land preparation, other expenses incurred to the date of the disaster for crops that could not be planted, and pro rata share of the total operation's fixed costs such as rent, taxes, and insurance. The applicant must give the lender an itemized list of all the claimed expenses incurred in the disaster year for those enterprises for which disaster losses are claimed. This list must be signed by the applicant. The amount of an actual loss loan cannot exceed the total itemized expenses listed by the applicant.

(3) *Compensation to FmHA for losses.* Compensation for losses from a disaster through insurance or government program(s) benefits reduces the applicant's actual loss by the amount of such compensation and this reduces the amount of the EM actual loss loan. The amount of any benefits from ASCS programs including the Emergency Livestock Feed Program (LFP), Emergency Conservation Measures (ECM) payments, Sugar Abandonment or Deficiency payments, and Disaster payments will be considered as compensation for losses. Also, the amount of any crop, livestock or livestock product *physical loss* loan must be deducted from any *production loan* based on losses to the same enterprise(s) for which an applicant later qualifies.

(d) *Loan purposes.* EM guaranteed loans may be made for the following purposes.

(1) *Loans for actual losses.*

(i) EM guaranteed actual loss loans may be made to applicants for the amount of actual loss as determined in § 1980.170(c) of this Subpart and to pay expenses connected with disaster damaged or destroyed farm property, or production enterprises or both, resulting from the disaster. Actual loss loan funds must be used for an authorized EM loan purpose. Applications for an EM guaranteed actual loss loan must be processed within one (1) calendar year after they are filed.

(ii) EM loans will not be made to flood and mudslide victims to repair or replace damaged or destroyed farm dwellings or farm service buildings and their contents in areas where National Flood Insurance is available, except as authorized in Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

(iii) When an applicant has *only housing* losses and is eligible for an SBA physical loss loan in an area where SBA physical loss loans are available, only SBA will make the loan for restoration or replacement of farm housing.

(iv) Loans may be made to pay reasonable expenses customarily paid when obtaining, planning, and closing an actual loss loan, such as fees for legal, architectural and other technical services, and loan fees authorized in § 1980.22 of Subpart A of this Part, which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of social security taxes for labor hired by the borrower in connection with land building development.

(2) *Annual production purposes.* After an initial EM guaranteed annual production loan is made for annual operating purposes, subsequent guaranteed EM loans may be made for annual production purposes, provided no more than five (5) annual subsequent EM loans are made per disaster and provided they are made within six (6) full calendar years after the disaster, EM guaranteed loans for annual production may be made for:

(i) Payment of annual production expenses.

(ii) Payment of family living expenses.

(iii) Refinancing a small amount of debt.

(3) *Major adjustments to the operation.* An EM guaranteed major adjustment loan may be made to sustain the operation and to overcome the financial difficulties caused by the disaster. The resulting operation must be one which does not substantially increase the overall size of the pre-disaster operation, does not realize a net farm income (gross income less annual farm operating expenses) substantially greater than that of the normal operation conducted before the disaster, and is financially sound. Applications for loans may not be received for such purposes later than one full calendar year after the declaration or authorization date.

(i) Real estate purposes (Subtitle A). The following are authorized real estate purposes and funds received under a guaranteed EM major adjustment loan for real estate (Subtitle A) purposes may be used to:

(A) Purchase real estate necessary to (these funds may be used in conjunction with loss funds):

(*1*) Replace land that cannot be restored due to the disaster;

(*2*) Establish a site for farm dwellings and service buildings so that the applicant can relocate outside of a flood or mudslide prone area; and

(*3*) Replace land necessary to restore an effective operation which was liquidated as a result of the natural disaster before an EM loan could be made.

(B) Construct, buy, or improve buildings and facilities needed on the applicant's farm, including:

(*1*) The construction of an essential farm dwelling and service buildings of modest design and cost, including facilities and structures for nonfarm and recreational enterprise uses or fish farming such as docks, fish hatcheries, shooting blinds, refreshment or marketing stands, processing or assembly plants, sales buildings, repair shops, lodging facilities, trailer parks,

picnic areas, target ranges, tennis courts, shuffleboard courts, golf driving ranges, campsites and modest rental housing.

(2) The improvement, alteration, repair, replacement, relocation, or purchase and transfer of such essential dwellings and service buildings, facilities, structures and fixtures that become part of the real estate or customarily pass with the farm when it is sold. This includes pollution control and energy saving devices.

(3) The purchase and/or installation of water and sewage systems and other equipment, including pollution control and energy saving devices necessary to operate a farm and/or a nonfarm enterprise, provided the items upon installation become part of the real estate, or customarily pass with the farm when it is sold.

(C) Provide land and water development, pollution control and energy saving measures; acquire water supplies and rights; and promote the use and conservation essential to the operation of the farm and any nonfarm enterprise facilities. This includes providing fencing, drainage and irrigation facilities, basic applications of lime and fertilizer, and facilities for land clearing. This also includes establishing approved forestry practices, fish ponds, trails and lakes; inproving orchards; and establishing and improving permanent hay or pasture. Sources of water may be located outside the land owned provided appropriate rights or easements are obtained to ensure that the water and rights will pass with the farm when it is sold. The funds for land and water development may include the costs of machinery and equipment needed to do the development only when the total cost of the development and machinery or equipment would not exceed the cost of contracting the work or hiring the labor and machinery needed to do it. Loan funds may be used to pay that part of the cost of facilities, improvements and "practices" which will be paid for in connection with participation in such programs as the Agricultural Conservation or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000 the applicant will assign the payment to the lender.

(1) Funds may be used for development costs on land owned with defective title providing:

(i) There is adequate security for the loan,

(ii) The tract with defective title is not included in the appraisal report; and

(iii) Not more than $25,000 is loaned to an applicant to use for development costs on a tract with defective title.

(2) Funds may be used for real estate improvements or repairs on land leased by the applicant if the following conditions are met:

(i) The lender makes the following determinations before a loan is made to a tenant for real estate improvements:

(A) EM loans will not be needed year after year to make substantial real estate improvements.

(B) The applicant is likely to continue to operate the farm for a sufficient period of time and under such terms as will yield a reasonable return on the investment.

(C) The applicant has reasonably secure tenure for a long enough period to enable the tenant to realize adequate benefits to justify the expenditures.

(ii) A written lease is obtained which provides for payment, to the tenant or assignee, for any unexhausted value of the improvement if the lease is terminated;

(iii) There is adequate security for the loan; and

(iv) Not more than $50,000 is loaned to a tenant for real estate improvement, repairs, or for refinancing unsecured debts clearly incurred for such purposes.

(D) Refinance secured and unsecured debts.

(E) Pay reasonable expenses customarily paid when obtaining, planning, making and closing a real estate purpose loan, such as fees for legal, architectural and other technical services, and loan fees authorized in § 1980.22 of Subpart A of this Part, which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with land and building development.

(F) Finance a nonfarm enterprise when it will provide another source of necessary income even though the owned acreage for such enterprise is not physically located on the farmland.

(G) Pay the first year premium for required insurance on buildings on the property which are to serve as security for the loan. Buildings will be insured in accordance with Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1), except when the appraisal report shows that the land alone adequately secures the loan. However, the applicant will be encouraged to take property insurance on essential buildings to protect the applicant's own interest. Borrowers eligible for insurance under the National Flood Insurance Act of 1968 will be advised of its availability in accordance with Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

(ii) Operating purposes (Subtitle B). The following are authorized operating purposes and funds received under a guaranteed EM major adjustment loan for operating (Subtitle B) purposes may be used to:

(A) Purchase machinery and equipment, livestock, poultry, fur bearing and other farm animals, aquatic organisms, birds, tools, bees, and supplies, or to purchase an individual's or entity's undivided interest in such items, and pay costs incidental to reorganizing the farming system for a sound operation.

(B) Purchase and repair essential home equipment and furnishings, and pay for family living expenses and home equipment repairs required by the applicant family to sustain itself in a reasonably satisfactory manner.

(C) Refinance secured and unsecured debts, including FmHA debts.

(D) Purchase milk base either with or without cows, when such action is necessary to assure the borrower a satisfactory market for dairy production.

(E) Purchase grazing licenses, permits, or rights which can be validly sold and transferred.

(F) Augment and improve existing water supplies in order to alleviate the adverse effects of drought and other natural disasters.

(G) Purchase membership and stock in farm purchasing, marketing, or service-type cooperative associations, including grazing associations.

(H) Pay a creditor in any one year an amount not to exceed 20 percent of the appraised market value of the essential farm and nonfarm equipment under prior lien to that creditor, or 20 percent of the amount owed to such creditor, whichever is less.

(I) Purchase a franchise, contract, or privilege when necessary to the operation of the planned enterprise.

(J) Make a partial payment on crop storage and drying facilities when the Commodity Credit Corporation, through the ASCS, is providing the rest of the credit under the Commodity Credit Corporation Farm Storage and Drying Equipment Loan Program.

(K) Pay reasonable expenses customarily paid when obtaining, planning, making, and closing an operating purpose loan, such as fees for legal, architectural and other technical services, and loan fees authorized in § 1980.22 of Subpart A of this Part, which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with land and building development.

(e) *Rates and terms.*

(1) *Interest rates.* Interest will be charged only on the actual amount of loan funds borrowed and for the actual time the loan is outstanding. The interest rate initially established for each loan will remain constant during the existence of the FmHA guarantee. Interest on protective advances made by the lender to protect the security may be charged at the rate specified in the security instruments.

(i) For disasters occurring on or after July 1, 1976, and prior to October 1, 1978, EM loans for actual losses approved by FmHA on or after October 1, 1978, will be at 3 percent interest with a maximum loss loan limitation of $250,000.

(ii) For disasters occurring on or after October 1, 1978, EM loans for actual losses will bear interest at an annual rate of 5 percent.

(iii) EM major adjustment and annual operating loans will bear interest at the rate prevailing in the private market for similar loans, as determined by the Secretary of Agriculture. The Secretary will review the interest rate periodically and may establish a new rate, if necessary. Lenders can ascertain the current established market rate for EM loans by contacting any FmHA office. (See FmHA Instruction 440.1, Exhibit B, a copy of which is available in any FmHA office.)

(2) *Scheduling and application of payments.* As is explained in subparagraphs (i), (ii) and (iii) of § 1980.170(e)(1) of this Subpart, different types of EM loans bear different rates of interest. Sometimes, one part of a loan will bear interest at one rate and a second part of the loan will bear interest at another rate. Payments will be scheduled and applied in such a manner as to repay principal and interest on that portion of the loan bearing the lower interest rate before principal payments are scheduled for that portion of the loan bearing the higher rate. Although principal payments are deferred on that portion of the loan bearing interest at the higher rate, interest must be collected on that portion of the loan in accordance with § 1980.124(c) of this Subpart.

(3) *Terms of loans.* Loans will be scheduled for repayment at such time as the lender may decide, consistent with the purpose of and need for the loan, and in accordance with the useful life of the security and the repayment ability of the applicant as reflected by the plan of operation. Form FmHA 431-2, "Farm and Home Plan" may be used in establishing a plan of operation or the lender may submit a plan of operation without utilizing FmHA forms. An annual installment must be made unless a deferment is authorized in accordance with § 1980.124 of this Subpart.

(i) Operating purposes.

(A) Loan terms for items financed under § 1980.170(d)(1) for operating purposes or § 1980.170(d)(3)(ii) or § 1980.170(d)(2) of this Subpart will be for a period not to exceed 7 years. Loans may be scheduled for a longer repayment period if the lender determines that the needs of the applicant justify a longer repayment period. Such period may be approved as warranted but cannot exceed 20 years. Generally, real estate will be needed as security when the longer repayment period is authorized. When the longer period is used, rescheduling is *not authorized.*

(B) Advances for annual recurring operating expenses, or for paying bills incurred for such purposes for the operating or crop year being financed will be scheduled for payment when the principal income from the year's operation is normally received.

(C) Advances to purchase or produce feed for productive livestock or livestock to be fed for the market, or to pay bills incurred for such purposes for the crop year being financed will be scheduled for repayment when the principal income from the sale of such livestock or livestock products can be expected.

(D) When conditions warrant, installments may vary in amount. However, the final installment will not be larger than the amount which can then be financed with other agricultural lenders or be repaid within a rescheduled period of not to exceed 7 years. The applicant must be advised before the loan is closed that the lender will review each case at the end of the initial loan term to determine if such rescheduling is warranted. (See § 1980.124 of this Subpart.)

(ii) Loans for actual losses for real estate purposes as set forth in § 1980.170(d)(1) and loans made for the purposes set out in § 1980.170(d)(3)(i) of this Subpart will be repaid in accordance with the useful life of the security and the repayment ability of the applicant but not to exceed 40 years.

(4) *Consolidation, rescheduling, reamortizing and deferment of initial and subsequent loans.* See § 1980.124 of this Subpart for the rates and terms governing these actions.

(f) *Collateral requirements.* The requirements of § 1980.108(a) must be met.

(1) *Lien priority.* When the same lender is involved in a guaranteed loan and an unguaranteed loan, the guaranteed loan must be adequately secured by a lien on separate security that is clearly identifiable or by a lien of a higher priority if the same property is used to secure both loans. The lender must agree in writing that the guaranteed loan will be paid first.

(2) *Collateral for EM loans.*

(i) The lender is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA.

(ii) Except for the modifications contained in subparagraph (4)(i) of this section, collateral must be of such a nature that repayment of the loan is reasonably assured considering the integrity and ability of the applicant's management, soundness of the operation, and the applicant's prospective earnings. Collateral may include, but is not limited to, the following: land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, personal and corporate guarantees, marketable securities, and cash surrender value of life insurance. Collateral may also include assignments of leases or leasehold interest, revenues, patents, and copyrights.

(iii) All collateral must secure the entire loan. The lender may not take separate collateral to secure only that portion of the loan or loss not covered by the guarantee. The lender may not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan. However, compensating balances or certificates of deposit as used in the ordinary course of business may be used.

(3) *Personal and corporate guarantees.*

(i) Personal guarantees from principal stockholders in a corporation and all partners of a partnership usually will be required. Guarantees of parent, subsidiaries, or affiliated companies may also be required. Guarantees will be required in sufficient amounts depending on the credit factors in each loan to reasonably assure repayment of the loan and provide adequate security.

(ii) An exception to the requirements for personal guarantees or corporate guarantees may be granted by FmHA if the proposed guarantors provide written evidence through the lender to FmHA that they cannot provide such guarantee due to other existing contractual obligations or legal restrictions. For those applicants providing documented evidence of successful operations for the past 3 years, guarantees will be obtained as determined by FmHA.

(iii) If a review of all credit factors indicates the need for additional security, FmHA may require additional personal and corporate guarantees. FmHA also may require that such guarantees be secured. Any collateral

referred to in paragraph (2)(ii) of this section may be used to secure the guarantees.

(iv) Guarantors of applicants will:

(A) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing), signed by the guarantors and disclosing community or homestead property.

(B) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing), certified by an officer of the corporation.

(4) *Additional requirements.*

(i) If the present market value of the collateral is not in an amount at least equal to the amount of the loan, the applicant's repayment ability may be considered by the lender and FmHA (provided the FmHA loan approval official's opinion is based on the evaluation set forth in § 1980.114 of this Subpart) in determining whether the loan should be made. When the applicant's repayment ability is so considered, the following conditions must also be met:

(A) The collateral has depreciated in value due to the disaster; and

(B) The applicant's typical operating plans indicate ability to pay the loan in full in a period not exceeding 7 years; and

(C) The applicant will give a lien on all available security, and

(D) The agreement between the lender and FmHA concerning the applicant's repayment ability will be indicated on Form FmHA 449-14.

(ii) The lien position securing credit by the lender outside the guarantee must be junior to any liens taken for the guaranteed EM advances, or by a lien on other collateral.

(iii) When the same lender is involved in an EM guaranteed loan and a separate unguaranteed loan and there will be like security for each, the EM guaranteed loan must be adequately secured by (1) a lien on separate security that is clearly identifiable, or (2) a lien of a higher priority if the same property is used to secure both loans. In the latter case when the same security secures both loans the lender must agree in writing that the scheduled installments on the EM guaranteed loan will be paid first.

(iv) The use of escrow accounts by lenders to maintain ongoing operations will be established. This requirement is imposed by FmHA for the purposes of assisting the lender in maintaining security and in order that the lender and FmHA will have available a record of the use of both loan funds and funds received in the normal course of a borrower's operation, such as proceeds received from the sale of security. Such funds placed in such an account must be assigned as collateral for the guaranteed loan made by the lender and provided further that the value of the security and the lien position of such loan is maintained. Funds disbursed will be only for authorized EM loan purposes. Lenders will maintain a running record of funds placed in, and disbursed from, the account.

(v) The lender must ascertain that the borrower has marketable title to the collateral pledged for the loan and there are no claims or liens of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment or other parties against such collateral, and that no suits are pending or threatened that would adversely affect the borrower's collateral when the security instruments are filed.

(vi) Hazard insurance with standard mortgage clause naming the lender as beneficiary will be required when necessary to properly protect the interests of the Government and the lender on every loan in an amount that is at least the lesser of the replacement cost of the real estate property being insured or the amount of the loan. Insurance may be required on personnal property when the loan approval official determines that it is necessary to protect the interests of the Government and the lender.

(vii) If the applicant's repayment ability is being considered in determining whether the loan should be made, and FmHA and the lender agree, life insurance will be required for the individual borrower or for the principals and key employees of the borrower and will be assigned or pledged to the lender. This life insurance may be decreasing term insurance. A schedule of life insurance available for the benefit of the loan will be included as part of the application.

Administrative: The County Supervisor will review and determine whether the lender has required the necessary security to be taken. If necessary, advice and assistance will be sought from the District Director.

(g) *Receiving applications.* Applications for EM loan guarantees will be received only in designated areas where EM loans are made available and only during an authorized period.

(h) *Additional EM loan guarantees.* Guarantees of additional EM loans may be made at the prevailing rate for the same purposes and under the same conditions as an initial EM loan, under the following conditions.

(1) When the applicant did not obtain a loan for the amount of the maximum loss loan authorized as shown by the loss statement filed, the applicant may, within 1 year after the date of the request for Loan Note Guarantee, be considered for an additional loan guarantee, based on the initial application, for all or a portion of the loss balance not requested initially.

(2) Additional loans for major adjustments to the farming operation made under subparagraph (d)(3) of this Section must be made within 1 full calendar year after the designation date.

(3) New appraisal reports for real estate are not required if the appraisal report in the lender's file is not over two years old unless the approval official requests a new appraisal report or unless there has been a significant change in the market value of real estate in the area within the two years. Any changes in the value of real or chattel security will be recorded, dated, and initialed by the authorized appraiser on the appropriate appraisal reports in the lender's file.

Administrative: A. Where security will be taken under the conditions of § 1980.170(f)(2)(iv), the FmHA will determine whether an insured loan will be made to the applicant instead of a guaranteed loan.

B. The County Supervisor will give written notice to eligible lenders in the County Office service area where FmHA will guarantee loans. This notification will specify the type of disaster, the designated county or counties, the termination date for receiving EM loan applications, the incidence period for the disaster, and the Disaster Designation Number.

§ 1980.171-1980.174 [Reserved]

§ 1980.175 Operating loans.

(a) *Objectives.* The basic objective of the guaranteed OL loan program is to provide the credit necessary for family farmers and ranchers to conduct successful operations. This assistance enables family farm operators to make efficient use of their land, labor and other resources, to improve their living conditions and to improve their overall economic situation.

(b) *Loan eligibility requirements.*

(1) An individual must:

(i) Be a citizen of the United States (See § 1980.106(b)(29) for the definitions of "United States").

(ii) Possess the legal capacity to incur the obligations of the loan.

(iii) Have sufficient training or farming experience to assure reasonable prospects of success in the proposed operation.

(iv) Need to rely on farm income and any other income to provide a level of living comparable with that considered reasonably adequate for the area. In making this determination, the lender and the FmHA County Committtee should consider:

(A) Any special family circumstances such as size, health, and education.

(B) The estimated typical income of reasonably successful residents in the area.

(C) Whether the off-farm work will interfere with the successful operation of the farm.

(D) That the guidelines listed in subparagraphs (A), (B) and (C) above are provided to permit lenders and County Committees to use judgment on individual cases. They are not intended to prevent making loans to applicants who already have off-farm income that is typical of other reasonably successful residents in the area when that income will be reduced significantly or end not later than three full crop years after the loan is closed.

(v) Have the character (as related solely to debt repayment ability and reliability), managerial ability and industry necessary to carry out the proposed operation.

(vi) Honestly try to carry out the conditions and terms of the loan.

(vii) Be unable to obtain sufficient credit without a guarantee to finance actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(viii) Be an owner-operator or tenant-operator of not larger than a family farm after the loan is closed.

(2) A cooperative, corporation or partnership must:

(i) Be unable to obtain sufficient credit without a guarantee to finance actual needs at reasonable rates and terms, taking into account prevailing private and cooperative rates and terms in or near the community for loans for similar purposes and periods of time. This applies to the entity and all of its members, stockholders, or partners, as individuals.

(ii) Be controlled by farmers or ranchers engaged primarily and directly in farming or ranching in the United States after the loan is made.

(iii) Consist of members stockholders or partners who do not as individuals have either a guaranteed or insured FO, SW, RL or OL loan and are not members of another entity or have interest in another entity that has either a guaranteed or insured FO, SW, RL or OL loan.

(iv) If the members, stockholders, or partners holding a majority interest are related by marriage (that is, the legal union of a man and woman as husband and wife) or blood:

(A) They must be citizens of the United States (See § 1980.106(b)(29) of this Subpart for the definition of "United States").

(B) They must have sufficient training or farming experience to assure reasonable prospects of success in the proposed operation.

(C) They and the entity itself must have the character (as related solely to debt repayment ability and reliability), managerial ability and industry necessary to carry out the proposed operation.

(D) They and the entity itself will honestly try to carry out the conditions and terms of the loan.

(E) At least one member, stockholder, or partner must operate the family farm.

(F) The entity must operate the farm and be authorized to own or operate a farm in the State(s) in which the farm is located.

(v) If the members, stockholders, or partners holding a majority interest are *not* related by marriage or blood:

(A) The requirements of subparagraphs (b)(2)(iv) (A) through (D) must be met.

(B) They and the entity itself must operate the family farm.

(C) The entity must operate the farm and be authorized to do so in the State(s) in which the farm is located.

(c) *Loan purposes.* Loans may be made for farm, forestry, recreation and nonfarm enterprises for the following purposes, when such purposes are essential to the operation:

(1) Purchase of farm machinery and equipment, livestock, poultry, fur bearing and other farm animals, fish, worms, birds, bees, tools, and inventories, or to purchase an individual undivided interest in such items.

(2) Payment of annual operating expenses.

(3) Payment of family living expenses.

(4) Refinancing debt incurred for any authorized operating loan purpose other than FmHA debts.

(5) Purchase of membership and stock in a farm purchasing, marketing, or service-type cooperative association, including a grazing association.

(6) Purchase and repair of essential home equipment.

(7) Purchase of milk base or milk quota with or without cows.

(8) Not more than $7,500 in a fiscal year for real estate improvements or repairs. The following determinations must be made by the lender before a guaranteed OL loan is made for real estate improvement:

(i) Loans will not be needed year after year for this purpose.

(ii) The applicant owns the farm or has tenure arrangements, including a compensation agreement, sufficient to obtain a reasonable return on the investment.

(9) Payments to a creditor. In any one year, OL funds used to make these payments cannot exceed 20 percent of the appraised market value of the essential farm and nonfarm equipment and livestock under a prior lien to that creditor, or 20 percent of the amount owed to such creditor, whichever is less.

(10) Purchase of a franchise, contract, or privilege when necessary to the operation of the planned enterprise.

(11) Partial payment for the purchase and construction of crop storage and drying facilities when the Commodity Credit Corporation, through the Agricultural Stabilization and Conservation Service (ASCS), is providing a part of the credit under the Commodity Credit Corporation Farm Storage and Drying Equipment Loan Program.

(d) *Loan limitations.* The total outstanding guaranteed OL principal balance may not exceed $200,000 at loan closing. Loans may not be made for the purchase of real estate, making principal payments on real estate, or refinancing any debts incurred for the purchase of real estate. In addition, loans may not be made to pay land lease costs under any program other than cash rent.

(e) *Interest rates.* The interest rate will be a fixed or variable rate agreed upon by the borrower and the lender, *except* the lender may not charge a rate in excess of its best rate to its best farm customers. Variable rates may change according to the normal practices of the lender for its best farm customers. Best farm customers are those conventional farm borrowers who are required to pledge their crops, livestock and other chattel and real estate security for the loan. This does not include those high risk farmers with limited security and management ability that are generally charged a higher interest rate by conventional agricultural lenders. Also, this does not include those low risk farm customers who obtain financing on a secured or unsecured basis who have as collateral such items as savings accounts, time deposits, certificates of deposit, stocks and bonds, and life insurance which they are able to pledge for the loan. Interest will be charged only on the actual amount of funds loaned and for the actual time the loan is outstanding. Interest on protective advances made by the lender to protect the security may be charged at the rate specified in the security instruments.

(f) *Terms.*

(1) The final maturity date for each loan cannot exceed 7 years from the date of the promissory note.

(2) Ordinarily, loan funds used to pay annual operating expenses or bills incurred for such purposes for the crop year being financed will be scheduled for payment when the income from the year's operation is to be received. Under certain circumstances these payments may be scheduled over longer periods. Circumstances which warrant an extended repayment schedule are factors such as establish-

ing a new enterprise, developing a farm, purchasing feed while feed crops are being established or during recovery from disaster or economic reverses. Crops only are not sufficient security when repayment is scheduled over the longer period.

(3) Advances for purposes other than those for annual operating expenses will be scheduled for payment over the minimum period necessary considering the applicant's ability to pay and the useful life of the security, but not in excess of seven years.

(4) When conditions warrant, installments scheduled in accordance with paragraph (f)(2) of this section may include equal, unequal, or balloon installments. The amount ballooned should not exceed that which the borrower could reasonably expect to pay during a maximum additional 7 year period. The applicant must be advised before the loan is closed that the lender will review each case at the end of the intitial loan term to determine if such rescheduling is warranted. (See § 1980.124 of this Subpart.)

(g) *Security.* Ordinarily, the security must be adequate in the opinion of the lender to assure repayment of the loan. If the security alone is inadequate, then the applicant's repayment ability will also be considered by the lender and FmHA (provided the FmHA loan approval official's opinion is based on the evaluation set forth in § 1980.114 of this Subpart) in determining whether loan should be made. However, when a loan is made for refinancing purposes, the amount refinanced may not exceed the value of the security. The agreement between the lender and FmHA concerning the applicant's repayment ability will be indicated on Form FmHA 449-14. The loan must be secured by a first lien on all property or products acquired, produced, or refinanced with loan funds and by any additional security needed. Such additional security may consist of the best lien obtainable on chattels, real estate or other property.

(h) *Other considerations.*

(1) Applicants will be advised by the lender that they are expected to comply with any applicable special laws and regulations.

(2) Applicants receiving loans for nonfarm enterprise will be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance.

§ 1980.176-1980.179 [Reserved]

§ 1980.180 Farm ownership loans.

(a) *Objectives.* The basic objectives of the Farmers Home Administration (FmHA) in guaranteeing farm ownership (FO) loans are to assist eligible applicants to become owner-operators of family farms, to make efficient use of land, labor and other resources, to carry on sound and successful operations on the farm and to enable farm families to have a reasonable standard of living. The operations may include establishment or enlargement of nonfarm enterprises to supplement the farm income. These objectives will be accomplished through the extension of credit and necessary servicing by the lender as required.

(b) *Preference.* Preference will be given by the lender as between applications on file at the same time when it appears that available funds will be inadequate to meet the needs of all applicants in the following cases:

(1) An application from a veteran, as defined in § 1980.106(b)(32) of this Subpart, will be given preference over one from a nonveteran.

(2) An application for a loan for land purchase from an applicant who is (1) married or has a dependent family, or (2) an owner of livestock and farm implements necessary to successfully carry on farming operations, or (3) able to make downpayments will be given preference over one from an applicant who does not meet any of these criteria.

(c) *Farm ownership loan eligibility requirements.*

(1) An individual must:

(i) Be a citizen of the United States (see § 1980.106(b)(29) of this Subpart for the definition of "United States").

(ii) Possess the legal capacity to incur the obligations of the loan.

(iii) Have sufficient training or farming experience to assure reasonable prospects of success in the proposed operation.

(iv) Need to rely on farm income and any other income to provide a level of living comparable to that considered reasonably adequate for the area. In making this determination, the lender and the FmHA County Committee should consider:

(A) Any special applicant circumstances such as size of family, health, and education.

(B) The estimated typical income of reasonably successful residents in the area.

(C) Whether the off-farm work will interfere with the successful operation of the farm.

(D) That the guidelines listed in subparagraphs (A), (B) and (C) above are provided to permit lenders and county committees to use judgment on individual cases. They are not intended to prevent making loans to an applicant who already has off-farm income that is typical of other reasonably successful residents in the area when that income as shown by a typical year plan, will be reduced or will end not later than three full crop years after the loan is closed.

(v) Have the character (as related solely to debt repayment ability and reliability), managerial ability and industry to carry out the proposed operation.

(vi) Honestly try to carry out the conditions and terms of the loan.

(vii) Be unable to obtain sufficient credit without a guarantee to finance actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(viii) Be the owner-operator of not larger than a family farm after the loan is closed.

(2) A cooperative, corporation or partnership must:

(i) Be unable to obtain sufficent credit without a guarantee to finance actual needs at reasonable rates and terms, taking into account prevailing private and cooperative rates and terms in or near the community for loans for similar purposes and periods of time. This applies to entity and all of its members, stockholders, or partners, as individuals.

(ii) Be controlled by farmers or ranchers engaged primarily and directly in farming or ranching in the United States after the loan is made.

(iii) Consist of members, stockholders, or partners who do not as individuals have either a guaranteed or insured FO, SW, RL or OL loan and are not members of another entity or have an interest in another entity that has either a guaranteed or insured FO, SW, RL or OL loan.

(iv) If the members, stockholders, or partners holding a majority interest are related by marriage (that is, the legal union of a man and woman as husband and wife) or blood:

(A) They must be citizens of the United States (see § 1980.106 (b)(29) for the definition of "United States").

(B) They must have sufficient training or farming experience to assure reasonable prospects of success in the proposed operation.

(C) They and the entity itself must have the character (as related solely to debt repayment ability and reliability), managerial ability and industry necessary to carry out the proposed operation.

(D) They and the entity itself will honestly try to carry out the conditions and terms of the loan.

(E) At least one member, stockholder or partner must operate the family farm.

(F) The entity must own *and* operate the farm and be authorized to do so in the State(s) in which the farm is located.

(v) If the members, stockholders, or partners holding a majority interest are *not* related by marriage or blood:

(A) The requirements of subparagraphs (c)(2)(iv) (A) through (D) must be met.

(B) They and the entity itself must own *and* operate the family farm.

(C) The entity must own *and* operate the farm and be authorized to do so in the State(s) in which the farm is located.

(d) *Loan purposes.* Loans that are consistent with all Federal, State and local environmental quality standards may be made to:

(1) Purchase or enlarge a farm, including any land for recreation or other nonfarm enterprise. This may include:

(i) Purchasing easements and rights-of-way needed to operate the farm or nonfarm enterprise.

(ii) An applicant's portion of the cost of land which is being subdivided.

(iii) Making a downpayment on the purchase of land under the following conditions:

(A) A deed is obtained by the borrower and the unpaid balance on the loan is secured by a note and mortgage or an acceptable land purchase contract or similar instrument.

(B) The applicant can meet the loan terms under normal farm conditions.

(C) The conditions and the requirements of any prior mortgage or contract meet the security requirements for taking a junior lien as shown in subsection (g)(2)(iii) of this section.

(D) A purchase contract is signed which obligates the purchaser to pay the purchase price, gives the purchaser the rights of present possession, control, and beneficial use of the property, and entitles the purchaser to a deed upon paying all or a specific part of the purchase price.

(2) Construct, buy, or improve buildings and facilities needed on the applicant's farm, including:

(i) The construction of an essential farm dwelling and service buildings of modest design and cost, including facilities and structures for nonfarm enterprise uses or fish farming such as docks, fish hatcheries, shooting blinds, refreshment or marketing stands, processing or assembly plants, sales buildings, repair shops, lodging facilities, trailer parks, picnic areas, target ranges, tennis courts, shuffleboard courts, golf driving ranges, campsites, and modest rental housing. For dwelling improvement or construction, consideration may be given to additional space required for facilities used for food preparation and storage, vehicle storage, or laundry and office space, the size and cost of which will not exceed that owned by typical family farmers in the area.

(ii) The improvement, alteration, repair, replacement, relocation, or purchase and transfer of such essential dwellings and service buildings, facilities, structures and fixtures that become part of the real estate or customarily pass with the farm when it is sold. This includes pollution control and energy saving devices.

(3) Provide land and water development, pollution control and energy saving measures, acquire water supplies and rights, and promote the use and conservation essential to the operation of the farm and any nonfarm enterprise facilities. This includes providing fencing, drainage and irrigation facilities, basic applications of lime and fertilizer, and facilities for land clearing. This also includes establishing approved forestry practices, fish ponds, trails and lakes; improving orchards; and establishing and improving permanent hay or pasture. Sources of water may be located outside the land owned provided appropriate rights or easements are obtained to ensure that the water and rights will pass with the farm when it is sold. The funds for land and water development may include the costs of machinery and equipment needed to do the development only when the total cost of the development and machinery or equipment would not exceed the cost of hiring someone to do the development work. Also, loan funds may be used to pay that part of the cost of facilities, improvements and "practices" which will be paid for in connection with participation in such programs as the Agricultural Conservation or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000, the applicant will assign the payment to the lender.

(i) Funds may be used to pay for development costs on land owned with defective title (see subsection (g)(2) of this section) or on land in which the applicant owns an undivided interest, provided:

(A) The amount of loan funds used on such land is limited to $25,000;

(B) There is adequate security for the loan; and

(C) The tract with defective title or undivided interest is not included in the appraisal report.

(ii) Funds may be used to pay for development costs on land leased by the applicant provided:

(A) The terms of the lease are such that there is reasonable assurance the applicant will have use of the improvement over its useful life;

(B) A written lease provides for payment to the tenant or assignee of any unexhausted value of the improvement if the lease is terminated;

(C) There is adequate security for the loan; and

(D) The amount of loan funds used for improvements on leased land will not exceed $10,000.

(4) Refinance debts subject to the following:

(i) The applicant's present creditors will not furnish credit at rates and terms the applicant can meet.

(ii) The lender will verify the need to refinance all secured debts and major unsecured debts. The unpaid balance on the debts to be refinanced will also be verified.

(5) Pay reasonable expenses incidental to obtaining, planning, closing and making the loan, such as fees for legal, architectural and other technical services, first year insurance premiums, and loan fees authorized in § 1980.22 of Subpart A of this Part, which are required to be paid by the borrowers and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with land and building development.

(6) Finance a nonfarm enterprise when it will provide another source of necessary income even though the owned or purchased acreage for such enterprise is not physically located on the farmland.

(7) Purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

(e) *Loan limitations.* A guaranteed FO loan will not be approved if:

(1) The borrower has outstanding FO, Soil and Water (SW) or Recreation (RL) loans, and making the requested loan will cause the borrower's total unpaid principal indebtedness for these loans to exceed the lesser of $300,000 or the market value of the farm or other security.

(2) The noncontiguous character of a farm containing two or more tracts is such that an efficient farming operation and nonfarm enterprise cannot be conducted due to the distance between tracts or due to inadequate rights-of-way or public roads between tracts.

(f) *Rates and terms.*

(1) Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

(2) The interest rate will be a fixed or variable rate agreed upon by the borrower and lender, *except* the lender may not charge a rate in excess of its best rate to its best farm customers. Variable rates may change according

to the practices of the lender for its best farm customers. Best farm customers are those conventional farm borrowers who are required to pledge their crops, livestock and other chattel and real estate security for the loan. This does not include those high risk farmers with limited security and management ability that are generally charged a higher interest rate by conventional agricultural lenders. Also, this does not include those low risk farm customers who obtain financing on a secured or unsecured basis who have as collateral such items as savings accounts, time deposits, certificates of deposit, stocks and bonds, and life insurance which they are able to pledge for the loan.

(3) Installments on loans may be deferred in accordance with § 1980.124(c) of this Subpart.

(g) *Security.*

(1) Each guaranteed FO loan will be secured by real estate only or by a combination of real estate and chattels or other security.

(2) When obtaining real estate security the following will apply:

(i) A mortgage will be taken on the entire farm owned or to be owned by the applicant, including land in which the applicant owns an undivided interest, except a portion of the farm will be excluded when:

(A) The applicant's title to that part of the farm is defective, and cannot be cleared at a reasonable cost provided:

(*1*) The lender determines the applicant's interest is of such nature that it is not mortgageable;

(*2*) To include the land would complicate loan servicing or liquidation; and

(*3*) Any land on which title is defective will not be included in the appraisal of the farm whether or not it is described on the mortgage.

(B) The present lienholder on that part of the farm will not permit a junior lien or State law will not recognize or permit a lien provided the part excluded from the security is not included in the appraisal report.

(C) Soundness of the loan will not be affected if there is defective title or part of the farm is not included as security for the loan.

(ii) When the farm alone will not provide enough security, other real estate owned by the applicant may also be taken as security.

(iii) Loans may be secured by a junior lien on real estate provided:

(A) Prior lien instruments do not contain provisions for future advances (except for taxes, insurance, other costs needed to protect the security, or reasonable foreclosure costs), cancellation, summary forfeiture, or other clauses that may jeopardize the Government's or the lender's interest or the applicant's ability to pay the guaranteed FO loan unless any such undesirable provisions are limited, modified, waived or subordinated insofar as the Government and the lender are concerned.

(B) Agreements are obtained from prior lienholders to give notice of foreclosure to the lender whenever State law or other arrangements do not require such a notice.

(iv) Any loan of $10,000 or less may be secured by the best lien obtainable without title clearance or legal services normally required, provided the lender believes from a search of the county records that the applicant can give a mortgage on the farm. This exception to title clearance will not apply when land is to be purchased.

(3) Loans may be secured by chattels subject to the following conditions:

(i) There is not enough real estate security for the loan and the best lien obtainable on the farm has been taken.

(ii) Taking a lien on chattels will not prevent the borrower from obtaining operating credit from other sources or the FmHA.

(iii) Junior liens on chattels may be taken when there is enough equity in the property. However, when practical, a first lien on selected chattel items should be obtained.

(iv) A first lien will be taken on equipment or fixtures bought with loan funds whenever such property cannot be included in the real estate lien and this additional security is needed to secure the loan.

(v) The lender is responsible for obtaining the lien on chattel security and keeping it effective as notice to third parties.

(4) Other items or property may be taken as additional security when needed. These include:

(i) Items such as land, buildings, fixtures, fences, water, water stock and facilities, other improvements, easements, rights-of-way, and other appurtenances that are considered part of the farm and usually pass with the farm in a change of ownership. If any of these do not pass with a change of ownership, the lender will identify such items and include them in an appropriate security instrument or assignment.

(ii) Other property that cannot be converted to cash without jeopardizing the borrower's farm operation such as the cash value of insurance policies, stock, memberships or stock in associations or water stocks. Any such property must have security value and be transferable.

(h) *Special requirements.*

(1) The lender is responsible for making a preliminary determination as to whether a loan can be made on the farm. This determination will be based on a personal inspection of the farm and an evaluation of such factors as productivity of the land; location, conditions, and adequacy of the buildings; approximate value of the farm; roads, schools, markets, or other community facilities; tax rates; and adequacy of the water supply. A decision also will be made on the suitability of the farm for a nonfarm enterprise facility or specialized farm operation, and development needed to make it a suitable farm.

(2) Buildings adequate for the planned operation of the farm, including any nonfarm enterprise, must be available for the applicant's use after the loan is made. The necessary buildings ordinarily will be located on the applicant's farm. Exceptions to this requirement are when:

(i) The applicant already owns an adequate, decent, safe, and sanitary dwelling, suitable for the family's needs, and located close enough to the farm so the farm may be operated successfully. A real estate lien will be taken on such dwelling.

(ii) The applicant has a long-term lease on acceptable rented buildings that are adjacent to or near the farm, or the applicant occupies suitable buildings which the applicant will eventually inherit or be permitted to purchase from a relative.

(iii) The farm does not have an adequate dwelling and the applicant owns a suitable mobile home which will be used as the applicant's home. A mobile home will not be considered to add value to the farm but FO guaranteed loan funds may be used to finance anchoring the home.

(3) Development needed make the farm and any nonfarm enterprise ready for a successful operation will be planned during the loan processing.

The plans should provide for completing the development at the earliest practicable date. The applicant should obtain the recommendations of representatives of the Forest Service, Soil Conservation Service, State Agricultural Extension Service, and State Planning and Development Agency or local planning groups to be included in the development plan and in the operating plan. In planning such development with the applicant, the lender will encourage the applicant to use any cost-sharing assistance that may be available through any source such as the Agricultural Stabilization and Conservation Service (ASCS) programs.

(4) Insurance on buildings and other property, and insurance available in flood and mudslide hazard areas, will be obtained as required by the lender. Applicants receiving loans for nonfarm enterprises will be advised by the lender of the possibility of incurring liability and will be encouraged to obtain public liability and property

damage insurance. Chattel security should be insured against losses caused by hazards customarily insured against in the area if the loss of such security would jeopardize the interests of the lender and the Government.

(5) When loan soundness depends on income from other sources in addition to income from owned land, it will be necessary for the lender to determine that:

(i) There is reasonable assurance that any rented land which the applicant depends on will be available; and/or

(ii) Any off-farm employment the applicant depends on is likely to continue.

(6) Nonfarm enterprises will be analyzed by the lender to determine soundness.

(7) Other assets not used directly in the farming operation will be handled as follows:

(i) A guaranteed FO loan may be made when essential real estate is owned, either in whole or as an undivided interest, that will not be part of the farm provided:

(A) The real estate furnishes employment or income which is essential to the applicant's success.

(B) Sale of the property will not eliminate the need for FmHA guaranteed credit.

(C) Retention of the real estate will not cause the operation to be larger than a family farm.

(ii) An applicant will dispose of nonessential real estate or an undivided interest in real estate no later than loan closing. If this is not feasible, the applicant must agree in writing to dispose of the property as soon after closing as possible. Under no circumstances may the property be held for more than three years after closing.

(iii) The applicant must agree to use the proceeds from the sale of other real estate to:

(A) Pay costs and taxes connected with the sale;

(B) Reduce the FmHA guaranteed debt or any prior lien;

(C) Make essential capital purchases; or

(D) Pay essential farm and home expenses.

(iv) Real estate or an interest in real estate which is retained after loan closing, but which is not part of the farm will not be included in:

(A) The appraisal report.

(B) The security instrument for the loan.

(C) The total debt against the security.

(8) When life estates are involved, loans may be made:

(i) To both the life estate holder and the remainderman, provided:

(A) Both have a legal right to occupy and operate the farm; and

(B) Both are eligible for the loan; and

(C) Both parties sign the note and mortgage.

(ii) To the remainderman only, provided:

(A) The remainderman has a legal right to occupy and operate the farm; and

(B) The lien instrument is signed by the remainderman, life estate holder, and any other party having any interest in the security.

(iii) To the life estate holder only, provided:

(A) There is no legal restriction placed on a life estate holder who occupies and operates a farm; and

(B) The lien instrument is signed by the life estate holder, remainderman, and any other party having any interest in the security.

(9) A loan will not be approved if a lien junior to the lender's lien securing the guaranteed loan is likely to be taken simultaneously with or immediately subsequent to the loan closing to secure any debt the borrower may have at the time of loan closing or any debt that may be incurred in connection with the guaranteed loan, such as for a portion of the purchase price of the farm or money borrowed from others for payments on debts against the farm, unless the total debt against the security would be within its market value.

§ 1980.181—1980.184 [Reserved]

§ 1980.185 Soil and water loans.

(a) *Objectives.* The basic objectives of guaranteed soil and water loans are to encourage and facilitate the improvement, protection, and proper use of farmland by providing financing for soil conservation; water development, conservation, and use; forestation; drainage of farmland; the establishment and improvement of permanent pasture; pollution abatement and control; and other related measures consistent with all Federal, State, and local environmental quality standards. Achieving these objectives should help farmers to make needed land-use adjustments and should lessen the impact of adverse weather conditions on farming operations.

(b) *Preference.* An application on hand from a veteran as defined in § 1980.106(b)(32) of this Subpart will be given preference by the lender over an application from a nonveteran on file at the same time when it appears that available funds will be inadequate to meet the needs of all applicants.

(c) *Soil and Water loan eligibility requirements.*

(1) An individual must:

(i) Be a citizen of the United States (see § 1980.106 (b)(29) of this Subpart for the definition of "United States"), legally admitted as a permanent resident of the United States or on indefinite parole.

(ii) Possess the legal capacity to incur the obligations of the loan.

(iii) Have the character (as related solely to debt repayment ability and reliability), managerial ability and industry to carry out the proposed operation.

(iv) Honestly try to carry out the conditions and terms of the loan.

(v) Be unable to obtain sufficient credit without a guarantee to finance actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(vi) Be the owner or operator of a farm after the loan is closed.

(vii) If a tenant, have a satisfactory written lease for a sufficient period of time and under terms that will enable the operator to obtain reasonable returns on the improvements to be made with the guaranteed loan. In addition, the lease or separate agreement should provide for compensating the tenant for any unexhausted value of the improvements upon termination of the lease.

(2) A cooperative, corporation or partnership must:

(i) Have the character (as related solely to debt repayment ability and reliability), management ability and industry to carry out the proposed operation; and

(ii) Honestly try to carry out the conditions and terms of the loan.

(iii) Consist of members, stockholders or partners, holding a majority interest who are citizens of the United States (see 1980.106(b)(29) of this Subpart for the definition of "United States"), legally admitted as a permanent resident of the United States or on indefinite parole *and* who meet the requirements of subparagraphs (c) (2) (i) and (ii).

(iv) Be authorized to own and/or operate a farm in the State(s) in which the farm is located.

(v) Be unable to obtain sufficient credit without a guarantee, either as an entity or as individual members, stockholders, or partners, to finance actual needs at reasonable rates and terms, taking into account prevailing private and cooperative rates and terms in or near the community for loans for similar purposes and periods of time.

(vi) Be controlled by individuals engaged primarily and directly in farming or ranching in the United States after the loan is made.

(vii) Be the owner or operator of a farm after the loan is made.

(viii) If a tenant, have a satisfactory written lease for a sufficient period of time and under terms that will enable the applicant to obtain reasonable returns on the improvements made with the loan. In addition, the lease or separate agreement should provide for compensating the tenant for any unexhausted value of the improvements upon termination of the lease.

(ix) Consist of members, stockholders or partners who do not as individuals have either a guaranteed or insured FO, SW, RL, or OL loan and are not members of another entity or have an interest in another entity that has either a guaranteed or an insured FO, SW, RL, or OL loan.

(d) *Loan purposes.* Loan purposes must be consistent with all Federal, State and local environmental quality standards and funds may be used to:

(1) Pay the costs for construction, materials, supplies, equipment, and services related to land and water development, use, conservation; and energy saving measures related to soil and water conservation, such as:

(i) Terraces, dikes, reservoirs, ponds, tanks, cisterns, liquid and solid waste disposal facilities, wells, pipelines, pumping and irrigation equipment, ditches and canals for drainage, waterways, and erosion control structures.

(ii) Drainage of land which is part of an operating farm unit.

(iii) Land clearing.

(iv) Sodding, subsoiling, land leveling, liming and fencing.

(v) Fertilizer and seed used in connection with a soil conservation practice or to establish or improve permanent vegetation.

(vi) Forestation for sustained yield and tree planting for erosion control or shelter belt purposes.

(vii) Gasoline, oil, and equipment rental or hire connected with establishing or completing the development.

(viii) Reasonable expenses incidental to obtaining, planning, closing and making the loan, such as fees for legal, engineering or other technical services, hazard insurance premiums, and loan fees authorized in § 1980.22 of Subpart A of this Part, which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds may also be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making any planned improvements.

(ix) Purchase or repair or special-purpose equipment such as terracing, land leveling and ditching equipment, provided:

(A) Such equipment is needed and will facilitate the completion or maintenance of the planned improvement, and

(B) The cost of the equipment plus the other costs related to improvement will not be more than if performed by a contractor or by another method.

(2) Pay the costs of meeting Federal, State or local requirements for agricultural, animal, or poultry waste pollution abatement and control facilities, including construction, modification, or relocation of the farm or farm structures if necessary to comply with such pollution abatement requirements.

(3) Acquire a source of water to be used on land the applicant owns, will acquire, or operates including:

(i) The purchase of water stock or membership in an incorporated water users association.

(ii) The acquisition of a water right through appropriation, agreement, permit, or decree.

(iii) The acquisition of water supply or right, and the land on which it is presently being used, when the water supply or right cannot be purchased without the land, provided:

(A) The value of the land without the water supply or right is only an incidental part of the total price; and

(B) The water supply and right will be transferred to, and used more effectively on, other land owned or operated by the applicant.

(4) Refinance debts subject to the following:

(i) The debts were incurred for authorized guaranteed SW loan purposes.

(ii) All development or repair work conforms to FmHA standards or those standards will be met with the guaranteed loan.

(iii) The applicant's present creditors will not furnish credit at rates and terms the applicant can meet.

(iv) The lender will verify the need to refinance all secured and major unsecured debts. The unpaid balance on the debts to be refinanced will also be verified.

(5) Purchase land or an interest therein for sites or rights-of-way and easements upon which a water or drainage facility will be located.

(6) Pay that part of the cost of facilities, improvements, and "practices" which will be paid for in connection with participation in programs administered by agencies such as the Agricultural Stabilization and Conservation Service (ASCS) or the Soil Conservation Service (SCS) only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000, the applicant will assign the payment to the lender.

(7) Provide water supply facilities for dwellings and farm buildings, including such facilities as wells, pumps, farmstead distribution systems, and home plumbing.

(8) Pay costs of land and water development, use, and conservation essential to the applicant's farm, subject to the following:

(i) Such a loan may be made on land with defective title owned by the applicant (See subsection (g) of this section) or on land in which the applicant owns an undivided interest providing:

(A) The amount of funds used on such land is limited to $25,000,

(B) There is adequate security for the loan, and

(C) The tract is not included in the appraisal report.

(ii) Such a loan may be made on land leased by the applicant providing:

(A) The terms of the lease are such that there is reasonable assurance the applicant will have use of the improvement over its useful life.

(B) A written lease provides for payment to the tenant or assignee any unexhausted value of the improvement if the lease is terminated.

(C) There is adequate security for the loan.

(9) Purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

(e) *Loan limitations.* A guaranteed SW loan will not be approved if:

(1) The borrower has outstanding SW, FO, or RL loans, and making the requested loan will cause the borrower's total unpaid principal indebtedness for these loans to exceed the lesser of $300,000 or the market value of the farm or other security.

(2) The noncontinguous character of a farm containing two or more tracts is such that an efficient farming operation and nonfarm enterprise cannot be conducted due to the distance between tracts or due to inadequate rights-of-way or public roads between tracts.

(f) *Rates and terms.*

(1) Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

(2) The interest rate will be a fixed or variable rate agreed upon by the borrower and lender, *except* the lender may not charge a rate in excess of its best rate to its best farm customers. Best farm customers are those conventional farm borrowers who are required to pledge their crops, livestock and other chattel and real estate security for the loan. This does not include those high risk farmers with limited security and management ability that

are generally charged a higher interest rate by conventional agricultural lenders. Also, this does not include those low risk farm customers who obtain financing on a secured or unsecured basis who have as collateral such items as savings accounts, time deposits, certificates of deposits, stocks and bonds, and life insurance which they are able to pledge for the loan.

(3) Installments may be deferred in accordance with § 1980.124(c).

(g) *Security.*

(1) Each guaranteed SW loan will be secured by real estate, chattels, other security, leaseholds, or a combination of these.

(2) When obtaining real estate security, the following will apply:

(i) A mortgage will be taken on the entire farm to be improved which is owned by the applicant, including land in which the applicant owns an undivided interest, except a portion of the farm will be excluded when:

(A) The applicant's title to that part of the farm is defective, and cannot be cured at a reasonable cost, provided:

(*1*) The lender determines the applicant's interest is of such nature that it is not mortgageable; and

(*2*) To include the land would complicate loan servicing or liquidation; and

(*3*) Any land on which title is defective will not be included in the appraisal of the farm whether or not it is described on the mortgage.

(B) The present lienholder on that part of the farm will not permit a junior lien or State law will not recognize or permit a lien provided the part excluded from the security is not included in the appraisal report.

(C) Soundness of the loan will not be affected if there is defective title or part of the farm is not included as security.

(ii) When the farm alone will not provide enough security, other real estate owned by the applicant may also be taken as security.

(iii) Loans may be secured by a junior lien on real estate provided:

(A) Prior lien instruments do not contain provisions for future advances (except for taxes, insurance, other costs needed to protect the security, or reasonable foreclosure costs), cancellation, summary forfeiture, or other clauses that may jeopardize the Government's or the lender's interest or the applicant's ability to pay the guaranteed loan unless any such undesirable provisions are limited, modified, waived or subordinated insofar as the Government and the lender are concerned.

(B) Agreements are obtained from prior lienholders to give notice of foreclosure to the lender whenever State law or other arrangements do not require such a notice.

(iv) Any loan of $10,000 or less may be secured by the best lien obtainable without title clearance or legal services normally required, provided the lender believes from a search of the county records that the applicant can give a mortgage on the farm.

(3) Loans may be secured by chattels subject to the following conditions:

(i) Real estate security is inadequate to secure the loan or is not available at all.

(ii) Taking a lien on chattels will not prevent the borrower from obtaining operating credit from other sources or the FmHA.

(iii) Junior liens on chattels may be taken when there is enough equity in the property. However, when practical, a first lien on selected chattel items should be obtained.

(iv) A first lien will be taken on equipment or fixtures bought with loan funds whenever such property cannot be included in the real estate lien and this additional security is needed to secure the loan.

(v) When a loan is made only for the purchase of shares of water stock, such stock will be pledged or assigned as security for the loan. No other security need be required if the stock represents the right to receive water and is transferable separately from the land, provided:

(A) There is a market for the stock.

(B) The purchase price is no greater than the price at which stock in the water company is normally sold.

(vi) If secured by chattels only, the loan cannot be over $100,000 and must be scheduled for repayment within 20 years or the useful life of the security, whichever is less.

(vii) The lender is responsible for obtaining the lien on chattel security and keeping it effective as notice to third parties.

(4) Other items or property may be taken as additional security when needed. These include:

(i) Items such as land, buildings, fixtures, fences, water, water stock and facilities, other improvements, easements, rights-of-way, and other appurtenances that are considered part of the farm and usually pass with the farm in a change of ownership. If any of these do not pass with a change of ownership, the lender will properly identify such items and include them in an appropriate security instrument or assignment.

(ii) Other property that cannot be converted to cash without jeopardizing the borrower's farm operation such as the cash value of insurance policies, stock, memberships or stock in associations or water stocks. Any such property must have security value and be transferable.

(5) A loan may be secured by a mortgage on the leasehold if it has negotiable value and is able to be mortgaged, subject to the following:

(i) The unexpired term of the lease should extend beyond the repayment period of the loan for a period sufficient to ensure that the objectives of the loan will be achieved. If the loan repayment period is equal to or greater than the period covered by the lease, the borrower must provide other security to secure the loan or the lessor must agree in writing to compensate the borrower for any unexhausted value of the improvements when the lease expires or is terminated.

(ii) The lessor must have good and marketable title to the real estate, which may be subject to a prior lien, or the lessor must have signed a contract to purchase the real estate. The contract to sell and the lien instruments must not contain covenants, such as short redemption periods or rights to cancel, which may jeopardize the lender's security. Any provisions which may jeopardize the lender's security must be limited, modified, waived or subordinated in favor of the lender.

(iii) With respect to achieving the purpose of the loan, obtaining adequate security, and being able to service the loan and enforce its rights, the lender, as holder of a mortgage upon a lease or leasehold interest, must be in a position substantially as good as if it held a second mortgage on the real estate. Besides the lessor's consent to the mortgage on the leasehold interest, the lender should consider whether or not:

(A) There is reasonable security of tenure. The borrower's interest should not be subject to summary forfeiture or cancellation.

(B) The right to foreclose the mortgage and sell without restrictions would adversely affect the salability or market value of the security.

(C) The lender has a right to bid at a foreclosure sale or to accept voluntary conveyance in lieu of foreclosure.

(D) The lender has the right, after acquiring the leasehold through foreclosure or voluntary conveyance in lieu of foreclosure, or in event of abandonment by the borrower, to occupy the property or sublet it, and to sell it for cash or credit.

(E) The borrower has the right, in the event of default or inability to continue with the lease and the loan, to transfer the leasehold, subject to the mortgage, to an eligible transferee who will assume the guaranteed SW debt.

(F) Advance notice will be given to the lender of the lessor's intention to cancel, terminate or foreclose upon the lease. Such advance notice should be long enough to permit the lender to ascertain the amount to delinquencies,

the total amount of the lessor's and any other prior interest, the market value of the leasehold interest and, if litigation is involved, permit appropriate action by the lender to be taken.

(G) There are express provisions covering the question of the lender's obligation to pay unpaid rental or other charges accrued at the time it acquires possession of the property or title to the leasehold, and those which become due during the lender's occupancy or ownership, pending further servicing or liquidation.

(H) There are any necessary provisions to assure fair compensation to the lessee for any part of the premises taken by condemnation.

(I) Any other provisions are necessary to obtain an interest which can be mortgaged.

(iv) The following language or similar language which is legally adequate will be inserted on the lien instrument:

All Borrower's right, title, and interest in and to the leasehold estate for a term of —— years beginning on ————, 19—, created and established by a certain Lease dated ————, 19—, executed by ———— as lessor(s), recorded on ————, 19—, in Book ——, page — of the ———— Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate: (To be inserted just before the legal description.).

This additional convenant will be inserted in the mortgage:

Borrower will pay when due all rents and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish without the lender's written consent, any of the Borrower's right, title or interest in or to said leasehold estate or under said Lease while this instrument remains in effect.

(h) *Special requirements.*

(1) When possible, recommendations for land development will be obtained from the Forest Service, State Agricultural Extension Service, and the Soil Conservation Service and included in the development plan and in the operating plans. In planning such development with the applicant, the lender will encourage the applicant to use any cost-sharing assistance that may by available through any source such as the Agricultural Stabilization and Conservation Service (ASCS) programs.

(2) Applicants are responsible for obtaining all the technical assistance required in connection with a guaranteed SW loan, such as that needed to plan, construct, or establish the improvement or facility to be financed.

(3) Evidence or documentation of the following should be obtained when loan funds are to be used for irrigation purposes:

(i) The land to be irrigated is suitable for irrigation.

(ii) The applicant has a right to use water for irrigation.

(iii) The water is suitable to use for irrigation and is available in sufficient quantities to irrigate a specified amount of land.

(iv) If irrigation specialists have prepared any feasibility studies, copies of these studies should be submitted to the lender.

(4) Insurance on buildings and other property, and insurance available in flood and mudslide hazard areas, will be obtained as required by the lender. Chattel security should be insured against losses caused by hazards customarily insured against in the area if the loss of such security would jeopardize the interests of the lender and the Government.

(5) When life estates are involved, loans may be made:

(i) To both the life estate holder and the remainderman, provided:

(A) Both have a legal right to occupy and operate the farm; and

(B) Both are eligible for the loan; and

(C) Both parties sign the note and mortgage.

(ii) To the remainderman only, provided:

(A) The remainderman has a legal right to occupy and operate the farm; and

(B) The lien instrument is sighed by the remainderman, life estate holder, and any other party having any interest in the security.

(iii) To the life estate holder only, provided:

(A) There is no legal restriction placed on a life estate holder who occupies and operates a farm; and

(B) The lien instrument is signed by the life estate holder, remainderman, and any other party having any interest in the security.

(6) A loan will not be approved if a lien junior to the lender's lien securing the guaranteed loan is likely to be taken simultaneously with or immediately subsequent to the loan closing to secure any debt the borrower may have at the time of loan closing or any debt that may be incurred in connection with the guaranteed loan, unless the total debt against the security would be within its market value.

§§ 1980.186–1980.189 [Reserved]

§ 1980.190 Recreation loans.

(a) *Objectives.* The basic objectives of guaranteed recreation loans are to assist eligible farm and ranch owners or tenants to convert all or a portion of the farms or ranches they own or operate to outdoor income-producing recreation enterprises, which will supplement or supplant farm or ranch income and permit carrying on sound and successful operations. These objectives will be accomplished through the extension of credit and necessary servicing by the lender as required.

(b) *Preference.* An application on hand from a veteran, as defined in § 1980.106(b)(32) of this Subpart will be given preference by the lender over an application from a nonveteran on file at the same time when it appears that available funds will be inadequate to meet the needs of all applicants.

(c) *Recreation loan eligibility requirements.*

(1) An individual must:

(i) Be a citizen of the United States (see § 1980.106(b)(29) of this Subpart for the definition of "United States").

(ii) Possess the legal capacity to incur the obligations of the loan.

(iii) Have the character (as related solely to debt repayment ability and reliability), managerial ability, and industry to carry out the proposed operation.

(iv) Honestly try to carry out the conditions and terms of the loan.

(v) Be unable to obtain sufficient credit without a guarantee to finance actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(vi) Be an owner or operator engaged in farming at the time the application is filed.

(vii) Be the manager and operator of the recreation enterprise after the loan is closed.

(viii) If a tenant, have a satisfactory written lease for a sufficient period of time and under terms that will enable the applicant to obtain reasonable returns on the improvements made with the guaranteed loan. In addition, the lease or separate agreement should provide for compensating the tenant for any unexhausted value of the improvements upon termination of the lease.

(2) A cooperative, corporation or partnership must:

(i) Have the character (as related solely to debt repayment ability and reliability), managerial ability, and industry to carry out the proposed operation.

(ii) Honestly try to carry out the conditions and terms of the loan.

(iii) Consist of members, stockholders or partners holding a majority interest who are citizens of the United States (see § 1980.106(b)(29) of this Subpart for the definition of "United States") and who meet the requirements of subparagraphs (c)(2) (i) and (ii).

(iv) Be authorized to own and/or operate the farm in the State(s) in which the farm and the recreation enterprise are located.

(v) Be unable to obtain sufficient credit without a guarantee, either as an entity or as individual members, stockholders or partners, to finance actual needs to reasonable rates and terms, taking into account prevailing private and cooperative rates and terms in or near the community for loans for similar purposes and periods of time.

(vi) Be an owner or operator engaged in farming at the time the application is filed.

(vii) Be the manager and operator of the recreation enterprise after the loan is closed and at least one member, stockholder or partner must actively participate in the operation of the enterprise.

(viii) Consist of members, stockholders or partners who do not as individuals have either a guaranteed or an insured FO, SW, RL or OL loan and are not members of another entity or have an interest in another entity that has either a guaranteed or an insured FO, SW, RL, or OL loan.

(ix) If a tenant, have a satisfactory written lease for a sufficient period of time and under terms that will enable the applicant to obtain reasonable returns on the improvements made with the loan. In addition, the lease or separate agreement should provide for compensating the tenant for any unexhausted value of the improvements upon termination of the lease.

(d) *Loan purposes.* Loans that are consistent with all Federal, State, and local environmental quality standards may be made to:

(1) Purchase land needed for an outdoor recreation enterprise. This may include:

(i) Purchasing easements and rights-of-way needed to operate the enterprise.

(ii) Making a downpayment on the purchase of land under the following conditions:

(A) A deed is obtained by the borrower and the unpaid balance on the loan is secured by a note and mortgage or an acceptable purchase contract or similar instrument.

(B) The applicant can meet the loan terms under normal farm conditions.

(C) The conditions and the requirements of any prior mortgage or contract meet security requirements for taking a junior lien as set out in subparagraph (g)(2)(iii) of this section.

(D) A purchase contract is signed which obligates the purchaser to pay the purchase price, gives the purchaser the rights of present possession, control, and beneficial use of the property, and entitles the purchaser to a deed upon paying all or a specific part of the purchase price.

(2) Pay the costs of meeting Federal, State or local requirements for agricultural, animal, or poultry waste pollution abatement and control facilities including construction, modification, or relocation of the farm or farm structures if necessary to comply with such pollution abatement requirements.

(3) Construct, buy, or improve buildings and facilities needed for the applicant's outdoor recreation enterprise, including:

(i) The construction of essential buildings of modest design and cost including facilities and structures such as docks, fish hatcheries, shooting blinds, lodging facilities, trailer parks, picnic areas, target ranges, tennis courts, shuffleboard courts, golf driving ranges, and campsites.

(ii) The improvement, alteration, repair, replacement, relocation, or purchase and transfer of essential service buildings, facilities, structures and fixtures that become part of the real estate or customarily pass with the farm when it is sold. This includes provisions for pollution control and energy saving devices.

(iii) The purchase and/or installation of water and sewage systems, other equipment, including pollution control and energy saving devices necessary to operate the recreation enterprise(s), provided the items upon installation become part of the real estate or customarily pass with the farm when it is sold.

(4) Provide land and water development needed for the applicant's outdoor recreation enterprise. This includes providing fencing; drainage and irrigation facilities; basic applications of lime and fertilizer; and facilities for tree planting, land clearing and landscaping. This also includes establishing and improving permanent vegetation, and facilities for fish ponds, trails and lakes. Loan funds may be used to acquire water supplies and rights, and to promote conservation and efficient use of these supplies and rights. Sources of water may be located outside the land owned provided appropriate rights of easements are obtained to ensure that the water and rights will pass with the land when it is sold. The funds for land and water development may include the costs of machinery and equipment needed to do the development only when the total cost of the development and machinery or equipment would not exceed the cost of hiring someone to do the development work. Also, loan funds may be used to pay that part of the cost of facilities, improvements, and "practices" which will be paid for in connection with participation in programs such as the Agricultural Conservation or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000, the applicant will assign the payment to the lender.

(i) Funds may be used to pay for development costs on land owned with a defective title (see subsection (g)(2)(i)(A) of this section) or on land in which the applicant owns an undivided interest, provided:

(A) The amount of loan funds used on such land is limited to $25,000;

(B) There is adequate security for the loan; and

(C) The tract of land is not included in the appraisal report.

(ii) Funds may be used to pay for development costs on land leased by the applicant, provided:

(A) The terms of the lease are such that there is reasonable assurance the applicant will have use of the improvement over its useful life;

(B) A written lease provides for payment to the tenant or assignee any unexhausted value of the improvement if the lease is terminated;

(C) There is adequate security for the loan, and,

(D) The amount of loan funds used for improvement on leased land will not exceed $10,000.

(5) Refinance debts subject to the following:

(i) The applicant's present creditors will not furnish credit at rates and terms the applicant can meet.

(ii) The lender will verify the need to refinance all secured debts and major unsecured debts. The unpaid balance on the debts to be refinanced will also be verified.

(6) Pay reasonable expenses incidental to obtaining, planning, closing and making the loan, such as fees for legal, architectural and other technical services, first year insurance premiums, and loan fees authorized in § 1980.22 of Subpart A of this Part, which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with land and building development.

(7) Purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

(e) *Loan Limitations.* A guaranteed RL loan will not be approved if:

(1) The borrower has outstanding RL, Farm Ownership (FO), or Soil and Water (SW) loans, and making the requested loan will cause the borrower's total unpaid principal indebtedness for these loans to exceed the lesser of $300,000 or the market value of the farm or other security.

(2) The noncontiguous character of a farm containing two or more tracts is such that an efficient farming operation or recreation enterprise cannot

be conducted due to the distance or inadequate rights-of-way or public roads between tracts.

(f) *Rates and terms.*

(1) Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

(2) The interest rate will be a fixed or variable rate agreed upon by the borrower and lender, *except* the lender may not charge a rate in excess of its best rate to its best farm customers. Variable rates may change according to the normal practices of the lender for its best farm customers. Best farm customers are those conventional farm borrowers who are required to pledge their crops, livestock and other chattel and real estate security for the loan. This does not include those high risk farmers with limited security and management ability that are generally charged a higher interest rate by conventional agricultural lenders. Also, this does not include those low risk farm customers who obtain financing on a secured or unsecured basis who have as collateral such items as savings accounts, time deposits, certificates of deposit, stocks and bonds, and life insurance which they are able to pledge for the loan.

(3) Installments on loans may be deferred in accordance with § 1980.124 (c) of this Subpart.

(g) *Security.*

(1) Each graranteed RL loan will be secured by real estate only or by a combination of real estate and chattels or other security, including leaseholds.

(2) When obtaining real estate security, the following will apply:

(i) A mortgage will be taken on the entire farm owned or to be owned by the applicant including land in which the applicant owns an undivided interest except a portion of the farm will be excluded when:

(A) The applicant's title to that part of the farm is defective and cannot be cured at reasonable cost, provided:

(*1*) The lender determines the applicant's interest is of such nature that it is not mortgageable;

(*2*) To include the land would complicate loan servicing or liquidation; and

(*3*) Any land on which title is defective will not be included in the appraisal of the farm whether or not it is described on the mortgage.

(B) The present lienholder on that part of the farm will not permit a junior lien or State law will not recognize or permit a lien provided the part excluded from the security is not included in the appraisal report.

(C) Soundness of the loan will not be affected if there is defective title or part of the farm is not included as sicurity for the loan.

(ii) Loans may be secured by a junior lien on real estate provided:

(A) Prior lien instruments do not contain provisions for future advances (except for taxes, insurance, other secured or unsecured basis who have as collateral such items as savings accounts, time deposits, certificates of deposit, stocks and bonds, and life insurance which they are able to pledge for the loan.

(B) Agreements are obtained from prior lienholders to give notice of foreclosure to the lender whenever State law or other arrangements do not require such a notice.

(iii) Any loan of $10,000 or less may be secured by the best lien obtainable without title clearance or legal services normally required, provided the lender believes from a search of the county records that the applicant can give a mortgage on the farm. This exception to title clearance will not apply when land is to be purchased.

(3) Loans may be secured by chattels subject to the following conditions:

(i) Real estate security is inadequate to secure the loan or is not available at all.

(ii) Taking a lien on chattels will not prevent the borrower from obtaining operating credit from other sources or from the FmHA.

(iii) Junior liens on chattels may be taken when there is enough equity in the property. However, when practical, a first lien on selected chattel items should be obtained.

(iv) A first lien will be taken on equipment or fixtures bought with loan funds whenever such property cannot be included in the real estate lien and this additional security is needed to secure the loan.

(v) If secured by chattels only, the loan cannot be over $100,000 and must be scheduled for repayment within 20 years or the useful life of the security, whichever is less.

(vi) The lender is responsible for obtaining the lien on chattel security and keeping it effective as notice to third parties.

(4) Other items or property may be taken as additional security when needed. These include:

(i) Items such as land, buildings, fixtures, fences, water, water stock and facilities, other improvements, easements, rights-of-way, and other appurtenances that are considered part of the farm and usually pass with the farm in change of ownership. If any of these do not pass with a change of ownership, the lender will identify such items and include them in appropriate security instruments or assignments.

(ii) Other property that cannot be converted to cash without jeopardizing the borrower's farm operation. Examples of such security may include cash value of insurance policies, stock, memberships or stock in associations or water stocks. Any property taken as additional security must have security value and be transferable.

(5) A loan may be secured by a mortgage on the leasehold if it has negotiable value and is able to be mortgaged, and subject to the following:

(i) The unexpired term of the lease should extend beyond the repayment period of the loan for a period sufficient to ensure that the objectives of the loan will be achieved. If the loan repayment period is equal to or greater than the period covered by the lease, the borrower must provide other security to secure the loan or the lessor must agree in writing to compensate the borrower for any unexhausted value of the improvements when the lease expires or is terminated.

(ii) The lessor must have good and marketable title to the real estate which may be subject to a prior lien, or the lessor must have signed a contract to purchase the real estate. The contract to sell and the lien instruments must not contain convenants, such as short redemption periods or rights to cancel, which may jeopardize the lender's security. Any provisions which may jeopardize the lender's security must be limited, modified, waived or subordinated in favor of the lender.

(iii) With respect to achieving the purpose of the loan, obtaining adequate security, and being able to service the loan and enforce its rights, the lender, as holder of a mortgage upon a lease or leasehold interest, must be in a position substantially as good as if it held a second mortgage on the real estate. Besides the lessor's consent to the mortgage on the leasehold interest the lender should consider whether or not:

(A) There is reasonable security of tenure. The borrower's interest should not be subject to summary forfeiture or cancellation.

(B) The right to foreclose the mortgage and sell without restrictions would adversely affect the salability or market value of the security.

(C) The lender has a right to bid at a foreclosure sale or to accept voluntary conveyance in lieu of foreclosure.

(D) The lender has the right, after acquiring the leasehold through foreclosure or voluntary conveyance in lieu of foreclosure, or in event of abandonment by the borrower, to occupy the property or sublet it, and to sell it for cash or credit.

(E) The borrower has the right, in the event of default or inability to

continue with the lease and the loan, to transfer the leasehold, subject to the mortgage, to an eligible transferee who will assume the guaranteed RL debt.

(F) Advance notice will be given to the lender of the lessor's intention to cancel, terminate or foreclose upon the lease. Such advance notice should be long enough to permit the lender to ascertain the amount of delinquencies, the total amount of the lessor's and any other prior interest, the market value of the leasehold interest and, if litigation is involved, to permit appropriate action by the lender to be taken.

(G) There are express provisions covering the question of the lender's obligation to pay unpaid rental or other charges accrued at the time it acquires possession of the property or title to the leasehold, and those which become due during the lender's occupancy or ownership, pending further servicing or liquidation.

(H) There are any necessary provisions to assure fair compensation to the lessee for any part of the premises taken by condemnation.

(I) Any other provisions are necessary to obtain an interest which can be mortgaged.

(iv) The following language or similar language which is legally adequate will be inserted on the lien instrument:

All Borrower's right, title, and interest in and to the leasehold estate for a term of —— years beginning on ————, 19—, created and established by a certain Lease dated ————, 19—, executed by ———— as lessor(s), recorded on ————, 19—, in Book ——, page — of the ———— Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate: (To be inserted just before the legal description.)

(v) This additional convenant will be inserted in the mortgage:

Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish without the lender's written consent, any of the Borrower's right, title or interest in or to said leasehold estate or under said Lease while this instrument remains in effect.

(h) *Special requirements.*

(1) Adequate land resources and development needed to make the recreation enterprise ready for a successful operation will be provided at the outset with each loan. The applicant should obtain recommendations of representatives of the Forest Service, Soil Conservation Service, State Agricultural Extension Service, and State Planning and Development Agency or local planning groups to be included in the development plan and in the operating plan. In planning such development with the applicant, the lender will encourage the applicant to use any cost-sharing assistance that may be available through any source such as the Agricultural Stabilization and Conservation Service (ASCS) programs.

(2) Applicants are responsible for obtaining all the technical assistance required in connection with a guaranteed RL loan, such as that needed to plan, construct, or establish the improvement or facility to be financed.

(3) Insurance on buildings and other property, and insurance available in flood and mudslide hazard areas, will be obtained as required by the lender. Applicants receiving guaranteed RL loans will be advised by the lender of the possibility of incurring liability and encouraged to obtain public liability and property damage insurance. Chattel security should be insured against losses caused by hazards customarily insured against in the area if the loss of such security would jeopardize the interests of the lender of the Government.

(4) When life estates are involved, loans may be made:

(i) To both the life estate holder and the remainderman, provided:

(A) Both have a legal right to occupy and operate the farm; and

(B) Both are eligible for the loan; and

(C) Both parties sign the note and mortgage.

(ii) To the remainderman only, provided:

(A) The remainderman has a legal right to occupy and operate the farm; and

(B) The lien instrument is signed by the remainderman, life estate holder, and any other party having any interest in the security.

(iii) To the life estate holder only, provided:

(A) There is no legal restriction placed on the life estate holder, who occupies and operates a farm; and

(B) The lien instrument is signed by the life estate holder, remainderman, and any other party having any interest in the security.

(5) A loan will not be approved if a lien junior to the lender's lien securing the guaranteed loan is likely to be taken simultaneously with, or immediately subsequent to, the loan closing to secure any debt the borrower may have at the time of loan closing or any debt that may be incurred in connection with the guaranteed loan, such as for a portion of the purchase price of the property or money borrowed from others for payments on debts against the property, unless the total debt against the security would be within its market value.

§§ 1980.191–1980.200 [Reserved]

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegations of authority by Director, OEO, 29 FR 14764, 33 FR 9850)

Dated: February 23, 1979.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 79-7033 Filed 3-7-79; 8:45 am]

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

[Docket No. ERA-R-78-5/Docket No. ERA-R-78-6]

PART 210—GENERAL ALLOCATION AND PRICE RULES

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Notice of Exemption of Kerosene-Base Jet Fuel and Aviation Gasoline From the Mandatory Petroleum Allocation and Price Regulations

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of effective date of Exemption-Final Rules.

SUMMARY: On February 5, 1979, the Economic Regulatory Administration of the Department of Energy (DOE) published two final rules (44 FR 7064 and 44 FR 7070) amending 10 CFR Parts 210, 211, and 212 to exempt kerosene-base jet ("kerojet") fuel and aviation gasoline from DOE's Mandatory Petroleum Allocation and Price Regulations. The exemptions were submitted to the Congress on February 1, 1979, as DOE Energy Actions Nos. 3 and 4 pursuant to the procedures set forth in the Energy Policy and Conservation Act (Section 455—Conversion to Standby Authorities) which provide for a fifteen-day congressional review period during which either House of the Congress may, by majority vote, disapprove the energy actions.

The prescribed congressional review period ended at midnight on February 25, 1979. Accordingly, neither House having voted to disapprove the energy actions, notice is hereby given that kerosene-base jet fuel and aviation

gasoline are exempt from DOE's Mandatory Petroleum Allocation and Price Regulations, effective February 26, 1979.

DATES: The "kerojet" fuel and aviation gasoline exemption amendments to 10 CFR Parts 210, 211, and 212 (44 FR 7064 and 44 FR 7070) are effective February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Verlette Gatlin (DOE Reading Room), Department of Energy, Room GA 152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, 202-252-5968.

Bill Webb (Office of Public Information), Room B110, 2000 M Street NW., Washington, D.C. 20461, 202-634-2170.

Gerald P. Emmer or William E. Caldwell, Economic Regulatory Administration, Room 2304, 2000 M Street NW., Washington, D.C. 20461, 202-254-7200.

Joel Yudson (Office of General Counsel), Department of Energy, Room 6A127, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, 202-252-6744.

Issued in Washington, D.C., February 28, 1979.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 79-7019 Filed 3-5-79; 3:05 pm]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 78-ASW-44; Amdt. 39-3429]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Model 212 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires installation of strengthened float bags (reinforced girts) on certain Bell Model 212 helicopters that are equipped with emergency flotation (ditching) equipment. The AD is needed to improve the strength of the float bags attachment to the helicopter and to preclude possible tearing, puncturing, and deflation of a float bag. Deflation of a float bag would reduce the capability of the helicopter to remain upright after a ditching.

DATES: Effective date: April 16, 1979. Compliance required within six months or 600 hours' time in service, whichever comes first after the effective date of the AD. Copies of the applicable service bulletins may be obtained as stated in the AD.

FOR FURTHER INFORMATION CONTACT:

James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624-4911, Extension 516.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations was published in 43 FR 45375 to include an Airworthiness Directive requiring installation of strengthened float bags within 600 hours' or six months' time in service, whichever comes first, for Bell Model 212 helicopters, Serial Numbers 30501 through 30889, that are equipped with emergency flotation (ditching) equipment. The proposal was prompted by one report of a float bag girt-to-support panel separation and puncturing of a bag. Puncturing and deflation of a float bag would seriously reduce the capability of the helicopter to remain upright after a ditching.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Only one response was received. The owner of STC SH2395SW forwarded a letter stating they will voluntarily comply with Bell Service Bulletin No. 212-78-9 and install strengthened float bags on Model 205A-1 helicopters before February 9, 1979. Accordingly, the Model 205A-1 helicopters have been removed from the applicability statement. In addition, an error was made in the Model 212 Serial Numbers. The correct applicability is S/N 30501 through 30888. The proposal is, therefore, adopted with only these changes in the applicability statement.

ADOPTION OF THE AMENDMENT

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

BELL: Applies to Bell Model 212 helicopters, Serial Numbers 30501 through 30888, equipped with emergency flotation (ditching) equipment, certificated in all categories. (Airworthiness Docket No. 78-ASW-44).

Compliance required within 600 hours' time in service or six months after the effective date of this airworthiness directive (AD), whichever comes first, unless already accomplished.

To preclude possible tearing, puncturing, and deflation of a float bag after a ditching, accomplish the following:

Remove the four emergency float bags and install modified or new float bags having the following part numbers: Air Cruisers Number D24650-105, -106, -107, and -108 (Bell Number 212-050-207-5, -6, -7, and -8 respectively) or B. F. Goodrich Number 7MA1002-5, -6, -7, and -8 (Bell Number 212-050-207-9, -10, -11, and -12 respectively).

Air Cruisers or B. F. Goodrich float bags may be modified and reidentified as prescribed by Air Cruisers Company Service Bulletin No. 120-78-1 dated May 5, 1978, or later FAA approved revision or by B. F. Goodrich, Engineered Systems Division, Service Bulletin No. 01 dated May 8, 1978, or later FAA approved revision, respectively.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Product Support Department, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Texas.

(Bell Helicopter Textron Service Bulletin No. 212-78-9 pertains to this subject.)

This amendment becomes effective April 16, 1979.

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

Issued in Fort Worth, Texas, on February 26, 1979.

PAUL J. BAKER,
Acting Director, Southwest Region.

The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 79-6834 Filed 3-7-79; 8:45 am]

[4910-13-M]

SUBCHAPTER C—AIRCRAFT

[Docket No. 79-NW-3-AD; Amdt. 39-3430]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 747 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: FAA Airworthiness Directive (AD) 76-05-05 (Amdt. 39-2538); (41 FR 9298) requires inspection for cracks and rework of certain fuselage lap splices on Boeing Model 747 series airplanes. The AD was amended by Amendment 39-2698 (41 FR 36487) to provide a repetitive inspection interval. The AD is further amended herein to expand the inspection area to include all fuselage lap splices covered by the wing-to-body fillet fairings.

DATES: Effective date March 15, 1979.

ADDRESS: Boeing Service bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:

Mr. Iven Connally, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Since issuance and amendment of the AD, additional skin lap splice cracks have been reported. The AD as amended required inspection of specific lap splices in which corrosion cracking was found or considered to be probable. Additional lap splices were to be inspected if corrosion was found. Corrosion cracks have now been reported in lap splices not previously considered probable. A 42 inch crack in the fuselage lap splice not previously covered by the AD was reported on January 29, 1979. Since this condition is likely to exist or develop in other Boeing 747 airplanes, an amendment to AD 76-05-05 is being issued to require visual inspections of all fuselage skin lap covered by the wing-to-body fairings.

The AD is also amended to make the initial inspection time compatible with the 4,000 hours repeat inspection interval.

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

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulation (14 CFR 39.13) is amended by further amending Airworthiness Directive (AD) 76-05-05 Amdt. 39-2538, 41 FR 9298; as amended by Amend. 39-2648, (41 FR 36487), as follows:

BOEING: Applies to Model 747 series airplanes certificated in all categories listed in Boeing Service Bulletin 747-53-2131.

1. Revise Paragraph (A) to read as follows: "A. Inspect all fuselage skin lap splices which are covered by the wing-to-body fairings in accordance with the procedures in Boeing Service Bulletin No. 747-53-2131."

2. Change the reference to "3,000 hours time-in-service" to read "3,700 hours time-in-service" in Paragraph (A-1).

The manufacturer's specification and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective March 15, 1979.

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

(NOTE: The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).)

Issued in Seattle, Washington, on February 26, 1979.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc. 79-6681 Filed 3-7-79; 8:45 am]

[4910-13-M]

[Docket No. 78-NW-27-AD; Amdt. 39-3431]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 747-200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: On December 22, 1978, the FAA issued a telegraphic Airworthiness Directive, effective upon receipt, which required discontinuing the use of Number 1 and Number 4 auxiliary fuel tanks on Boeing Model 747-200 series airplanes and deactivating the electrical systems to the boost pumps in those tanks. This action was prompted by the discovery, following a fuel tank leak, of an 0.18 x 0.10 inch hole burned through the electrical conduit which houses the auxiliary fuel tank pump wires in auxiliary fuel tank Number 4. Reportedly, a wire had abraded against the inner conduit wall exposing 0.25 inch of the conductor, and arcing from the conductor to the conduit produced the hole through which fuel escaped. AD action was taken to preclude possible inflight fires and/or explosions. This condition still exists and the AD is hereby published in the FEDERAL REGISTER to make it effective as to all persons. In addition, the AD as published provides for terminating action.

DATE: Effective Date: March 15, 1979, and was effective earlier for all recipients of the telegram dated December 22, 1978.

ADDRESSES: The applicable service bulletins may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at the Office of the Regional Counsel, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:

Mr. Ray Bolsenga, Propulsion Section, ANW-214, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2520.

SUPPLEMENTARY INFORMATION: The telegraphic AD required the immediate deactivation of the auxiliary fuel tank boost pump electrical systems and the drainage and discontinued use of auxiliary tanks Number 1 and Number 4. The AD also specified that terminating action would follow. In order to determine whether the corrective action proposed by the manufacturer was satisfactory, tests to substantiate the inspection and repair procedure called out in Boeing Alert Service Bulletin 747-28-A2091 were conducted. These tests (particularly the vibration testing) showed that the modification procedure in the alert bulletin was inadequate. Spaced ties of the wire bundles and two teflon sleeves instead of one were found to be necessary to provide an acceptable method for converting the installation into a satisfactory airworthy configuration. The alert service bulletin has been revised to incorporate the necessary change, and the procedure in that bulletin is now considered an acceptable means of compliance with the AD and a satisfactory terminating action. The rule as published herein incorporates that procedure.

Since the condition upon which the telegraphic AD was issued is likely to exist in other Boeing 747-200 series airplanes, the AD is now published in the FEDERAL REGISTER. Further, since a situation existed that required immediate adoption of this regulation, it is found that notice and public procedure thereon were impracticable and good cause existed for making the amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

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

BOEING: Applies to Boeing 747-200 series airplanes, Serial Numbers 20237, 20238, 20239, 20556, 20557, 21054, 21140, 21189, 21190, and 21237, equipped with auxiliary fuel tanks Number 1 and Number 4.

Unless modified in accordance with Boeing Service Bulletin 747-28-2067 dated November 11, 1977, or Boeing Alert Service Bulletin 747-28-A2091, Revision 1, dated February 5, 1979, or later FAA approved revisions, accomplish the following:

A. Discontinue immediately the use of auxiliary fuel tanks Number 1 and Number 4;

B. Drain fuel from those tanks; and

C. Open and collar the associated tank pump circuit breakers.

Equivalent inspections and repairs may be used when approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108. Compliance with the revised alert bulletin requirements is considered satisfactory terminating action for this Airworthiness Directive.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective March 15, 1979, and was effective earlier for all recipients of the telegram dated December 22, 1978.

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

NOTE.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Seattle, Washington, on February 27, 1979.

C. B. WALK, Jr.,
Director, Northwest Region.

The incorporation by reference provisions in the documents were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 79-6832 Filed 3-7-79; 8:45 am]

[4910-13-M]

[Docket No. 79-SO-5; Amdt. 39-3432]

PART 39—AIRWORTHINESS DIRECTIVE

Curtiss-Wright C-46 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires removal of the wheel well area ram air scoop(s) and covering the hole on C-46 series aircraft. This AD is needed to prevent an engine fire from having an entry path behind the firewall which could result in catastrophic failure of the wing, and to maintain fire fighting capability.

DATES: Effective March 15, 1979.

Compliance required within the next 100 hours' time in service after the effective date of this AD unless already accomplished.

FOR FURTHER INFORMATION CONTACT:

W. J. Lawrence, FAA Southern Region, Engineering and Manufacturing Branch, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7435.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring the removal of the wheel well ram air scoop(s) and skinning over the hole(s) on Curtiss-Wright C-46 series aircraft was published in the FEDERAL REGISTER 43 FR 54100. The proposal was prompted by an inflight fire on a C-46F which seriously damaged the main wing spar.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. However, the compliance time terminology has been changed from "hours' of operation" to "hours' time in service" for clarification.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

CURTISS-WRIGHT. Applies to all C-46 Series Aircraft certificated in all categories.

Compliance is required within the next 100 hours' time in service after the effective date of the AD unless already accomplished.

To prevent an engine fire from entering the wheel well area through the nacelle ram air scoop(s), accomplish the following: Remove the wheel well ram air scoop(s) located on each engine nacelle just aft of the firewall and seal the hole(s) with the same type material and fasteners as used in the affected nacelle area. Acceptable repair methods may be found in AC 43.13-1A, Chapter 2, or in USAF T.O., AN 01-25LA-3, Section VI. An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

This amendment becomes effective March 15, 1979.

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

Issued in East Point, Georgia, on February 27, 1979.

PHILLIP M. SWATEK,
Director,
Southern Region.

[FR Doc. 79-6833 Filed 3-2-79; 8:45 am]

[4910-13-M]

[Docket No. 79-SO-21, Amdt. 39-3433]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Model PA-44-180 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires the inspection, on both engines, of certain Piper PA-44-180 airplane throttle cables for evidence of damage or binding and requires cable assembly replacement, if necessary. This AD also requires that the carburetor throttle arm be inspected for full and free movement and that the engine throttle control support be modified to allow rigging to provide correct throttle cable travel. This AD is prompted by reports of broken or binding throttle cables that could result in loss of ability to control engine power.

DATES: Effective March 15, 1979. Compliance required within the next 10 hours' time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletins may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745, and Marvel-Schebler/Tillotson, 2195 South Elwin Road, Decatur, Illinois 62525.

A copy of the Service Bulletins are contained in the AD Docket File and may be examined in Room 275, Federal Aviation Administration, Southern Region, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT:

Gil Carter, ASO-214, Propulsion Section, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7435.

SUPPLEMENTARY INFORMATION: There have been reports of broken and binding throttle control cables, throttle control cables with excess cushion at the full throttle position and restricted movement of carburetor throttle arms. Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued which requires the inspection of the throttle control cable and carburetor throttle arm for restricted movement, binding and damage and correction, if necessary. The AD also requires a modification of the engine throttle control support which will allow improved rigging to provide correct throttle cable travel and cushion at the full throttle end of the cable travel on certain Piper PA-44-180 series airplanes.

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

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulation (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

PIPER AIRCRAFT CORPORATION. Applies to Model PA-44-180, serial numbers 44-7995001 through 44-7995144, 44-7995146 through 44-7995180, 44-7995182 through 44-7995186, 44-7995190, 44-7995192, 44-7995193, 44-7995195, and 44-7995197 airplanes certificated in all categories.

Compliance is required within the next 10 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent loss of engine power control due to a damaged or binding throttle control cable or restricted carburetor throttle arm movement, on both engines, accomplish the following:

(a) Remove upper and lower cowling.

(b) Disconnect the throttle cable at the carburetor end and inspect the throttle control cable movement for full and free travel. If the throttle control cable movement exhibits stiffness or binding, replace the cable assembly with a serviceable unit.

(c) Inspect the carburetor throttle arm movement for full and free travel. If the throttle arm movement exhibits stiffness or restricted movement, take the necessary corrective action.

NOTE.—Marvel-Schebler/Tillotson Service Bulletin A2-78, dated October 1978, pertains to this condition.

(d) Remove both left and right engine throttle control supports, and modify the part as shown in Figure No. 1 (dimensions are in inches). Re-mark the modified part as Part No. 86574-04.

(e) Reinstall the modified support as shown in Figure No. 1 (dimensions are in inches). Apply torque in accordance with the Piper Maintenance Manual.

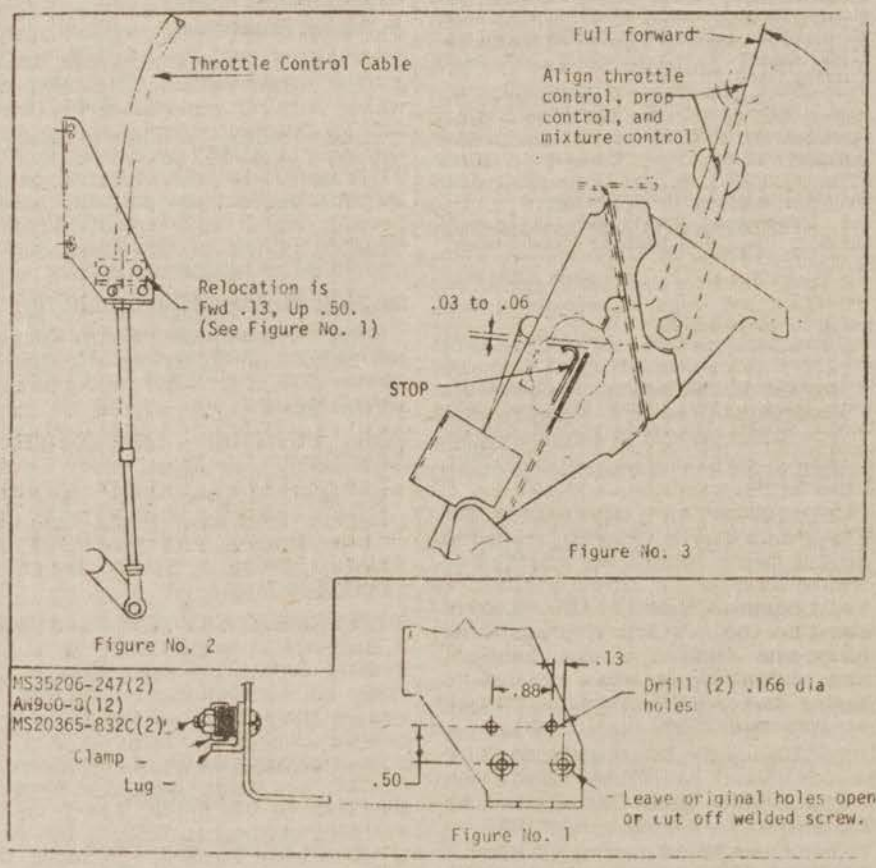
(f) Rerig the throttles in accordance with Figures No. 2 and No. 3 (dimensions are in inches).

(g) Reinstall upper and lower cowling.

(h) Adjust the throttle quadrant gear warning micro switch in accordance with Piper's Maintenance Manual.

(i) Make an appropriate maintenance record entry.

(j) An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.



NOTE.—Piper Service Bulletin 639, dated January 10, 1979, pertains to this subject.

This amendment becomes effective March 15, 1979.

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

Issued in East Point, Georgia, on February 27, 1979.

PHILLIP M. SWATEK,
Director,
Southern Region.

[FR Doc. 79-7034 Filed 3-7-79; 8:45 am]

[Airspace Docket No. 79-SO-6]

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

Alternation of Transition Area, Punta Gorda, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This rule alters the Punta Gorda, Florida, transition area to accommodate a new VOR Standard Instrument Approach Procedure and will lower the base of controlled airspace northeast of Charlotte County Airport from 1200 to 700 feet above ground.

EFFECTIVE DATE: March 15, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

Ronald T. Niklasson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: The Punta Gorda, Florida, transition area is being altered to provide controlled airspace for IFR operations at the Charlotte County Airport predicated on the new Punta Gorda VOR. Since the addition of the transition area extension is minor in nature, notice and public procedure hereon are unnecessary.

ADOPTION OF THE AMENDMENT

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, March 15, 1979, as follows:

Punta Gorda, Florida

". . . longitude 81°59'30"W. . . ." is deleted and ". . . longitude 81°59'30"W.); within 3 miles either side of the Punta Gorda VOR (latitude 26°54'59"N., longitude 81°59'29"W) 038° radial, extending from the 6.5-mile radius area to 8.5 miles northeast of the VOR . . ." is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in East Point, Georgia, on February 19, 1979.

GEORGE R. LACAILLE,
Acting Director,
Southern Region.

[FR Doc. 79-6682 Filed 3-7-79; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-CE-7]

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

Alternation of Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment excludes from V-72, V-190 and V-175 airways the airspace within the Ozark Military Operations Area (MOA) during the time that the MOA is active to permit sharing of the airspace for civil or military use. This action is necessary to accommodate a type of military training that is not normally conducted in airways, and for which suitable airspace is not readily available elsewhere.

EFFECTIVE DATE: April 19, 1979.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

HISTORY

On December 18, 1978, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to exclude from VOR Federal Airways V-72, V-190 and V-175 the airspace within the Ozark Military Operations Area (MOA) during the time that the MOA is active (43 FR 58829). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The two comments received expressed no objection to the proposal. Section 71.123 of Part 71 was republished in the FEDERAL REGISTER on January 2, 1979, (44 FR 307).

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations will exclude from V-72 and V-190 the airspace below 8,000 feet MSL between Long. 90°34'00"W., and Long. 91°30'00"W., during the time that the Ozark MOA is activated by NOTAM. This amendment will also exclude from V-175 the airspace below 8,000 feet MSL between Lat. 37°10'00"N., and Lat. 37°55'00"N., during the time that the Ozark MOA is activated by NOTAM. This action will permit sharing of the airspace for civil use and military training in an area established as the Ozark MOA.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) is amended, effective 0901 GMT, April 19, 1979, as follows:

Under V-72 "The airspace below 8,000 feet MSL between Long. 90°34'00"W., and Long. 91°30'00"W., is excluded during the time that the Ozark MOA is activated by NOTAM." is added.

Under V-175 "The airspace below 8,000 feet MSL between Lat. 37°10'00"N., and Lat. 37°55'00"N., is excluded during the time that the Ozark MOA is activated by NOTAM." is added.

Under V-190 "The airspace below 8,000 feet MSL between Long. 90°34'00"W., and Long. 91°30'00"W., is excluded during the time that the Ozark MOA is activated by NOTAM." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on February 27, 1979.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-6680 Filed 3-7-79; 8:45 am]

[4910-13-M]

[Airspace Docket No. 79-WA-1]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the geographical coordinate defining a point on the shoreline in the description of Eglin AFB, Fla., Restricted Areas R-2915B and R-2915C. Recomputation of this point revealed that latitude 30°23'00"N. should be Latitude 30°22'46"N. at Longitude 86°51'30"W. to be on the shoreline. This action is corrective in nature and does not change any airspace or its use.

EFFECTIVE DATE: March 8, 1979.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 73 is to correct the geographical description of a point described as being along the shoreline in the definition of R-2915B and R-2915C. Because this action merely changes a geographic coordinate by 14 seconds, a point that is correctly defined as "along the shoreline" it is a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.29 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 680) is amended, effective upon publication in the FEDERAL REGISTER, as follows:

Under R-2915B "along the shoreline to Lat. 30°23'00"N.," is deleted and "along the shoreline to Lat. 30°22'46"N.," is substituted therefor.

Under R-2915C "Beginning at Lat. 30°23'46"N.," is deleted and "Beginning at Lat. 30°22'46"N.," is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on February 27, 1979.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-6679 Filed 3-7-79; 8:45 am]

[4910-13-M]

[Docket No. 18741; Amdt. No. 1132]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their vebatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amend-

ments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/-DME SIAPs identified as follows:

* * * Effective May 3, 1979:

Santa Rosa, CA—Sonoma County, VOR Rwy 32, Amdt. 12
Sherman, TX—Sherman Municipal, VOR/DME Rwy 34, Amdt. 3

* * * Effective April 19, 1979:

Selma, AL—Craig Field, VOR Rwy 32, Original
Deadhorse, AK—Deadhorse, VOR Rwy 4, Amdt. 1
Deadhorse, AK—Deadhorse, VOR Rwy 22, Amdt. 1
Kodiak, AK—Kodiak, VOR Rwy 25, Original
Middleton Island, AK—Middleton Island, VOR Rwy 1, Original
Middleton Island, AK—Middleton Island, VOR/DME Rwy 19, Amdt. 4
Miami, FL—Miami International, VOR Rwy 30, Amdt. 1
Punta Gorda, FL—Charlotte County, VOR Rwy 21, Original
St. Augustine, FL—St. Augustine, VOR Rwy 13, Amdt. 2
Anderson, IN—Anderson, VOR-A, Amdt. 5
Sioux City IA—Sioux City Muni, VOR Rwy 31 (TAC), Amdt. 22
Sioux City IA—Sioux City Muni, VOR/DME OR TACAN, Rwy 13, Amdt. 14
Baltimore, MD—Glenn L. Martin State, VOR Rwy 14, Amdt. 2
Springfield, MN—Springfield Municipal, VOR/DME Rwy 13, Original
Matawan, NJ—Marlboro, VOR-A, Original
Rochester, NY—Rochester-Monroe County, VOR Rwy 4, Amdt. 7
Rochester, NY—Rochester-Monroe County, VOR Rwy 10, Amdt. 9
Williston, ND—Sloulin Field Int'l., VOR Rwy 11, Amdt. 9
Toledo, OH—Toledo Express, VOR/DME Rwy 34, Amdt. 3
Watertown, SD—Watertown Muni, VOR Rwy 17 (TAC), Amdt. 11
Watertown, SD—Watertown Muni, VOR/DME or TACAN Rwy 35, Amdt. 6
Dyersburg, TN—Dyersburg Muni, VOR-A, Amdt. 14
Hopewell, VA—Hopewell, VOR Rwy 26, Amdt. 4
Silverdale, WA—Apex Airpark, VOR-A, Original

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * Effective April 19, 1979:

Deadhorse, AK—Deadhorse, LOC/DME BC Rwy 22, Amdt. 1
Anderson, IN—Anderson Municipal, LOC (BC) Rwy 12, Amdt. 2
Anderson, IN—Anderson Municipal, LOC Rwy 30, Amdt. 2
Boston, MA—General Edward Lawrence Logan International, LOC Rwy 22L, Original
Watertown, SD—Watertown Muni, LOC/DME BC Rwy 17, Amdt. 2

* * * Effective March 22, 1979:

Dayton, OH—James M. Cox Dayton International, LOC Rwy 24R, Amdt. 1, cancelled

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective April 19, 1979:

Deadhorse, AK—Deadhorse, NDB-A, Amdt. 1
Middleton Island, AK—Middleton Island, NDB-A, Amdt. 6
Minchumina, AK—Minchumina, NDB Rwy 2, Amdt. 2
Anderson, IN—Anderson Municipal, NDB Rwy 30, Amdt. 2
Sioux City, IA—Sioux City Muni, NDB Rwy 31, Amdt. 20
Danville, KY—Goodall Field, NDB-A, Original
Boston, MA—General Edward Lawrence Logan International, NDB Rwy 22L, Amdt. 8
Smithfield, NC—Johnston County, NDB Rwy 21, Original
Toledo, OH—Toledo Express, NDB Rwy 7, Amdt. 17
Cheraw, SC—Cheraw Muni, NDB Rwy 25, Original
Cheraw, SC—Cheraw Muni, NDB Rwy 25, Original, cancelled
Watertown, SD—Watertown Muni, NDB Rwy 35, Amdt. 2
Cookeville, TN—Putnam County, NDB Rwy 17, Amdt. 3

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * Effective May 3, 1979:

Santa Rosa, CA—Sonoma County, ILS Rwy 32, Amdt. 6

* * * Effective April 19, 1979:

Atlanta, GA—The William B. Hartsfield Atlanta International, ILS Rwy 9L, Amdt. 1
Atlanta, GA—The William B. Hartsfield Atlanta International, ILS Rwy 9R, Amdt. 12
Atlanta, GA—The William B. Hartsfield Atlanta International, ILS Rwy 27L, Amdt. 8
Hilo, HI—General Lyman Field, ILS Rwy 26, Amdt. 4
Sioux City, IA—Sioux City Muni, ILS Rwy 31, Amdt. 20
Boston, MA—General Edward Lawrence Logan Int'l., ILS Rwy 22L, Original, cancelled
Rochester, NY—Rochester-Monroe County, ILS Rwy 4, Amdt. 8
Toledo, OH—Toledo Express, ILS Rwy 7, Amdt. 17
Toledo, OH—Toledo Express, ILS Rwy 25, Amdt. 2
Watertown, SD—Watertown Muni, ILS Rwy 35, Amdt. 4

* * * Effective March 22, 1979:

Dayton, OH—James M. Cox Dayton International, ILS Rwy 24R, Original

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * Effective April 19, 1979:

Louisville, KY—Standiford Field, RADAR-1, Amdt. 14
Rochester, NY—Rochester-Monroe County, RADAR-1, Amdt. 10
Gastonia, NC—Gastonia Municipal, RADAR-1, Amdt. 2
Toledo, OH—Toledo Express, RADAR-1, Amdt. 10

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * Effective April 19, 1979:

Sioux City, IA—Sioux City Muni, RNAV Rwy 35, Amdt. 3
Williston, ND—Sloulin Field Int'l., RNAV Rwy 29, Original
Toledo, OH—Toledo Express, RNAV Rwy 16, Amdt. 2
Knoxville, TN—Downtown Island, RNAV Rwy 26, Original
Charleston, WV—Kanawha, RNAV Rwy 14, Amdt. 4, cancelled
Charleston, WV—Kanawha, RNAV Rwy 32, Amdt. 3, cancelled

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3).)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on March 2, 1979:

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 79-7035 Filed 3-7-79; 8:45 am]

[3510-17-M]

Title 15—Commerce and Foreign Trade

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

PART 8—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF COMMERCE—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Federal Financial Assistance to Which This Part Applies

AGENCY: Department of Commerce.

ACTION: Revision and amendment of Appendix A.

SUMMARY: On Monday, October 23, 1978, a revision and amendment of Department of Commerce Appendix A was published in the FEDERAL REGISTER (43 FR 49303). Two programs of Federal financial assistance to which Title 15, subtitle A, Part 8 applies were not included. Therefore, it is necessary to further amend Appendix A. This is done in accordance with the requirement contained in 28 CFR 42.403(d) that each Federal agency publish a current list of the Federal financial assistance covered under its Title VI programs.

EFFECTIVE DATE: March 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Alice K. Helm, Legal Adviser, Office of Civil Rights, Department of Commerce, 14th and Constitution Avenue, Washington, D.C. 20230, 202-377-5391.

Dated: February 28, 1979.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration/Director, Equal Employment Opportunity.

Pursuant to the requirement contained in 28 CFR 42.403(d), Title 15, Subtitle A, Part 8 is amended as follows:

APPENDIX A—PROGRAMS COVERED BY TITLE VI

* * * * *

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

1. Grants for the planning and construction of public telecommunications facilities for the production and distribution of noncommercial educational and cultural radio and television programming and related instructional and informational materials. (Public Telecommunications Financing Act of 1978, 47 U.S.C. Sections 390-394).

NATIONAL BUREAU OF STANDARDS

1. Grants to universities and other research organizations for fire research and safety programs (15 U.S.C. 278f).

[FR Doc. 79-7100 Filed 3-7-79; 8:45 am]

[3510-25-M]

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 373—SPECIAL LICENSING PROCEDURES

Non-substantive Revisions in Export Administration Regulations

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule amends 15 CFR Part 373 by making the necessary editorial changes to conform the CFR and the Department's Export Administration Regulations. These non-substantive changes have already been published in the looseleaf version of the Export Administration Regulations. They eliminate obsolete material, revise form numbers, update paragraph headings and numbers, and make other non-substantive changes.

EFFECTIVE DATE: March 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Dale F. Snell Jr., Chief, Management Services Branch, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. 202-377-2440).

SUPPLEMENTARY INFORMATION: It has been determined that this regulatory revision is "not significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082 *et seq.*, January 9, 1979) and Industry and Trade Administration Administrative Instructions 1-6 (44 FR 2093 *et seq.*, January 9, 1979), which implement Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), "Improving Government Regulations".

Accordingly, 373.3 of the Export Administration Regulations (15 CFR Part 373) is amended as follows:

§ 373.3 Distribution license.

A Distribution License procedure is established that authorizes exports for a period of one year of certain commodities under an international marketing program to consignees that have been approved in advance as foreign distributors or users. This license may be extended for a period of up to two years. (See § 373.3(k)(1)(i) below.) If the activities for which the Distribution License was issued continue to meet the Distribution License requirements after the three-year period, a complete new application shall be submitted. If approved, the license may be valid for a period of up to two years, and may be renewed once for an additional period of up to two years. The Distribution License procedure is subject to the South African and Namibian limitations in § 373.1.

(a) *Eligible Countries.* The Distribution License procedure may authorize exports and reexports to: (1) All countries in Country Group T; and (2) All counties in Country Group V, except:

Algeria, Egypt, Iraq, Libya, Sudan, Syria, Yemen (Aden), Yemen (Sanaa).

(b) *Eligible commodities.* Any commodities requiring a validated license for export to the eligible countries listed above qualify for the Distribution License Procedure, except: (1) Commodities related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium, as described in §§ 378.2 and 378.3;

(2) Commodities listed in Supplement No. 1 to this Part 373;

(3) Electronic, mechanical, or other devices, as described in § 376.13(a), primarily useful for surreptitious interception of wire or oral communications; and

(4) Commodities listed in a Supplement to Part 377 as being under short supply controls.

(c) *Eligible Exporters and Consignees*—(1) *Applicant-consignee relationship.* The ultimate consignee of a Distribution License must be:

(i) A subsidiary, affiliate, or branch of the U.S. exporter serving as the distributor of the commodities to be exported. The subsidiary, affiliate, or branch must be under the full and active control of the exporter and majority of any voting stock in the subsidiary, affiliate, or branch must be owned by the exporter; or

(ii) An agent, representative, or any other person or firm distributing the commodities to be exported under this license pursuant to a written agreement with the U.S. exporter or its wholly-owned subsidiary that (*a*) Effectively assures compliance with U.S. Export Administration Regulations, including the provisions set forth in § 373.3 (*l*), and (*b*) Lists the country or countries in which the commodities are to be distributed, or

(iii) An end-user importing the commodities for his own use or for use in the production or manufacture of commodities.

(2) *Prerequisite volume of business.* The exporter shall have a reasonable expectation that the Distribution License, if granted, will replace not less than twenty-five individual validated export licenses that would otherwise be required.

(3) *Order requirement.* An applicant for a Distribution License need not hold an order, as defined in § 372.6(b), from the ultimate consignee(s) for the commodities subject to this procedure at the time he applies for the license.

(d) *Application for Distribution License*—(1) *Prior consultation.* The preparation of an initial application for a Distribution License requires a substantial amount of work by the exporter. Therefore, a prospective applicant may wish to consult the Office of Export Administration in advance to obtain a preliminary determination of the applicability of the Distribution License procedure and to obtain advice as to any special information that may be required.

(2) *Documents required.* Each application for a Distribution License shall include the documents specified in paragraph (d)(2) (i) through (iii) of this section, and, if applicable, the certification specified in paragraph (d)(2)(iv) of this section:

(i) Form DIB-622P, Application for Export License;

(ii) Form ITA-6052, Statement by Foreign Consignee in Support of Special License Application, except that if the consignee is a foreign government agency, as defined in § 375.2(b)(iv), form ITA-6052 is not required;

(iii) Comprehensive narrative statement by the exporter, and

(iv) The certification required by § 373.1(a)(2) (i) or (ii) from (a) distributors and end-users in the Republic of South Africa or Namibia and (b) end-users in other countries that intend to produce commodities for export.

An application for a Distribution License need not be supported by the Import Certificate or consignee/purchaser statement otherwise required under §§ 375.2 or 375.3.

(3) *Preparation of documents.* (i) [*Reserved*]

(ii) *Form DIB-622P.* The applicant shall prepare and submit the application in accordance with the provisions of § 372.4, except that the applicant shall:

(*a*) Write "Distribution License," as well as the date, in the "Date of Application" space.

(*b*) Where there is more than one ultimate consignee, insert "See attached list" in the "Ultimate Consignee in Foreign Country" Space.

(*c*) Attach a duplicate list of the country(ies) of ultimate destination, in alphabetical order, followed by the name(s) of the ultimate consignee(s) in each country, also in alphabetical order. If the ultimate consignee is a foreign government agency, as defined in § 375.2(b)(3)(i), so indicate on the list.

(*d*) List separately on the application, or on an attachment thereto, all commodities identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List (§ 399.1) or, if feasible, describe them in related "A" product groups. Examples of acceptable "A" product groups are "Semiconductors, A type," "Electronic testing instruments, A type," etc. All other commodities having Export Control Commodity Numbers within the same Commodity Category may be combined into a single entry. The commodity description for each entry shall be in terms of broad descriptive categories corresponding with the bold-faced capitalized subsection titles, if any, under a Group title on the Commodity Control List.

(*e*) [*Reserved*]

(*f*) Enter the following statement at the bottom of the commodity description space:

"No commodity excluded from the Distribution License Procedure under the Export Administration Regulations will be exported to any consignee in any destination under this Distribution License if this application is approved."

(*g*) Leave blank the spaces entitled "Quantity To Be Shipped," "Export Control Commodity No. and Processing Code," "Unit Price," and "Total Price."

(iii) *Form ITA-6052,* Statement by Foreign Consignee in Support of Special License Application. Unless the ultimate consignee is a foreign-government agency, other than a government-controlled institution of higher learning (university, academy, college, etc.), three copies of Form ITA-6052 shall be manually signed by the consignee or by a responsible official of the consignee who is authorized to bind the consignee to all of the terms, undertakings, and commitments set forth on the form. All copies shall be cosigned by the applicant and submitted with the application to the Office of Export Administration. If reexport authorization is sought, the specific countries of destination shall be included in Item 5 of the form. If the ultimate consignee is a foreign government agency, see § 373.3(d)(3)(ii)(c) for required notation on application.

(iv) *Comprehensive narrative statement.* A comprehensive narrative statement shall be submitted by the applicant in support of the application. This statement shall describe the applicant's marketing program pertinent to the application and shall detail the nature and duration of the business relationship existing between the applicant and each consignee. If the consignee is a subsidiary, affiliate, or branch of the U.S. exporter, the statement shall show clearly that the qualifications set forth in § 373.3(c) are met and shall show the form of ownership or other control exercised by the U.S. exporter. If the U.S. exporter has assigned a sales territory to the consignee that includes a country or countries other than the one in which the consignee is located, the statement shall list the country or countries. If the consignee is a distributor other than a subsidiary, affiliate, or branch of the U.S. exporter, the statement shall include the terms of the distributorship agreement and a copy of the portion of the written agreement assuring compliance with U.S. Export Administration Regulations as described in § 373.3(c)(1)(ii). If the written agreement assigns a sales territory to the consignee that includes a country or countries other than the one in which the consignee is located, a copy of that portion of the written agreement shall also be included. In addition, the statement shall list, for each consignee, the volume of business in the commodities involved for the preceding year, describing the commodities in the same detail as on the license application. If the government of the country where the consignee is located prohibits the inspection of records by a representative of the U.S. government, the narrative statement must be accompanied by a statement from the consignee describing in full an alternative arrangement that would permit a review of his activities adequate to determine whether or not he has complied with the U.S. export control laws and regulations, as required by § 373.3(1)(4).

(*e*) *Action on License Applications*—(1) *Approved license application.* When an application for a Distribution License is approved, Form DIB-628, Export License is issued by the Office of Export Administration authorizing, subject to the provisions of the Export Administration Regulations and to the terms and provisions of the license, the export of commodities covered during a validity period of one year.

(i) *Validation.* The license will be validated in the license number space with a stamp that includes a facsimile of the U.S. Department of Commerce seal, the letter "D," and a series of numbers to indicate the year, month, and day on which the license was validated. For an explanation of the coded dates shown on the license, see § 373.2(d)(1)(i).

(ii) *Case Number.* The case number consists of the letter "A" followed by six digits and is used for initial computerization of the application information and subsequent retrieval.

(iii) *Distribution License Number.* The Distribution License number will be indicated immediately below the validation stamp. This will be a four-digit number prefixed by the letter "V."

(iv) *Special conditions.* If any other special conditions are imposed with respect to the use of a specific Distribution License more restrictive than the general conditions set forth in the Export Administration Regulations, these conditions will be set forth on the license document at the time of issuance, or the licensee will be advised by other means.

(v) *Table of Denial and Probation Orders.* The licensee under a Distribution License is responsible for furnishing promptly to each approved consignee, other than an end-user of the commodities, current reprints of the "Table of Denial and Probation Orders Currently in Effect" (see Supplement No. 1 to Part 388) and each addendum thereto. The licensee is responsible for reproducing any addendum to the "Table of Denial and Probation Orders Currently in Effect" as provided in *Export Administration Bulletins.* Copies of these reprints, generally issued semi-annually, may be obtained without charge from the Office of Export Administration.

(2) *Applications returned without action.* When a Distribution License application is returned without action, the application, together with related documents, will be returned to the applicant with the Form DIB-651, Advice on Application Returned Without Action. This form will state the reason for return of the license application and will explain the corrections and additional information required if the application is to be resubmitted for further consideration by the Office of Export Administration.

(3) *Applications not approved.* When an application for a Distribution License is not approved, the applicant will be notified on Form DIB-687, Notification of Rejection of Export License Application, or by letter, with the reason for the action specified. The applicant may apply for an individual or other appropriate type of validated license for transactions covered by the Distribution License application that was not approved.

(*f*) *Action on Form ITA-6052*—(1) *Validation.* Concurrently with the approval of a Distribution License application, two validated copies of each approved Form ITA-6052 will be sent to the U.S. exporter. One copy shall be retained by the exporter, and one copy shall be sent by the exporter to the approved consignee.

(2) *Notice to consignee.* The letter of transmittal to the approved consignee shall (i) notify the consignee that he will be receiving from the exporter reprints of the U.S. Department of Commerce "Table of Denial and Probation Orders Currently in Effect" and addenda thereto listing individuals and firms to whom the consignee may not sell or otherwise dispose of the U.S. commodities received under the Distribution License, and (ii) advise the consignee that, in addition to the other requirements set forth in this procedure, he may not sell or otherwise dispose of any such U.S.-origin commodities when he has reason to know the commodities will be used in designing, developing, or fabricating nuclear weapons or nuclear explosive devices; in devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions; in the chemical processing of irradicated special nuclear or source material; in the production of heavy water; in the separation of isotopes of source and special nuclear material, or in the fabrication of nuclear reactor fuel containing plutonium. If a consignee is not approved, the form will be returned to the U.S. exporter with a rider stating the reason for this action.

(*g*) *Special Documentations for Specific Destinations.* If a Form ITA-6052 authorizes distribution or use within Switzerland or Yugoslavia, a Swiss Blue Import Certificate or a Yugoslav End-Use Certificate, as appropriate, must be obtained prior to any export or reexport to these destinations. As exports are completed to these destinations under the Swiss Blue Import Certificates and Yugoslav End-Use Certificates, they must be reported to the Office of Export Administration by submitting all completed certificates or copies of parially used certificates with a cover sheet identifying the month of complete or partial shipment. These should cover all such exports during the particular month and should be forwarded to the Office of Export Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230. Partial shipments made after the certificates are transmitted to the Office of Export Administration shall continue to be reported monthly by letter, giving the certificate number, the quantities and dates of any such partial shipments made during the month, and the balance remaining unused at the end of the month. This special documentation requirement is also subject to certain recordkeeping provisions of § 373.3(l).

(*h*) *Export Clearance*—(1) *Value of shipments.* There is no value limitation on shipments under a valid Distribution License. The value of each shipment must be shown on the Shipper's Export Declaration.

(2) *Shipper's Export Declaration.* The Shipper's Export Declaration covering an export made under a Distribution License shall be prepared in accordance with standard instructions. Although the Distribution License may describe the commodities in broad terms, commodity descriptions on the Declaration shall be specific. The description shall (i) conform to the applicable Commodity Control List description, and (ii) incorporate any additional information where required by Schedule B; for example, the type, size, or name of the specific commodity. In addition, the Declaration shall include in the lower portion of column 10 a licensing symbol consisting of the current Distribution License number followed by a blank space, and then a three-digit numerical designation identifying the licensee's approved consignee to whom the shipment is being made. These consignee numbers will be assigned by the Office of Export Administration to all the licensee's approved consignees for the purpose of monitoring exports under this procedure.

(3) *Mail shipments.* Shipments by mail shall be made in accordance with the instructions contained in § 386.1(b).

(4) *Destination control statement.* The U.S. exporter shall enter one of the two following destination control statements on the commercial invoice and bill of lading or air way-bill covering exports under the Distribution License procedure:

(i) "These commodities licensed by the United States for ultimate destination (name of country where the distributor is located). Diversion contrary to U.S. law prohibited."

(ii) "These commodities licensed by the United States for ultimate destination (name of country where the distributor is located) and for distribution or resale in (name(s) of country(ies)) to which reexport has been authorized as indicated on approved Form ITA-6052. Diversion contrary to U.S. law prohibited."

Use of statement (i) does not preclude the consignee from reexporting to any of the exporter's other approved consignees or to other countries for which *specific* prior approval has been received from the Office of Export Administration. In such instances, diversion (i.e., reexport) is *not* contrary to U.S. law and, hence, is not prohibited.

(i) *Reexports*—(1) *Distributor.* A distributor who is an approved consignee under a Distribution License may reexport commodities received under the Distribution License in accordance with the following rules:

(i) An approved consignee may reexport to any of the U.S. exporter's other consignees who have been approved under the Distribution License procedure.

(ii) An approved consignee who is a subsidiary, affiliate or branch of the U.S. exporter may reexport to any ap-

proved destination included in the sales territory assigned by the U.S. exporter, provided the country is an eligible country as defined in § 373.3(a).

(iii) Other approved distributors may reexport to any approved destination that is included in a formal written agreement with the U.S. exporter or its wholly-owned subsidiary, provided the country is an eligible country as defined in § 373.3(a).

(iv) An approved consignee, regardless of whether it is a subsidiary, affiliate or branch of the U.S. exporter, may reexport for use or distribution within Switzerland or Yugoslavia only if the reexport is covered by a Swiss Blue Import Certificate or a Yugoslav End-Use Certificate, as applicable. The Swiss Blue Import Certificate need *not* be submitted to the Office of Export Administration, but shall be retained in accordance with the recordkeeping provisions described in § 373.3(l)(3). The original of each Yugoslav End-Use Certificate issued, or a reproduced copy, if the original is required by the government of the country in which the distributor is located, shall be immediately forwarded by the distributor to the U.S exporter. The original or reproduced copies received from the distributor shall be submitted by the U.S. exporter, on a monthly basis, to the Office of Export Administration (Room 1617M), U.S Department of Commerce, Washington, D.C. 20230, with a letter identifying the distributors from which received. While an approved consignee in Switzerland, without obtaining a Swiss Blue Import Certificate, may stock commodities in Switzerland for reexport to other approved consignees in other countries, such commodities may be released for distribution or use within Switzerland only after a Swiss Blue Import Certificate covering the transaction has been obtained. These documents shall be retained in accordance with the recordkeeping provision of § 373.3(l)(3).

(2) *End-user.* An end-user who is an approved consignee under a Distribution License is not precluded from exporting manufactured products incorporating U.S. commodities received under a Distribution License to any destination he has listed on the form ITA-6052 that has been approved by the U.S. Government. However, reexport of the U.S.-origin commodity in the form received is prohibited, unless specifically authorized in writing by the U.S. Government.

(3) *Request for specific authorization.* A request for specific authorization for any reexport under a Distribution License that is not authorized by the provisions of § 373.3(i) (1) or (2) above, shall be submitted on a Form DIB-699P, Request To Dispose of Commodities or Technical Data Previously Exported, or by letter, to the Office of Export Administration (Room 1617M). (See § 374.3.) Each request shall be supported by any document that is required under the provisions of Part 375 in support of an individual export license application for shipment of the same commodities directly from the United States to the proposed destination.

(4) *Permissive reexport provisions inapplicable.* The permissive reexport provisions of § 374.2 relating to the reexport of commodities within the established GLV dollar-value limits shown on the Commodity Control List (§ 399.1) do not apply to exports, reexports, or distributions under this procedure.

(j) *Direct Shipment to Distributor's Customer.* If a distributor requests that commodities be delivered directly to his customer in the same country of destination or to a customer in another country who has been authorized to receive reexports under the provisions of § 373.3(i), the U.S. exporter may do so under the Distribution License by showing on the Shipper's Export Declaration the name and address of the customer as ultimate consignee followed by a footnote. The related footnote shall read, "by order of (*name of distributor and his address*)," and shall appear below the commodity description. Unless the name of the distributor appears in this manner on the Declaration, direct shipment may not be made to the distributor's customer under the Distribution License.

(k) *Extensions and Amendments of Distribution Licenses*—(1) *Extensions.*—(i) *Form to use.* Requests to extend an existing Distribution License shall be submitted on Form DIB-685P, Request for and Notice of Amendment Action, supported by the following certification:

"I (We) certify that all the facts and intentions set forth in our previously submitted comprehensive narrative statement remain the same, except (enter the word "none," or specify the changes)."

The extended validity period will be of two-year duration unless a shorter period is specifically requested. In the years when the exporter is not entitled to file a request for extension by amendment, a complete new application must be submitted in accordance with the provisions of § 373.3(d)(3).

(ii) *When to apply.* An extension request should be submitted to the Office of Export Administration from 60 to 90 days before the expiration date in order to avoid interruption of shipments under the license.

(iii) *Action by Office of Export Administration.* Each extension request is analyzed by the Office of Export Administration as to the past license activity to determine whether an extension is justified. Prior to asking for an extension, the licensee should examine his own records to see if the criteria described in § 373.3(c)(2) were met during the initial validity of the license. If not, the licensee should apply for an individual or other appropriate type of license instead of an extension of the Distribution License. When action has been taken by the Office of Export Administration, this form will be returned to the licensee for retention in his files.

(2) *Amendments*— (i) *Form to use.* All requests for amendment shall be submitted on Form DIB-685P in the usual manner (see § 372.11), including those requests to extend the validity period (see § 373.3(k)(1)(i) above).

(ii) *New consignees.* If the exporter desires to add a new consignee, he should file a Form ITA-6052 together with Form DIB-685P, Request for and Notice of Amendment Action, in accordance with the provisions of § 372.11. If the new consignee is a foreign government agency, a Form ITA-6052 need not be submitted, but this fact must be entered in the "Amend License to Read as Follows" space in the Form DIB-685P.

(l) *Records*—(1) *Form ITA-6052.* The U.S. exporter shall retain one copy of each validated Form ITA-6052 or each form not approved, for a period of two years from the date of a validation or rejection.

(2) *Other export records.* All other forms, documents, correspondence, memoranda, books and other records relating to any export from the United States under a Distribution License shall be kept and made available for inspection in accordance with the recordkeeping requirements of § 387.11.

(3) *Records of sale or reexport by distributor.* All records regarding a sale or reexport by a distributor who is an approved consignee under a Distribution License shall be retained by the distributor for a period of two years from the date of sale or reexport. In addition, the original of the Swiss Blue Import Certificate and reproduced copies of the original Yugoslav End-Use Certificates obtained in accordance with the requirements of this procedure shall also be retained by the distributor for a period of two years from the date the commodities are distributed. As a minimum, these records shall contain for each sale or reexport the following:

(i) Full name and address of individual or firm to whom sale or reexport was made.

(ii) Full description of each commodity sold or reexported.

(iii) Units of quantity or value of each commodity sold or reexported.

(iv) Date of sale or reexport.

(4) *Inspection of records.* All of the above-mentioned records shall be made available for inspection, upon re-

quest, by the Office of Export Administration or any other accredited representative of the U.S. Government. In some cases, a foreign government may prohibit inspection of records by a U.S. Government representative in the foreign country where the records are located. In that event, the consignee shall submit with the required copies of Form ITA-6052 (see § 373.3(d)(3)(iv)), any alternative arrangement he may be willing to offer for the approval of the Office of Export Administration that would permit a review of his activities adequate to determine whether or not he has complied with the U.S. export control laws and regulations. For example, such an arrangement might consist of an agreement to forward any required records, upon instructions from the Office of Export Administration, either to the U.S. exporter or directly to the Office of Export Administration. Such records may be the original copies, duplicates, or reproductions. Such records may be the original copies, duplicates, or reproductions.

(For further record-keeping requirements, see § 387.11.)

(m) *Exceptions.* In the event that a U.S. exporter is unable to meet any of the requirements of the Distribution License Procedure but believes that unusual circumstances warrant a waiver or an exception to one or more of these requirements, he may consult with or write to the Office of Export Administration, explaining the circumstances in full and requesting a waiver or exception.

(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 79-7040 Filed 3-7-79; 8:45 am]

[1505-01-M]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 655—TRAFFIC OPERATIONS

Establishment of Regulations

Correction

In FR Doc. 79-6017 appearing at page 11543 in the issue for Thursday, March 1, 1979, on page 11545, third column, the amendatory language for Part 655 should read:

"Subpart E—§§ 655.501-655.508 [Removed and Reserved]

"Part 655, Subpart E is removed and reserved.".

[4210-01-M]

TITLE 24—HOUSING AND URBAN DEVELOPMENT

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4468]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Borough of Bradley Beach, Monmouth 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 Bradley Beach, Monmouth County, New Jersey. 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 Bradley Beach, Monmouth County, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Bradley Beach, Monmouth County, New Jersey, are available for review at the Borough Hall, Bradley Beach, New Jersey.

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 Bradley Beach, Monmouth County, New Jersey.

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
Atlantic Ocean	Entire Shoreline	9
Fletcher Lake	Entire Shoreline	10

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

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6663 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4534]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Borough of Shrewsbury, Monmouth County, New Jersey

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 Shrewsbury, Monmouth 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 Shrewsbury, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Shrewsbury, are available for review at Municipal Building, 419 Sycamore Avenue, Shrewsbury, New Jersey.

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 Shrewsbury, New Jersey.

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
Parkers Creek	1370 feet downstream of confluence with North Branch Parkers Creek.	9
	Broad Street (State Route 35)—50 feet [1].	12
North Branch Parkers Creek.	500 feet upstream of confluence with Parkers Creek.	9
	Avenue of the Common—90 feet [2].	15
	Broad Street (State Route 35)—30 feet [1].	17

[1] Downstream of centerline.
[2] Upstream of centerline.

(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).

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6666 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4586]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Berkeley, St. Louis County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Berkeley, St. Louis County, Missouri. 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 Berkeley, St. Louis County, Missouri.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Berkeley are available for review at the City Hall, Berkeley, Missouri.

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 Berkeley, St. Louis County, Missouri.

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) flobd elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Maline Creek	Northeastern corporate limits.	516
	Just downstream from Interstate 70.	519
	Just upstream from Interstate 70.	526
	Southern corporate limits.	528

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6659 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4491]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Decatur, Macon County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Decatur, Macon County, Illinois. 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 Decatur, Macon County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Decatur, Macon County, Illinois, are available for review at the City Clerk's Office in the City Hall, Decatur, Illinois.

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 Decatur, Macon County, Illinois.

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
Sangamon River	Confluence of Stevens Creek.	605
	A. E. Staley Bridge	619
	Nesbitt Bridge (Upstream).	625
Stevens Creek	West Main Street	604
	Westlawn Avenue	620
	Mound Road	628
	Interstate 72	645
Spring Creek	Hill Avenue (Downstream).	624
	Monroe Street	632
	Neeley Avenue	648
	Timber Beam Bridge	650
	Interstate 72	665
Big Creek	Lake Decatur	619
	Baltimore Avenue (Upstream).	623
	State Route 121	624
Tributary No. 1	Lost Bridge Road	623
	Upstream Study Limits	638
Tributary No. 2	Lake Ridge Avenue (Upstream).	623
Tributary No. 3	Concrete Slab Bridge	620
Tributary No. 4	Private Road	629
Tributary No. 5	Mound Road	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.)

In accordance with section 70(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6481 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4714]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

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

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of DeSoto, Johnson County, Kansas. 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 DeSoto, Johnson County, Kansas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of DeSoto are available for review at the City Hall, 108 West Second Street, DeSoto, Kansas.

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 DeSoto, Johnson County, Kansas.

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
Kansas River	At the confluence of Kill Creek.	790
	1,980 feet upstream of Wyandotte Street.	791
	4,750 feet upstream of Wyandotte Street.	793
Kill Creek	Mouth at Kansas River.	790
	2 miles upstream of the mouth at Kansas River.	791
	Upstream corporate limit.	792

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6489 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4663]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

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

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Edgerton, Johnson County, Kansas. 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 Edgerton, Johnson County, Kansas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Edgerton are available for review at the City Hall, Edgerton, Kansas.

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 Edgerton, Johnson County, Kansas.

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
Martin Creek	Downstream side of Santa Fe Railroad at corporate limit.	960
	Upstream side of the second crossing of the Sante Fe Railroad over Martin Creek.	964
	500 feet downstream from U.S. Highway 56.	965
Santa Fe Lake Tributary.	Eastern corporate limits below Santa Fe Lake Dam.	960
	Downstream side of Santa Fe Lake Dam.	965
	Upstream side of Santa Fe Lake Dam.	969
	Corporate limit 1,600 feet upstream from Santa Fe Lake Dam.	969

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6490 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4548]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Elkhart, Elkhart County, Ind.

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 Elkhart, Elkhart County, Indiana. 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 Elkhart, Elkhart County, Indiana.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of elkhart, Elkhart County, Indiana, are available for review at the Municipal Building, 229 South Second Street, Elkhart, Indiana.

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 determina-

tions of flood elevations for the City of Elkhardt, Elkhardt County, Indiana.

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, national geodetic vertical datum
St. Joseph River	Just upstream Napanee Street.	722
	Just upstream Sherman Street.	728
	Marguerite Avenue (Extended).	745
Elkhardt River	Approximately 300 feet upstream Prairie Street Bridge.	735
	Just upstream Middlebury Street Bridge.	740
Christiana Creek	Approximately 250 feet upstream Cassopolis Street.	737
	Just upstream Bristol Street.	751
Peterbaugh Creek	Approximately 100 feet upstream Greenleaf Boulevard Bridge.	746
	Just downstream Sellers Court Bridge.	750
	Just upstream Sellers Court Bridge.	753
Yellow River	Just downstream Southern Corporate Limits.	759

(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.)

In accordance with section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6485 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4549]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Goshen, Elkhart County, Ind.

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 Goshen, Elkhart County, Indiana. 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 Goshen, Elkhart County, Indiana.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Goshen, Elkhart County, Indiana, are available for review at the Goshen City Hall, 11 East Jefferson, Goshen, Indiana.

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 Goshen, Elkhart County, Indiana.

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
Elkhart River	Downstream Corporate Limits.	772
	Upstream confluence of Rock Run.	780
	Upstream Shawklin Park Bridge.	783
	Downstream Goshen Dam.	787
	Upstream Goshen Dam	796
	Upstream Corporate Limits.	796
Rock Run Creek	Upstream Wilden Avenue.	785
	Upstream Fifth Street	789
	Upstream Cottage Avenue.	793
	Upstream Monroe Street.	798
	Upstream Corporate Limits.	800

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6486 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4253]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Greenville, Washington County, Miss.

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 Greenville, Washington County, Mississippi. 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 Greenville, Mississippi.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Greenville, are available for review at City Hall, 340 Main Street, Greenville, Mississippi.

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 Greenville, Mississippi.

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
Main Canal	Bowman Boulevard—100 feet*.	120
	Alexander Street—100 feet*.	122
	Illinois Central Gulf Railroad—100 feet* (First crossing upstream of Horseshoe Ditch).	124
Bowman Boulevard Ditch.	State Highway No. 1—100 feet*.	121
	Canal Avenue—100 feet*	122
	Cypress Lane—100 feet* (First crossing upstream of Main Street).	123
	Mill road—100 feet*	124
	Goodrich Road—100 feet*.	125
Robertshaw Boulevard Ditch.	South Colorado Street—100 feet*.	121
	Cannon Street—100 feet*.	122
	Pedestrian Bridge—100 feet*.	123
Park Ditch	Pickett Street—100 feet*	123
	Illinois Central Gulf Railroad—100 feet*.	123
Horseshoe Ditch	Thorton Street—100 feet*.	123
	Sampson Road—100 feet*.	123

* Upstream of centerline.

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 6, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6657 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3134]

PART 1917—APPEALS FROM FLOOD PROPOSED ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Hazlehurst, Jeff Davis County, Georgia

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 Hazlehurst, Jeff Davis County, Georgia. 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 Hazlehurst, Jeff Davis County, Georgia.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Hazlehurst, Jeff Davis County, Georgia, are available for review at the City Hall, Hazlehurst, Georgia.

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 Hazlehurst, Jeff Davis County, Georgia.

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, national geodetic vertical datum
Stream C	South Corporate Limits.	247
	Downstream of Broxton Road.	251
Tributary C1	Upstream of Davis Street.	250
Stream D	Northeast Corporate Limits.	200
	Upstream of North Gill Street.	232
Tributary D1	Upstream of Pine Street	228
	Downstream of Tallahassee Street.	237

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

In accordance with section 7(o)(4) of the Department and Housing and Urban Development Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6476 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4662]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Jeffersonville, Clark County, Indiana

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 Jeffersonville, Clark County, Indiana. 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 Jeffersonville, Clark County, Indiana.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Jeffersonville are available for review at the City Clerk's Office, City-County Building, Jeffersonville, Indiana.

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 Jeffersonville, Clark County, Indiana.

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	Just upstream of Interstate 65 bridge.	450
	Upstream corporate limit.	450
Silver Creek	Just upstream of Conrail.	462
Woodland Court Tributary.	Downstream corporate limit.	463
	Downstream side of Northside Church Road.	472
	Upstream side of Northside Church Road.	475
	Upstream corporate limit.	475
Greenbriar Tributary.	Upstream side of Reeds Lane.	454
	Upstream side of Harmony Lane.	456
	Upstream side of 10th Street.	457
Hamburg Pike Tributary.	Downstream corporate limits.	455
	Downstream side of Hamburg Pike.	464
Mill Creek	Downstream side of Interstate 65 southbound.	442
	Upstream side of Eastern Boulevard.	443
	Upstream side of Conrail.	444
	Upstream corporate limit (Hamburg Pike).	446

(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.)

In accordance with section 70(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6487 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4544]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Lava Hot Springs, Bannock County, Idaho

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 Lava Hot Springs, Bannock County, Idaho. 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 Lava Hot Springs, Idaho.

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

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 Lava Hot Springs, Idaho.

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
Portneuf River	Center Street—75 feet [1]..	4.994
	Main Street—30 feet [1].....	5,005
	U.S. Highway 30—at centerline.	5,085

[1] Upstream of centerline.

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 25, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6478 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4690]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Linwood, Leavenworth County, Kansas

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 Linwood, Leavenworth County, Kansas. 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 Linwood, Leavenworth County, Kansas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Linwood are available for review at the City Hall, Linwood, Kansas.

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 Linwood, Leavenworth County, Kansas.

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
Stranger Creek.....	1,600 feet downstream of Bridge Street at southeastern corporate limits.	796
	1,500 feet upstream of Bridge Street..	797
	2,000 feet upstream of Bridge Street at northern corporate limits.	798

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324, of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6650 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4660]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Marengo, McHenry County, Illinois

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 Marengo, McHenry County, Illinois. 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 Marengo, McHenry County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Marengo are available for review at the City Hall, Marengo, Illinois.

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 Marengo, McHenry County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L.

93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Unnamed creek	Northern corporate limit.	798
	750 feet upstream of northern corporate limit.	800
	1,320 feet downstream from State Street.	802
	500 feet downstream of State Street.	803
	At State Street.....	806
	At Hale Street.....	807
	At Page Street	808
	890 feet upstream of Telegraph Avenue.	810
	200 feet upstream of Prospect Street.	811
	Eastern corporate limit..	813

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 25, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6482 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4633]

PART 1917—APPEALS FROM FLOOD PROPOSED ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Marine City, St. Clair County, Michigan

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 Marine City, St. Clair County, Michigan. 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 Marine City, St. Clair County, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Marine City are available for review at the City Hall, 300 Broadway, Marine City, Michigan.

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 Marine City, St. Clair County, Michigan.

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
Belle River	1,600 feet downstream of Bridge Street.	580
	800 feet upstream of Michigan—29.	581
	1,800 feet upstream of Michigan—29.	582
St. Clair River	At downstream corporate limits.	580
	At upstream corporate limits.	580

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6653 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4706]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of McComb, Pike County, Mississippi

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 McComb, Pike County, Mississippi. 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 McComb, Pike County, Mississippi.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of McComb, Pike County, Mississippi, are available for review at the Building Inspector's Office, City Hall, McComb, Mississippi.

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 McComb, Pike County, Mississippi.

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 Tangipahoa River.	Just upstream of Delaware Avenue.	390
	Approximately 70 feet downstream of Smithdale Road.	400
Town Creek	Approximately 80 feet upstream U.S. Highway 98.	376
	Avenue A extended	384
	Just downsteam of Pearl River Avenue.	394
Stream A	Just upstream Wilson Avenue.	382
	Just downstream of Locust Avenue.	387

(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.)

In accordance with section 7(o)(4) of the Department of Housing and Urban Development Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6658 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4062]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Milledgeville, Baldwin County, Georgia.

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 Milledgeville, Baldwin County, Georgia. 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 Milledgeville, Baldwin County, Georgia.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Milledgeville, Baldwin County, Georgia, are available for review at the City Engineer's Office, City Hall, Milledgeville, Georgia.

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 Milledgeville, Baldwin County, Georgia.

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
Oconee River	Approximately 300 feet upstream of Georgia Highway 49.	276
	Confluence with Tobler Creek.	280
	Approximately 200 feet upstream of Southern Railroad.	281
Oconee River Tributary OT.	Just upstream of Nelson Road.	279
Fishing Creek	Just upstream of South Wilkinson Street.	275
	Confluence with Fishing Creek Tributary 1.	275
Fishing Creek Tributary 2.	Just downstream of West McIntosh Street.	288
	Just downstream of West Montgomery Street.	295
Fishing Creek Tributary 3.	Just upstream of unnamed paved road.	289
Oconee River Tributary R.	Just upstream of North Wilkinson Street.	277
	Approximately 100 feet upstream of Georgia Highway 24 (U.S. Highway 441).	290
Oconee River Tributary RI.	Just upstream of Orchard Hill Road.	278
	Just upstream of Pritchard Street.	300
	Just upstream of Camden Street.	326

(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.)

In accordance with section 7(o)(4) of the Department of Housing and Urban Development Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6477 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4489]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for The City of Mullan, Shoshone County, Idaho

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 Mullan, Shoshone County, Idaho. 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 Mullan, Idaho.

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

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 Mullan, Idaho.

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
South Fork Coeur d'Alene River.	River Street (Downstream Crossing)—10 feet [1].	3235
	5th Street—100 feet [1].....	3261

[1] Upstream of centerline.

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 25, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6479 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4484]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Patterson, Stanislaus County, California

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 Patterson, Stanislaus County, California. 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 Patterson, California.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Patterson, are available for review at City Hall, 344 West Las Palmas Avenue, Patterson, California.

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 Patterson, California.

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
Lateral D Canal.....	Intersection of Northmead Way and North Third Street.	97
	Intersection of North Second Street and J Street.	97

(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).

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule

has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 25, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6473 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI- 4584]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Preston, Fillmore County, Minnesota

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 Preston, Fillmore County, Minnesota. 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 Preston, Fillmore County, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Preston are available for review at the City Hall, Preston, Minnesota.

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 Preston, Fillmore County, Minnesota.

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
South Branch Root River.	East corporate limit.....	932
	Just upstream of Fillmore Street near Bluff Street.	937
	Just upstream of Preston City Road.	952
	Western corporate limit.	955

(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.)

In accordance with Section 7 (o) (4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6655 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4609]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Prospect Heights, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Prospect Heights, Cook County, Illinois. 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 Prospect Heights, Cook County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Prospect Heights, Cook County, Illinois, are available for review at the Prospect Heights City Hall, 4 East Camp McDonald Road, Prospect Heights, Illinois.

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 Prospect Heights, Cook County, Illinois.

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
Des Plaines River..	Upstream Corporate Limits.	638
	Downstream Corporate Limits and State Route 21.	637
McDonald Creek...	Upstream Corporate Limits.	667
	Stonegate Road (West)..	664
	Palatine Road (Upstream).	659

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Wheeling Road (Upstream).	652
	Camp McDonald Road (Upstream).	647
	Downstream Corporate Limits.	644
Tributary A, McDonald Creek.	Oakton Road (Upstream).	666
	Elm Street (Upstream)...	666
	Elmhurst Road (Upstream).	655
	Willow Road (Upstream).	653

(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).

In accordance with Section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6484 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4395]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Russellville, Franklin County, Ala.

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 Russellville, Franklin County, Alabama. 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 Russellville, Franklin County, Alabama.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Russellville, Franklin County, Alabama, are available for review at City Hall, Russellville, Alabama.

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 Russellville, Franklin County, Alabama.

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
Town Branch.....	Just upstream Walnut Gate Road.	677
	Just upstream Alabama Highway 24.	712
	Just downstream Lawrence Street.	757
Garman Branch....	Approximately 100 feet upstream US Highway 43.	739
	Just downstream Jackson Avenue.	786
Pain Creek	Just upstream Courtland Road.	726
	Just upstream Underwood Road.	742
Mud Creek	Just upstream Water Plant road.	659
	Confluence of Town Branch.	663

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6472 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4711]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Salem, Dent County, Missouri

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 Salem, Dent County, Missouri. 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 Salem, Dent County, Missouri.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Salem are available for review at the City Hall, 3rd and Washington, Salem, Missouri.

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 Salem, Dent County, Missouri.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insur-

ance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 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
Drainage Ditch No. 1.	Downstream corporate limit.	1,129
	Just upstream of Rolla Street.	1,146
	Just upstream of Center Street.	1,158
Spring Creek	Downstream corporate limit.	1,126
	Upstream side of State Highway 19.	1,127
	Just upstream of Dents Ford Road.	1,128
	Upstream corporate limit.	1,130
Town Branch	Downstream corporate limit.	1,125
	250 feet downstream of Missouri Highway.	1,125
	Just downstream of Missouri Highway 19.	1,130
	550 feet upstream of Missouri Highway 19.	1,132
	Downstream side of Rolla Street.	1,139
	100 feet upstream of Rolla Street.	1,144
	50 feet downstream of Second Street.	1,148
	100 feet upstream of Second Street.	1,150
	50 feet upstream of Center Street.	1,152
	580 feet upstream of Center Street.	1,153
	Just downstream of Franklin Street.	1,160

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

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6660 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-2667]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Sioux City, Woodbury County, Iowa

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 Sioux City, Woodbury County, Iowa. 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 Sioux City, Woodbury County, Iowa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Sioux City, Woodbury County, Iowa, are available for review at the Sioux City Hall, in the City Clerk's Office, P.O. Box 447, Sioux City, Iowa.

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 Sioux City, Woodbury County, Iowa.

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, above mean sea level
Big Sioux River	Interstate 29	1,095
	Goldie Avenue (Extended).	1,102
	Chicago, Milwaukee, St. Paul and Pacific Railroad.	1,107
	Plymouth/Woodbury County boundary.	1,111
Floyd River	Interstate 29	1,086
	U.S. Highway 20	1,092
	11th Street	1,104
	18th Street	1,109
	Burlington Northern Railroad.	1,112
	Plymouth/Woodbury County Boundary.	1,120
Perry Creek	Chicago, Milwaukee, St. Paul and Pacific Railroad.	1,103
	4th Street	1,106
	Market Street	1,115
	14th Street	1,117
	West 18th Street	1,122
	20th Street	1,125
	Stone Park Boulevard	1,138
	Country Club Boulevard	1,143
	Buckwalter Drive (Extended).	1,158
Bacon Creek	South Westcott Street (Extended).	1,094
	South Fairmount Street	1,102
	Rustin Street	1,115
	South Alice Street	1,118
	South Martha Street	1,134
	South Mulberry Street	1,139
	Cedar Street (Extended)	1,154
	Soil Conservation Service Dam.	1,172

(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).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 6, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6488 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4504]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for The City of St. Clair Shores, Macomb County, Michigan

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 St. Clair Shores, Macomb County, Michigan. 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 St. Clair Shores, Michigan.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of St. Clair Shores, are available for review at City Hall, 27600 Jefferson Avenue, St. Clair Shores, Michigan.

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 St. Clair Shores, Michigan.

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, feet, national geodetic vertical datum
Lake St. Clair.....	Hoffman and Jefferson Avenues.	578.5
	Port Street-300 feet east of Jefferson Avenue.	578.5
	Eleven Mile Road-800 feet east of Jefferson Avenue.	578.5
	Bayview Drive-300 feet east of Jefferson Avenue.	578.5

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

In accordance with section 7(o)(4) of the Department of Housing and Urban Development Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6654 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4635]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Tekamah, Burt County, Nebraska

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 Tekamah, Burt County, Nebraska. 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 Tekamah, Burt County, Nebraska.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Tekamah are available for review at the City Hall, Tekamah, Nebraska.

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 Tekamah, Burt County, Nebraska.

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 Branch Tekamah Creek.	Confluence with Tekamah Creek.	1,059
	50 feet downstream of 16th Street.	1,061
	70 feet upstream of 16th Street.	1,066
	50 feet downstream of 17th Street.	1,067
	Just upstream of 17th Street.	1,073
	Just downstream of P Street.	1,073
	Just upstream of P Street.	1,083
	Upstream corporate limit.	1,086
	Upstream limit of extraterritorial jurisdiction.	1,163
	1,060 feet upstream of P Street extended.	1,166
Tekamah Creek.....	50 feet upstream of 13th Street.	1,055

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	350 feet upstream of L Street (near 13th Street).	1,059
	100 feet downstream of Chicago and Northwestern Railroad.	1,060
	Upstream corporate limit.	1,065
	Upstream of State Highway 32.	1,077
	Upstream limit of extraterritorial jurisdiction.	1,088

Source of flooding	Location	Depth in feet, above-ground level
Tekamah Creek.....	Intersection of 8th and K Streets.	2
	Intersection of 8th and P Streets.	2
	Intersection of 12th and G Streets.	2
	Intersection of 12th and Q Streets.	2
	Intersection of 12th and L Streets.	3

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

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6661 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4592]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Tonawanda, Erie County, New York

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 Tonawanda, Erie County, New York. 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 Tonawanda, Erie County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Tonawanda, Erie County, New York, are available for review at the the Tonawanda City Hall, 200 Niagara Street, Tonawanda, New York.

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 Tonawanda, Erie County, New York.

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
Tonawanda Creek.	Railroad Spur	571
	River Road	571
	Main Street	571
Ellicott Creek	East Niagara	571
	Delaware Street	571
	Fremont Street	571
	Conrail	571
	Young Street	571
	Corporate Limits (upstream).	572
Niagara River	Lasalle Yacht Club	568
Tonawanda Channel.	Confluence with Tonawanda Creek.	571
	Huntley Station	571

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978,Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6667 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4634]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Woodland, Hennepin County, Minn.

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 Woodland, Hennepin County, Minnesota. 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 Woodland, Hennepin County, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Woodland are available for review at the City Hall, Woodland, Minnesota.

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 Woodland, Hennepin County, Minnesota.

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
Lake Minnetonka..	Shoreline.....	931

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6656 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4364]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Canton, Hartford County, Conn.

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 Canton, Hartford County, Connecticut. 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 Canton, Hartford County, Connecticut.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Canton are available for review at the Town Hall, 4 Market Street, Canton, Connecticut.

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 Canton, Hartford County, Connecticut.

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
Farmington River.	At southern corporate limit.	278
	Railroad Bridge located approximately 800 feet upstream of southern corporate limit.	283
	Just downstream of Route 179.	289
	Just upstream of Route 179.	297
	Confluence of Nepaug River.	304
	Just upstream of Route 25.	312
	At eastern corporate limit.	333
Rattlesnake Brook	Mouth at Farmington River.	298
	Just upstream of Dyer Avenue.	301
	850 feet upstream of Dyer Avenue.	303
	Approximately 50 feet downstream of Maple Avenue.	318
	Just upstream of Maple Avenue.	324
	Just upstream of Abandoned Railroad Bridge located approximately 550 feet downstream of Atwater Road.	328
	Just upstream of Dowd Avenue.	336
	1,150 feet downstream of U.S. Route 44.	344
	Upstream of U.S. Route 44.	373
	950 feet upstream of U.S. Route 44.	400
	Just upstream of East Hill Road.	473
Cherry Brook.....	Just upstream of U.S. Route 44.	314
	Just downstream of Humphrey Road.	384
	Just upstream of Humphrey Road.	389
	Just downstream of Barbourtown Road.	405
	Just upstream of Meadow Road.	415
	Just downstream of West Road.	450
	Just upstream of West Road.	456
	Just downstream of Wright Road.	601
	Just upstream of Wright Road.	612
	850 feet upstream of Wright Road.	612
	Just downstream of Barkhamsted Road.	675
	Just upstream of Barkhamsted Road.	681
	2,100 feet upstream of Barkhamsted Road.	719
Barbour Brook	Mouth at Cherry Brook.	408
	1,200 feet upstream of Barbourtown Road.	418

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just upstream of bridge located approximately 3,170 feet upstream of confluence with Cherry Brook.	459
	Just downstream of Barbourtown Road.	515
Jim Brook	Southern corporate limit.	284
	Just upstream of U.S. Route 44.	290
	Upstream of Washburn Road.	305
	Just upstream of dam, 1,370 feet upstream of Washburn Road.	330
	At a point 1,800 feet upstream of Washburn Road.	340

(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 the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6475 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4506]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Deering, Hillsborough County, New Hampshire

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 Deering, Hillsborough County, New Hampshire. 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 Deering, Hillsborough County, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Deering are available for review at the Town Office, Deering, New Hampshire.

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 Deering, Hillsborough County, New Hampshire.

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
Contoocook River.	North Corporate Limit	592
	0.2 miles Upstream of North Corporate Limit.	594
	Just Downstream of Second New Hampshire Turnpike.	598
	1.6 miles Upstream of Second New Hampshire Turnpike.	600
	Southwest Corporate Limits.	603
Piscataquog River.	East Corporate Limits	658
	0.4 mile Upstream of East Corporate Limits.	660
	Just Downstream of State Route 149.	665
	Just Upstream of State Route 149.	669
	Just Downstream of Bartlett Hill Road.	670
	Just Upstream of Bartlett Hill Road.	671
	0.3 miles Upstream of Bartlett Hill Road.	676
	Just Downstream of Dirt Road Bridge.	714
	0.02 mile Upstream of Dirt Road Bridge.	723
	Just Downstream of Dam near Camp Road.	742
	Just Upstream of Dam near Camp Road.	745
	0.23 mile Upstream of Dam near Camp Road.	780
	Just Downstream of Beaver Made Dam.	789
	Just Upstream of Beaver Made Dam.	791
	0.47 mile Upstream of Beaver Made Dam.	800
	0.01 mile Downstream of Francestown Road.	827
	Just Upstream of Francestown Road.	834
	Just Downstream of Beaver Made Dam.	839
	Just Upstream of Beaver Made Dam.	843
	Just Upstream of Pleasant Pond Road.	845
	0.9 mile Upstream of Pleasant Pond Road.	852
	1.1 miles Upstream of Pleasant Pond Road.	884
	0.4 mile Downstream of Reservoir Road.	899
	0.08 mile Downstream of Reservoir Road.	901
	Just Upstream of Reservoir Road.	911
	Just Upstream of Deering Reservoir Dam.	

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6662 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4363]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATION

Final Flood Elevation Determination for the Town of Milliken, Weld County, Colorado

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 Milliken, Weld County, Colorado.

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 food 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 Milliken, Colorado.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Milliken, are available for review at Town Clerk's Office, 1109 Broad Street, Milliken, Colorado

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 Milliken, Colorado.

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 Thompson River.	Quentine Avenue	4741
	Great Western Railway.	4747
	State Highway 60	4748

(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)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 25, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6474 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4503]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Stow, Middlesex County, Massachusetts

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 Stow, Middlesex County, Massachusetts. 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 Stow, Middlesex County, Massachusetts.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Stow are available for review at the Tow Clerk's Office, Town Hall, Stow, Massachusetts.

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 Stow, Middlesex County, Massachusetts.

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
Assabet River	White Pond Road at east corporate limit.	180
	At Sudbury Road	181
	4,000 feet downstream from Gleasondale Road (Route 62).	182
	Upstream at private road located 450 feet above Gleasondale Road.	184
	Upstream of Waterfall Dam located 800 feet above Gleasondale Road.	195
	At southern corporate limit.	196
Branch No. 3 Assabet River.	At confluence with Assabet River.	195
	.3 mile upstream of confluence.	196
	Downstream side of Hudson Road and Randall Street.	200
	Upstream side of Husdon Road and Randall Street.	203
	.2 mile upstream of Hudson Road and Randall Street.	204
	At Goshen Lane	215
	Upstream side of Athens Street.	226
Boons Pond and Branch.	At confluence with Assabet River.	182
	.....	190
	Upstream side of Boons Pond Dam at Barton Road.	
Elizabeth Brook	At Brookside Cemetery Road.	192
	At Fletchers Pond Dam	197
	Upstream side of Gleasondale Road.	199
	Upstream at Wheeler Street.	201
	At Wheeler Pond	208
	Upstream side of Great Road.	215
	At Hiley Brook Road	219
	At Delaney Road	220

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Branch No. 2 Elizabeth Brook.	.125 mile downstream of Great Road.	196
	At Great Road	200
	At Crescent Street	204

(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.)

In accordance with section 7(o)(4) of the Department of Housing and Urban Development Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6651 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4694]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Clinton, Macomb County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Clinton, Macomb County, Michigan. 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 Clinton, Macomb County, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Clinton are available for review at the Clinton Township Hall, 1129 South Gratiot Avenue, Mt. Clemens, Michigan.

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 Clinton, Macomb County, Michigan.

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
Clinton River	Southern corporate limit.	581
	Downstream of confluence of Clinton River Spillway.	584
	At Grand Trunk Western Railroad.	589
	Just upstream of Moravian Drive.	593
	At confluence of Clinton River North Branch.	593
	Just upstream of Garfield Road.	600
	At Hayes Road	602
Clinton River Spillway.	East corporate limit	581
	At Harper Avenue	583
	At confluence of Clinton River.	584
Clinton River North Branch.	Just upstream of Cass Avenue.	594
	Upstream of Little Road	596
	Just downstream of Hall Road.	597
Clinton River Middle Branch.	At Heydenreich Road	594
	At Hall Road.	595
Miller Drain	At Heydenreich Road	594
	At Hall Road	594
Harrington Drain	At Harrington Boulevard.	591
	Just upstream of Metropolitan Parkway.	598
	Just downstream of Kelly Road.	600
	Just upstream of Bobcean Road.	606
	At 15 mile road	607
Red Run Drain	At west corporate limit	602
	Just upstream of Nunneley Drive.	605

(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)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6652 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4510]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Millburn, Essex 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 Township of Millburn, Essex County, New Jersey. 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 Millburn, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Millburn, are available for review at Millburn Township Hall, 375 Millburn Avenue, Millburn, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Ad-

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Millburn, New Jersey.

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 Rahway River.	Route 78 Access Ramp—20 feet [1].	90
	Fandanco Dam—10 feet [2].	102
	Frandanco Dam—20 feet [1].	107
	Ridgewood Road—20 feet [1].	112
	Taylor Park Dam—40 feet [2].	115
	Taylor Park Dam—20 feet [1].	121
	Taylor Park Footbridge—50 feet [1].	123
	Millburn Avenue—20 feet [1].	129
	Essex Street—20 feet [1].	139
	Conrail—20 feet [1].	139
	Glen Avenue Bridge—50 feet [2].	155
East Branch Rahway River.	Route 78 Access Ramp—20 feet [1].	90
	Elizabeth Joint Meeting—30 feet [1].	92
	Vauxhall Road—10 feet [1].	96
Passaic River	Passaic Avenue—20 Feet [1].	177
	Morris and Essex Turnpike—Old State Highway 24—20 feet [2].	180

[1] Upstream of centerline.
[2] Downstream of centerline.

(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)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6664 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4511]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATION

Final Flood Elevation Determination for the Township of Mount Holly, Burlington 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 Township of Mount Holly, Burlington County, New Jersey. 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 Mount Holly, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Mount Holly, are available for review at Mount Holly Municipal Building, 23 Washington Street, Mount Holly, New Jersey.

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 Mount Holly, New Jersey.

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 Branch Rancocas Creek.	King Street	11
	Pine Street	13
	Mill Dam (upstream side).	15
	Upstream Corporate Limits.	18
Mill Race	Park Drive	12
	Pine Street	14
Mount Holly Bypass Channel (All Backwater).	Bispham Street	12
Buttonwood Run	Washington Street	13
	Buttonwood Street	15
	Cherry Street	21
	Branch Street	23

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 24, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6665 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4638]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATION

Final Flood Elevation Determination for the Village of Fairport Harbor, Lake 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 Fairport Harbor, Lake 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 Fairport Harbor, Lake County, Ohio.Q04

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Fairport Harbor are available for review at the Village Hall, 220 3rd Street, Fairport Harbor, Ohio.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Fairport Harbor, Lake 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
Grand River	At mouth	576
	100 feet downstream of Fairport, Painesville and Eastern Railroad Bridge.	576
	600 feet upstream of Fairport, Painesville and Eastern Railroad.	577
	1,400 feet upstream of Fairport, Painesville and Eastern Railroad.	578
	850 feet downstream of Chessie Railroad.	579
	1,300 feet upstream of Chessie Railroad.	580
	100 feet downstream of North St. Clair Street.	581
	560 feet upstream from North St. Clair Street.	582
Lake Erie	Shoreline opposite Water Street.	580
	Shoreline opposite eastern corporate limit.	580

(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 the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6668 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4546]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of Midlothian, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Midlothian, Cook County, Illinois. 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 Midlothian, Cook County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Midlothian, Cook County, Illinois, are available for review at the Village Hall, Midlothian, Illinois.

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 Midlothian, Cook County, Illinois.

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
Midlothian Creek	Upstream Corporate Limits.	628
	Crawford Avenue and 149th Street (Upstream).	620
	147th Street (Upstream)	615
	Downstream Corporate Limits.	608
Natalie Creek	Upstream Corporate Limits.	634
	149th Street (Upstream)	633
	Kilpatrick Avenue (Upstream).	632
	147th Street (Upstream)	627

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Kostner Avenue (Upstream).	622
	Keeler Avenue (Upstream).	619

(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.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 31, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6480 Filed 3-7-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4661]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of Mokena, Will County, Illinois

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 Mokena, Will County, Illinois. 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 Mokena, Will County, Illinois.

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

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 Mokena, Will County, Illinois.

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
Hickory Creek	At westernmost corporate limit.	657
	1,650 feet upstream of westernmost corporate limit.	659
	900 feet downstream of Wolf Road.	662
	Just downstream of Wolf Road.	663

(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).)

In accordance with Section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6483 Filed 3-7-79; 8:45 am]

[4210-01-M]

SUBCHAPTER C—FEDERAL CRIME INSURANCE PROGRAM

[Docket No. R-79-628]

PART 1931—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

AGENCY: Federal Insurance Administration—HUD.

ACTION: Final rule.

SUMMARY: This rule will extend to the citizens of the State of Washington eligibility to purchase Federal crime insurance policies against burglary and robbery losses under the Federal Crime Insurance Program.

DATES: March 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. James M. Rose, Jr., Assistant Administrator, for Urban Property Insurance—Riot and Crime, 451 Seventh Street, SW., Washington, D.C. 20410, Telephone number 755-6555.

SUPPLEMENTARY INFORMATION: This action is being taken under the authority of 12 U.S.C. 1749bbb-10a on the basis of evidence obtained through a continuing review of the market availability situation in each of the several States and particularly upon the conclusions and recommendations of the Attorney General of the State of Washington and the Mayor of the City of Seattle who requested that their citizens be made eligible for Federal crime insurance.

The Federal Crime Insurance Program commenced operation in August 1971 and approximately 50,000 policies are currently in force in the District of Columbia, Puerto Rico, the Virgin Islands and twenty-two States eligible for Federal crime insurance. The Program enables residents and businesses to obtain affordable policies of burglary and robbery insurance which will not be cancelled or nonrenewed because of losses. Applicants are required to meet minimum protective device requirements designed to reduce their vulnerability to losses. The Attorney General of the State of Washington and the Mayor of Seattle, after considering the insurance needs of their citizens have requested that their citizens be made eligible to purchase Federal crime insurance. With

the addition of this State, the Federal Crime Insurance Program will be available to residents and businesses in the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and twenty-three States. Accordingly, on the basis of the Administrator's continuing review of the crime insurance availability situation, it has been determined that a critical market unavailability situation exists in the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and States set forth in revised Section 1931.1 and that as of the effective date of this regulation, March 28, 1979, these jurisdictions will be made eligible for the for the sale of crime insurance, or continued to be eligible for such sale. Because the increased availability of Federal crime insurance is beneficial to the public, and has no adverse affect upon any person, it is unnecessary to provide for notice and public procedure, and good cause exists for making these amendments effective as soon as possible. A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Regulations published at 38 FR 19182, 19186. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the following address: Rules Docket Clerk, Department of Housing and Urban Development, Room 5218, 451 Seventh Street, SW., Washington, D.C. 20410.

Accordingly, Subchapter C of Chapter X of Title 24 is amended as follows:

Paragraph (b) of Section 1931.1 is revised to read as follows:

§ 1931.1 Jurisdictions eligible for sale of crime insurance

* * * * *

On the basis of the information available, the Administrator has determined that the District of Columbia, the Commonwealth of Puerto Rico the Virgin Islands and the States set forth in this paragraph have an unresolved critical market availability situation that requires the operation of the Federal Crime Insurance Program therein as of March 28, 1979. Accordingly, the program is in operation in the following jurisdictions:

Alabama	Minnesota
Arkansas	Missouri
Colorado	New Jersey
Connecticut	New York
Delaware	North Carolina
District of Columbia	Ohio
Florida	Pennsylvania
Georgia	Puerto Rico
Illinois	Rhode Island
Iowa	Tennessee
Kansas	Virgin Islands
Maryland	Virginia
Massachusetts	Washington

* * * * *

(Section 7(d), 79 Stat. 670; 42 U.S.C. 3535(d); Sec. 1103, 82 Stat. 466, 12 U.S.C. 1749bbb-17.)

Issued at Washington, D.C., February 23, 1979.

GLORIA M. JIMENEZ,
Administrator,
Federal Insurance Administration.

[FR Doc. 79-7041 Filed 3-7-79; 8:45 am]

[3810-70-M]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY

[DoD Directive 5200.1] [1]

PART 159—DOD INFORMATION SECURITY PROGRAM

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule updates established policies of the Department of Defense Information Security Program and outlines its objectives in compliance with, and implementation of, Executive Order 12065 and ISOO Directive No. 1 (43 FR 194). It delegates authority and assigns responsibilities to ensure that the program is administered effectively.

EFFECTIVE DATE: November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur F. Van Cook, Director, Information Security, Office of the Deputy Under Secretary of Defense for Policy Review, Washington, D.C. 20301, Telephone 202-695-2289.

SUPPLEMENTARY INFORMATION: In FR Doc. 74-10965, appearing in the FEDERAL REGISTER on May 23, 1974 (39 FR 18228), the Office of the Secretary of Defense published Part 159, Information Security Program Regulation, which was the implementing document of DoD Directive 5000.1, June 1, 1972. In compliance with Executive Order 12065 and ISOO Directive No. 1 (43 FR 194), both Part 159 and the above mentioned directive have been revised. Pending publication of the revised regulation, this rule establishes DoD compliance with Executive Order 12065.

Accordingly, 32 CFR Chapter I, Part 159 is deleted and replaced by a revised Part 159, reading as follows:

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120 Attention: Code 301.

PART 159—DOD INFORMATION SECURITY PROGRAM

Sec.
159.1 Purpose.
159.2 Applicability and scope.
159.3 Policy and objectives.
159.4 Responsibilities and authority.

AUTHORITY: EO 12065, National Security Information, June 28, 1978, and 5 U.S.C. 301.

§ 159.1 Purpose.

This part (a) updates established policies of the Department of Defense Information Security Program; (b) outlines the objectives of the Program in compliance with, and implementation of, Executive Order 12065, "National Security Information," June 28, 1978 and Information Security Oversight Office (ISOO) Directive No. 1, "National Security Information," October 2, 1978 (43 FR 194); and (c) delegates authority and assigns specific responsibilities for the effective administration of the Program.

§ 159.2 Applicability and scope.

(a) The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Defense Agencies, the Unified and Specified Commands, and elements assigned to OSD for administrative purposes (hereafter referred to as "DoD Components").

(b) The provisions of this part cover all information developed by or for the Department of Defense which warrants protection from unauthorized disclosure in the interest of national security in accordance with E.O. 12065 and 43 FR 194, and all such information received by the DoD from other sources, including that received from or produced pursuant to joint arrangement with a foreign government or international organization.

§ 159.3 Policy and objectives.

(a) It is the policy of the Department of Defense to assure that information which warrants protection against unauthorized disclosure is properly classified and safeguarded as well as to facilitate the flow of unclassified information about DoD operations to the public.

(b) To carry out this policy, there is established a DoD Information Security Program that shall be administered so as to ensure that:

(1) Information requiring protection in the interests of national security is properly classified and safeguarded.

(2) Overclassification and unnecessary classification are avoided.

(3) Classification is continued for the shortest possible time consistent with national security interests

through effective declassification actions.

(4) Unnecessary expense to the Department of Defense, industry, and the Government as a whole, resulting from protection of information no longer requiring classification, is eliminated.

(5) Declassified information is made available to the public in accordance with DoD Directive 5400.7 (32 CFR Part 286).

(6) Classified inventories are reduced to the absolute minimum necessary to meet operational requirements, thereby affording better protection to that which remains.

(7) DoD personnel, both military and civilian, who require access to classified information in the conduct of official Government business, are knowledgeable of the fundamental requirements of E.O. 12065 and 43 FR 194, and observe those requirements in all respects.

(c) The following issuances are hereby authorized:

(1) DoD Regulation 5200.1-R, "DoD Information Security Program," which sets forth policies, standards, criteria, and procedures governing the operation of the Program in compliance with, and implementation of, the provisions of E.O. 12065 and 32 FR 194.

(2) DoD Index 5200.1-I, "DoD Index of Security Classification Guides," on a periodic basis; and

(3) DoD Handbook 5200.1-H, "DoD Handbook for Writing Security Classification Guidance."

§ 159.4 Responsibilities and authority.

(a) *The Deputy Under Secretary of Defense (Policy)* shall:

(1) Establish policy and cause to be implemented and promulgated such guidance, standards, criteria, and procedures as may be necessary or appropriate for assuring DoD compliance with and implementation of E.O. 12065, except section 3-5 thereof, its implementing directives or statute applicable to the classification, downgrading, declassification, and safeguarding of information originated by, or under the complete or partial jurisdiction of, the Department of Defense or in its possession or control.

(2) Conduct an active oversight program and ensure effective compliance with, and implementation of E.O. 12065 and 43 FR 194.

(3) Serve as the DoD representative on the Interagency Information Security Committee (IISC) established by section 5-301 of 43 FR 194.

(b) The Assistant Secretary of Defense (Public Affairs) shall (1) direct and administer a DoD Mandatory Declassification Review Program; and (2) establish policies and procedures for processing mandatory declassification review requests, including appeals, made pursuant to the provisions of section 3-5 of E.O. 12065 and section III.D. of 43 FR 194 that make maximum use of Component resources and systems established to implement DoD Directive 5400.7 (32 CFR Part 286).

(c) The Head of each DoD Component shall (1) designate a senior official who shall be responsible for overall direction of the Component's Information Security Program and conducting an active oversight program to ensure implementation of DoD Regulation 5200.1-R within the Component; and (2) ensure funding and resources adequate for such purposes.

(d) The Secretaries of the Military Departments shall, in addition to the foregoing, designate a senior official to chair an Information Security Committee the functions of which will parallel those prescribed by § 159.4(f).

The Director, National Security Agency, as the designee of the Secretary of Defense, is authorized to impose special requirements with respect to the marking, reproduction, distribution, accounting, and protection of and access to classified cryptologic information.

The DoD Information Security Committee (DISC) in accordance with section 5-404(b) of E.O. 12065 is hereby established. Its membership shall be comprised of the Deputy Under Secretary of Defense for Policy as Chairperson, and representatives of the General Counsel, Department of Defense; the Under Secretary of Defense for Research and Engineering; the Assistant Secretary of Defense (Public Affairs); and the Deputy Assistant Secretary of Defense (Administration).

(1) Other officials of the Department of Defense may be invited to meet with the Committee on matters of specific interest.

(2) The DISC shall:

(i) Meet at the call of the Chairperson to receive, consider, and take action upon all suggestions and complaints concerning the administration of the DoD Information Security Program not resolved at the Component level;

(ii) Review and evaluate the effectiveness of the administration of the Program by DoD Components; and

(iii) Develop and recommend new or revised uniform policies, standards, criteria, or procedures necessary to meet changing conditions or to correct deficiencies in the Information Security Program.

H. E. LOFDAHL,
Deputy Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MARCH 5, 1979.

[FR Doc. 79-7096 Filed 3-7-79; 8:45 am]

[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-181]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Broad Causeway, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: At the request of the Town of Bay Harbor Islands, Florida, the Coast Guard is changing the regulations governing the Broad Causeway bridge across the Atlantic Intracoastal Waterway, mile 1081.4, Miami, Florida to limit the number of openings from 8 a.m. to 6 p.m. on a year-round basis. This change is made because of an increase in vehicular traffic from 8 a.m. to 6 p.m. This action will meet the present needs of vehicular traffic while providing for the reasonable needs of navigation.

EFFECTIVE DATE: April 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: On January 5, 1978, the Coast Guard published a proposed rule (43 FR 982) concerning this amendment. The Commander, Seventh Coast Guard District, also published this proposal as a Public Notice dated January 4, 1978. Interested persons were given until February 4, 1978 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr. Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Eight letters and three resolutions were received favoring the proposal. Four letters of objection were received. The objections raised consisted of: the danger of grounding or collision with other vessels while waiting for bridge openings; statistics show light vehicular traffic on this toll bridge which provide no real justification for this change; and the present regulations are adequate and should not be expanded. All these objections were carefully considered. A review of

all statistical data indicates a minimal fluctuation in vehicular traffic between the winter and summer months and only a slight variation in the volume of vessel traffic. This data supports the change to limited openings on a year-round basis. The Coast Guard's position, at this time, is that these regulations will provide for the reasonable needs of navigation while improving the flow of vehicular traffic. The Coast Guard will closely monitor the effects of these amended regulations and if additional changes appear needed, such a proposal will be made.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.446e to read as follows:

§ 117.446e Biscayne Bay, AIWW, mile 1081.4, Broad Causeway Bridge, N.E. 123rd Street, between North Miami and Bay Harbor Islands, Fla.

(a) The draw shall open on signal from 6 p.m. to 8 a.m. From 8 a.m. to 6 p.m., the draw need open only on the hour and half-hour to allow any accumulated vessels to pass.

(b) The draw shall open at any time for the passage of public vessels of the United States, tugs with tows, cruise boats operated on a regular schedule, or vessels in distress. The opening signal from these vessels is four blasts of a whistle or horn, or by shouting.

(c) The owner of or agency controlling the bridge shall post, on both sides of the bridge, signs that state the conditions of this regulation. These signs shall be of such size that they may be easily read from an approaching vessel at any time.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: March 2, 1979.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 79-7116 Filed 3-7-79; 8:45 am]

[3710-92-M]

Title 36—Parks, Forests, and Public Property

CHAPTER III—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PUBLIC USE OF WATER RESOURCES DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This rule will provide more effective management of Corps of Engineer water resource development projects. The purpose of this rule is to clarify and strengthen existing rules and regulations and eliminate duplication of regulations.

EFFECTIVE DATE: February 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Ray Mitchell, Recreation Resource Management Branch, Construction-Operations Division, Office, Chief of Engineers, 202-693-7177.

SUPPLEMENTARY INFORMATION: On February 9, 1978, The Department of the Army, acting through the Chief of Engineers, published proposed regulations in the FEDERAL REGISTER (43 FR 5545) to clarify and strengthen existing rules and eliminate duplications. After consultation with public agencies, consideration of the public interest and public comments, it has been decided to delete the regulations contained in Part 313 which apply only to the Sam Rayburn Reservoir Area, Angelina River, Texas, which is administered as a joint venture by the Corps of Engineers and the U.S. Forest Service, Department of Agriculture, each operating under their respective laws and regulations.

Each to the two agencies separate regulations are comparable and comprehensive enough to effectively manage their respective areas of jurisdiction. Part 327 contains the basic rules and regulations governing public use of Corps of Engineers water resource development projects; therefore Part 313 is duplicative and unnecessary.

The same rationale applies to Part 322 which contains rules and regulations for a joint venture of the Corps of Engineers with the U.S. Fish and Wildlife Service, Department of the Interior, at Great Salt Plains Dam and Reservoir Area, Oklahoma.

The amendments to Part 327 are necessary to reflect new and increasing recreation activities and to clarify and strengthen selected rules and regulations for more effective management and enhanced public enjoyment of Corps water resource development projects.

Section 327.25 has been amended to allow for greater flexibility in establishing special recreation use fees for specific projects in accordance with the provisions of subsection 4(b) and 4(c) of Pub. L. 88-574 (78 Stat. 897) as amended.

Six comments were received in response to the proposed regulation. Several supported the proposed regulation, but suggested minor modifications. The remainder sought major revisions to one or two specific parts of the regulation. The comments included the following:

1. Incidential overnight stays on boats at marinas or club sites should be allowed.
2. Language should be added to cover the use of buoys and flag markers for scuba diving areas.
3. Rather than posting no-hunting areas, fewer signs would be required if entrance to designated hunting area were posted instead.
4. Procedures for disposal of lost or abandoned property should be streamlined or liberalized.

The final regulation as revised herein should maximize recreation enjoyment of the water resources at Corps of Engineers water resource development projects with minimum impact on other uses.

The final rule will delete Parts 313 and 322 and amend Part 327 to clarify and strengthen selected rules for more effective management and enhanced public enjoyment of Corps water resource development projects.

List of those who commented on the proposed regulations for the deletion of Parts 313 and 322 and the amendment of Part 327:

1. United States Department of the Interior, Washington, D.C.
2. McNary Yacht Club, Hermiston, Oregon.
3. D. A. Caffey, San Angelo, Texas.
4. Cynthia R. Johnson, Waco, Texas.
5. Richard E. Booker, Waco, Texas.
6. Timothy C. Gibson, Fort Worth, Texas.

NOTE: The U.S. Army Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement Under Executive Order 11821 and OMB Circular A-107.

In consideration of the comments received and pursuant to the authority contained in Section 4 of the Act of December 1944, 58 Stat. 889, as amended, 16 U.S.C. 460d, 36 CFR, Parts 313 and 322 are deleted and Part 327 is revised effective on February 1, 1979, all to read as follows:

PART 313—WATER RESOURCE DEVELOPMENT PROJECTS HAVING JOINT REGULATIONS [DELETED]

PART 322—PUBLIC USE OF SALT PLAINS NATIONAL WILDLIFE REFUGE AND GREAT SALT PLAIN DAM AND RESERVOIR AREA, SALT FORK OF ARKANSAS RIVER, OKLAHOMA [DELETED]

PART 327—RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCE DEVELOPMENT ADMINISTERED BY THE CHIEF OF ENGINEERS

The table of contents and authority for Part 327 is revised to read as follows:

Sec.
327.0 Applicability.
327.1 Policy.
327.2 Vehicles.
327.3 Vessels.
327.4 Aircraft.
327.5 Swimming.
327.6 Picnicking.
327.7 Camping.
327.8 Hunting, Fishing, and Trapping.
327.9 Sanitation.
327.10 Fires.
327.11 Control of Animals.
327.12 Restrictions.
327.13 Explosives, Firearms, other Weapons and Fireworks.
327.14 Public Property.
327.15 Abandonment of Personal Property.
327.16 Lost and Found Articles.
327.17 Advertisement.
327.18 Commercial Activities.
327.19 Permits.
327.20 Unauthorized Structures.
327.21 Special Events.
327.22 Unauthorized Occupation.
327.23 Outgranted Lands.
327.24 Indian Lands.
327.25 Recreation Use Fees.
327.26 Interference with Government Employees.
327.27 Violation of Rules and Regulations.
327.28 [Reserved]
327.29 [Reserved]
327.30 Lakeshore Management on Civil Works Projects.
APPENDIX A—Guidelines for Granting Permits for Private Floating Recreation Facilities.
APPENDIX B—Applications for Lakeshore Use Permit [Reserved].
APPENDIX C—Conditions of Permit for Lakeshore Use.
APPENDIX D—Permit [Reserved].

AUTHORITY: Sec. 4, Act of December 22, 1944, 58 Stat. 889, as amended. 16 U.S.C. 460d; sec. 210 of Pub. L. 90-483, 82 Stat. 746; and Pub. L. 88-578, 78 Stat. 897, as amended, 16 U.S.C. 4601-6a.

§ 327.0 Applicability.

The regulations covered in this Part 327 shall be applicable to water resource development projects completed or under construction, administered by the Chief of Engineers, and to those portions of jointly administered water resource development projects which are under the administrative jurisdiction of the Chief of Engineers. ALL OTHER FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS REMAIN IN FULL FORCE AND EFFECT WHERE APPLICABLE TO THOSE WATER RESOURCE DEVELOPMENT PROJECTS.

§ 327.1 Policy.

(a) It is the policy of the Secretary of Army acting through the Chief of Engineers to manage the natural and cultural resources of each project in the public interest, providing the public with safe and healthful recreational opportunities while protecting and enhancing these resources.

(b) Unless otherwise indicated herein, the term "District Engineer" shall include the authorized representatives of the District Engineer.

(c) The term "project" or "water resource development project" refers to the water areas of any water resource development project administered by the Chief of Engineers and to all lands owned in fee by the Federal Government and all facilities therein or thereon of any such water resource development project.

(d) All water resource development projects open for public use shall be available to the public without regard to sex, race, color, creed, or national origin. No lessee, licensee, or concessionaire providing a service to the public shall discriminate against any person because of sex, race, creed, color, or national origin in the conduct of the operations under the lease, license, or concession contract.

§ 327.2 Vehicles.

(a) This section pertains to all vehicles, including, but not limited to, automobiles, trucks, motorcycles, mini-bikes, trail bikes, snowmobiles, dune buggies, all terrain vehicles, bicycles, and trailers, campers, or any other such equipment.

(b) Vehicles shall not be parked in violation of posted restrictions, or in such a manner as to endanger any project property or environmental feature. The owner of any vehicle parked in violation of this section shall be presumed to have parked it, and unless rebutted such presumption will be sufficient to sustain a conviction as provided for in § 327.27.

(c) The operation of a vehicle off roadways is prohibited except at locations and times designated by the District Engineer.

(d) Vehicles shall be operated only in accordance with posted regulations.

(e) No person shall operate any vehicle in a careless, negligent or reckless manner so as to endanger any project property or environmental feature.

(f) At developed areas, vehicles shall be used only for ingress and egress unless otherwise posted.

(g) Except as authorized by the District Engineer no person shall operate any motorized vehicle without a proper and effective exhaust muffler, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.

§ 327.3 Vessels

(a) The placement and/or operation of any vessel or watercraft for a fee or profit upon project waters or lands is prohibited except as authorized by permit, lease, license, or concession contract with the Department of the Army. This section (327.3) shall not apply to the operation of commercial tows or passenger-carrying vessels not based at a Corps project which utilize project waters as a link in continuous transit over navigable waters of the United States.

(b) Vessels or other watercraft may be operated in project waters except in prohibited or restricted areas in accordance with posted regulations and applicable Federal, State, and local laws.

(c) The operation of vessels or other watercraft in a careless, negligent, or reckless manner so as to endanger any property or person (including the operator and/or user(s) of the vessel or watercraft) is prohibited.

(d) All vessels, when in use, shall have safety equipment on board in compliance with U.S. Coast Guard boating safety requirements (CG-290; 46 CFR 25.30; 33 CFR Part 175).

(e) Vessels or other watercraft while moored in commercial facilities, community or corporate docks, or at any fixed or permanent mooring point may only be used for overnight occupancy when such use is incidental to recreational boating. Vessels or other watercraft are not to be used as a place of habitation or residence.

(f) Water skis and similar devices are permitted in nonrestricted areas except that they may not be used in a careless, negligent, or reckless manner so as to endanger any property or person including the user or operator of the towing vessel.

(g) All vessels when not in actual use shall be removed from the project unless securely moored at mooring facilities approved by the District Engineer. The placing of floating or stationary mooring facilities to, or interfering with, a buoy, channel marker, or other navigational aid is prohibited.

(h) The use at a project of any vessel not constructed or maintained in compliance with the standards and requirements established by the National Safe Boating Act of 1971 (Pub. L. 92-75, 85 Stat. 213), or promulgated pursuant to such act, is prohibited.

(i) The discharge or placing of sewage, galley waste, garbage, refuse, metal cans or pollutants into the project waters from any vessel or watercraft is prohibited.

(j) Except as authorized by the District Engineer, no person shall operate any vessel or watercraft without a

proper and effective exhaust muffler, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.

§ 327.4 Aircraft.

(a) The operation of aircraft on project lands other than at the landing areas designated by the District Engineer is prohibited.

(b) Any use of project waters by aircraft is subject to the following restrictions:

(1) Such use is limited to seaplanes at the risk of the owner, operator, and passenger(s).

(2) Seaplane operations contrary to the prohibitions or restrictions established by the District Engineer (pursuant to Part 328 of this title) are prohibited. The responsibility to ascertain whether or not projects, or portions thereof, are available for seaplane operations or whether seaplane operations are prohibited or restricted is incumbent upon the person(s) contemplating the use of, or using, such waters.

(3) All operations of seaplanes while upon project waters shall be in accordance with marine rules of the road for power boats or vessels.

(4) Seaplanes on project waters and lands in excess of 24 hours shall be securely moored at mooring facilities and at locations permitted by the District Engineer. Seaplanes may be temporarily moored on project waters and lands, except in areas prohibited by the District Engineer, for periods less than 24 hours providing that (i) the mooring is safe, secure, and accomplished so as not to damage the rights of the Government or members of the public and (ii) the operator remains in the vicinity of the seaplane and reasonable available to relocate the seaplane if necessary.

(5) Commercial operation of seaplanes from project waters is prohibited without written approval of the District Engineer following consultation with and necessary clearance from the Federal Aviation Administration (FAA) and other appropriate public authorities and effected interests.

(6) No person shall operate any seaplane while on or above project waters or adjacent project land in a careless, negligent, or reckless manner so as to endanger any person or property. Seaplanes may not be operated at Corps projects between sunset and sunrise unless adequate lighting and supervision are available.

(c) Nothing in the preceding provisions bestows authority to deviate from rules and regulations or prescribed standards of the appropriate State Aeronautical Agency, or the Federal Aviation Administration, including but not limited to regulations and standards concerning pilot certifications or ratings, and airspace requirements.

(d) Except in extreme emergencies threatening human life or serious property loss, the air delivery of any person or thing by parachute, helicopter or other means onto project lands or waters without written permission of the District Engineer is prohibited.

(e) The provisions of this section shall not be applicable to aircraft engaged on official business of the Federal Government or used in emergency rescue in accordance with the directions of the District Engineer or forced to land due to circumstances beyond the control of the operator.

§ 327.5 Swimming.

Swimming, diving, snorkling, or scuba diving at one's own risk is permitted, except at launching sites and other areas designated by the District Engineer.

§ 327.6 Picnicking.

(a) Picnicking is permitted, except in those areas where prohibited by the District Engineer.

(b) Picnickers shall keep their sites free of trash and litter during the period of occupancy and shall remove all personal equipment and clean their sites upon departure.

§ 327.7 Camping.

(a) Camping is permitted only at sites and/or areas designated by the District Engineer.

(b) Camping at one or more campsites at any one project for a period longer than 14 consecutive days is prohibited without the written permission of the District Engineer. Written permission is required to camp at any project in excess of 14 days during any 30-day period.

(c) The placement of camping equipment on a campsite or intermittent personal appearance at a campsite for the purpose of reserving a designated campsite for future occupancy is prohibited without the written permission of the District Engineer.

(d) The digging or leveling of any ground or the construction of any structure without written permission of the District Engineer is prohibited.

(e) Campers shall keep their campsites free of trash and litter during the period of occupancy and shall clean their campsites and remove all personal equipment upon departure.

§ 327.8 Hunting, fishing, trapping.

Hunting, fishing, and trapping are permitted in accordance with applicable Federal, State, and local laws except in areas designated by the District Engineer.

§ 327.9 Sanitation.

(a) Garbage, trash, rubbish, litter, or any other waste material or waste liquid generated on the project and incidental to authorized recreational activities shall be either removed from the project or deposited in receptacles provided for that purpose. The improper disposal of such wastes on the project is prohibited.

(b) The use of refuse containers or other refuse facilities for dumping or disposal of household or commercial garbage, trash, rubbish, debris, sewage, dead animals, or litter of any kind brought onto the project is prohibited.

(c) It is a violation to bring onto a project any material for the purpose of disposal without written permission of the District Engineer.

§ 327.10 Fires.

(a) Gasoline and other fuels, except that which is contained in storage tanks of vehicles, vessels, camping equipment, or hand portable containers, shall not be carried onto or stored within the project without written permission of the District Engineer.

(b) Fires shall be confined to those areas designated by the District Engineer, and shall be confined to fireplaces, grills, or other facilities designed for this purpose. Fires shall not be left unattended and must be completely extinguished prior to departure.

(c) The gathering of wood is prohibited without written permission of the District Engineer except for the gathering of dead material on the ground for use in designated recreation areas.

§ 327.11 Control of animals.

(a) No person shall bring, or allow horses, cattle, or other livestock in camping, picnic, swimming, or other recreation areas except in areas designated by the District Engineer.

(b) No person shall bring dogs, cats, or other pets into developed recreation areas unless penned, caged, or on a leash under 6 feet in length, or otherwise under physical restraint at all times. No animals or pets are permitted in swimming beach areas. Unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with State and local laws.

(c) Allowing unauthorized livestock to enter upon or to be upon project lands and failing or refusing to remove unauthorized livestock from such lands when requested by the District Engineer is prohibited.

(d) Any violation of paragraph (a), (b), or (c) of this section shall constitute a separate violation for each calendar day in which it occurs.

§ 327.12 Restrictions.

(a) The District Engineer may establish and post a schedule of visiting hours and/or restrictions on the public use of a project or portion of a project. The District Engineer may close or restrict the use of a project or portion of a project when necessitated by reason of public health, public safety, maintenance, or other reasons in the public interest. Entering or using a project in a manner which is contrary to the schedule of visiting hours closure or restrictions is prohibited.

(b) Quiet shall be maintained in all public use areas between the hours of 10 p.m. and 6 a.m. Excessive noise during such times which unreasonably disturbs persons is prohibited.

(c) The operation or use of any audio or other noise producing device including but not limited to communications media and motorized equipment or vehicles in such a manner as to unreasonably annoy or endanger persons is prohibited.

§ 327.13 Explosive, firearms, other weapons and fireworks.

(a) The possession of loaded firearms, ammunition, loaded projectile firing devices, bows and arrows, cross bows, and explosive of any kind is prohibited unless: (1) In the possession of a State or local law enforcement officer on official business; or (2) in the possession of a Federal Government employee with law enforcement authority and on official business as approved by the District Engineer; or (3) to be used for hunting and fishing as permitted under § 327.8; or (4) to be used at authorized shooting ranges; or (5) written permission has been received from the District Engineer.

(b) The possession or use of fireworks is prohibited unless written permission has been received from the District Engineer.

§ 327.14 Public property.

Destruction, injury, defacement, removal, or any alteration of public property, including, but not limited to constructed facilities, natural formations, historical and archeological features, and vegetative growth, is prohibited without the written permission of the District Engineer. Any such destruction, removal, or alteration of public property shall be in accordance with the conditions of any permission granted.

§ 327.15 Abandonment of personal property.

(a) Personal property of any kind shall not be abandoned or left unattended upon project lands or waters. After a period of 24 hours, unattended personal property may be impounded and stored at a storage point designated by the District Engineer, who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to its owners.

(b) The District Engineer shall by public or private sale or otherwise, dispose of all lost, abandoned, or unclaimed personal property that comes into Government custody or control. However, property may not be disposed of until diligent effort has been made to find the owner, heirs or next of kin, or legal representative(s). If the owner, heirs or next of kin, or legal representative(s) are determined but not found, the property may not be disposed of until the expiration of 120 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at the last known address. When diligent effort to determine the owner, heirs or next of kin, or legal representative(s) is unsuccessful, the property may be disposed of without delay, except that if it has a fair market value of $25 or more the property may not be disposed of until 3 months after the date it is received at the storage point designated by the District Engineer. The net proceeds from the sale of property shall be covered into the Treasury of the United States as miscellaneous receipts.

§ 327.16 Lost and found articles.

All lost articles shall be deposited by the finder at the Park Manager's office or with a ranger. The finder may leave his/her name, address, and phone number. All lost articles shall be disposed of in accordance with the procedures set forth in § 327.15.

§ 327.17 Advertisement.

Advertising by the use of billboards, signs, markers, audio devices, or any other means whatsoever including handbills, circulars, and posters is prohibited without written permission of the District Engineer. Vessels and vehicles with semipermanent or permanent painted or installed signs are exempt as long as they are used for authorized recreational activities and comply with all other rules and regulations pertaining to vessels and vehicles.

§ 327.18 Commercial activities.

The engaging in or solicitation of business without the express written agreement of the District Engineer is prohibited.

§ 327.19 Permits.

(a) It shall be a violation of these regulations to refuse to or fail to comply with the terms on conditions of any permit issued under the provisions of this regulation.

(b) Permits for floating structures of any kind in waters of water resources development projects, whether or not such waters are deemed navigable waters of the United States but where such waters are under the management of the Corps of Engineers Park Manager, shall be issued at the discretion of the District Engineer under the authority of this regulation. District Engineers will delineate those portions of the navigable waters of the United States where this provision is applicable and post notices of this designation, in the vicinity of the Park Manager's office.

(c) Permits for nonfloating structures of any kind constructed, placed in or affecting waters of water resource development projects where such waters are deemed navigable waters of the United States shall be issued under the provisions of Section 10 of the Act approved March 3, 1899, 33 U.S.C. 403. If a discharge of dredged or fill material in these waters is involved, a permit is required under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344). (See 33 CFR Parts 320-329.)

(d) Permits for nonfloating structures of any kind in waters of water resource development projects where such waters are under the management of a Corps of Engineers Park Manager and where such waters are not deemed navigable waters of the United States shall be issued as set forth in paragraph (b) of this section. If a discharge of dredged or fill material into any water of the United States is involved, a permit is required under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344). (See 33 CFR Parts 320-329.)

§ 327.20 Unauthorized structures.

The construction, placing, or continued existence of any structure of any kind under, upon, in, or over the project lands or waters is prohibited unless a permit, lease, license, or other appropriate written agreement therefore has been issued by the District Engineer. Structures not so authorized are subject to summary removal or impoundment by the District Engineer. The design, construction, placing, existence, or use of structures in violation of the terms of the permit, lease, license, or other written agreement therefore is prohibited.

§ 327.21 Special events.

(a) Special events including but not limited to water carnivals, boat regattas, music festivals, dramatic presentations, or other special recreation programs are prohibited unless written permission has been granted by the District Engineer.

(b) The public shall not be charged any fee by the sponsor of such event unless the District Engineer has approved in writing the proposed schedule of fees. The District Engineer shall have authority to revoke permission and require removal of any equipment upon failure of the sponsor to comply with terms and conditions of the permit/permission or with regulations in this Part 327. Any violation shall constitute a separate violation for each calendar day in which it occurs.

§ 327.22 Unauthorized occupation.

(a) Occupying any lands, buildings, vessels, or other facilities within water resource development projects for the purpose of maintaining same as a full- or part-time residence without the written authorization of the District Engineer is prohibited. The provisions of this section shall not apply to the occupation of lands for the purpose of camping in accordance with the provisions of § 327.7.

(b) The ranging, grazing, or watering of livestock on project lands and waters is prohibited except when authorized by lease, license, or other agreement with the District Engineer. Any violation shall constitute a separate violation for each calendar day in which it occurs.

§ 327.23 Outgranted lands.

Applicable laws and regulations of State and local governments shall be deemed to apply on project lands or waters which are outgranted by the District Engineer by lease, license, or other written agreement to State and local governments; provided, however, that the regulations in this Part 327 are deemed to apply to such outgranted project lands and waters as a minimum regulatory requirement.

§ 327.24 Indian lands.

The regulations in this Part 327 shall be deemed to apply to those lands and waters which are subject to treaties and Federal laws and regulations concerning the rights of Indian Nations and which lands and waters are incorporated, in whole or in part, within water resource development projects administered by the Chief of Engineers to the extent that the regulations in this Part 327 are not inconsistent with such treaties and Federal law and regulations.

§ 327.25 Recreation use fees.

(a) Section 2 of 86 Stat. 459 (Golden Eagle Passport Program, Pub. L. 92-347), which amends 78 Stat. 897 (The Public Land and Water Conservation Fund Act of 1965, Pub. L. 88-578), created a new Section 4(b) which requires Federal agencies developing, administering, or providing specialized sites, facilities, equipment, or services related to outdoor recreation to collect special recreation use fees for the use of sites, facilities, equipment, or services furnished at Federal expense. The new Section 4(a), however, prohibits the Corps of Engineers from collecting entrance fees to projects. Section 210 of 82 Stat. 746 (Pub. L. 90-483) also prohibits the United States from collecting entrance or admission fees to Corps projects.

(b) At water resources development projects administered by the Secretary of the Army, acting through the Chief of Engineers, fees will not be charged for use in any combination of drinking water, wayside exhibits, roads, overlook sites, visitor centers, scenic drives, toilet facilities, picnic tables or boat ramps (except if mechanical or hydraulic boat lifts are provided).

(c) In addition, fees will not be charged for use of campgrounds which do not have the following: Designated tent or trailer spaces, drinking water, access roads, refuse containers, toilet facilities, personal fee collection, reasonable visitor protection, and simple devices for containing campfires (if campfires are permitted).

(d) At each Corps lake or reservoir where camping is permitted, the District Engineer will provide at least one primitive campground, containing designated campsites, sanitary facilities, and vehicular access, where no fees will be charged.

(e) All use fees shall be fair and equitable and will be based on the following criteria:

(1) The direct and indirect amount of Federal expenditure.

(2) The benefit to the recipient.

(3) The public policy or interest served.

(4) The comparable recreation fees charged by other Federal and non-Federal public agencies within the service area of the management unit at which the fee is charged.

(5) The economic and administrative feasibility of fee collection.

(6) The extent of regular maintenance required.

(7) Other pertinent factors.

Based upon the above criteria, it shall be the policy of the Chief of Engineers to publish in the FEDERAL REGISTER as a general notice document, the established range of fees for recreation facilities, whenever such fees are adjusted. Fees for specialized outdoor recreation facilities not mentioned above may also be established in accordance with the criteria listed in this paragraph.

(f) Any Golden Age Passport permittee shall be entitled upon presentation of such a permit to utilize special recreation facilities at a rate of 50 percent off the established use fee.

(g) Golden Eagle Passports however, do not affect the charging of use fees, since they apply only to entrance fees, which are not charged by the U.S. Army Corps of Engineers.

(h) The District Engineer shall insure that clear notice that a fee has been established is prominently posted at each such area and at appropriate locations therein, and that it be included in publications distributed at such areas.

(i) Failure to pay authorized recreation use fees as established pursuant to Pub. L. 88-578, 78 Stat. 897, as amended, 16 U.S.C. 4601-6a is prohibited and is punishable by a fine of not more than $100.

§ 327.26 Interference with government employees.

Interference with any Government employee in the conduct of his or her official duties pertaining to the administration of these regulations is prohibited. It is a violation to fail to comply with a lawful order directed by any Government employee in the performance of his or her official duties pertaining to the administration of these regulations.

§ 327.27 Violation of rules and regulations.

Except for violations coming within the scope of § 327.25 in accordance with Section 234 of the River and Harbor Act of 1970 (84 Stat. 1818, 16 U.S.C. 460d, as amended), violations of the provisions of this regulation shall subject the violator to a fine of not more than $500 or imprisonment for not more than 6 months, or both. Any person charged with such violation may be tried and sentenced in accordance with the provisions of Section 3401 of Title 18, United States Code. All persons designated by the Chief of Engineers for that purpose shall have the authority to issue a citation for violation of these regulations, requiring the appearance of any person charged with violation to appear before the U.S. magistrate within whose jurisdiction the water resource development project is located. (Section 4, 58 Stat. 889, as amended; 16 U.S.C. 460d).

§ 327.28 [Reserved]

§ 327.29 [Reserved]

§ 327.30 Lakeshore management at civil work projects.

(a) *Purpose.* The purpose of this regulation is to provide policy and guidance on the protection of desirable environmental characteristics of Civil Works lake projects and restoration of shorelines where degradation has occurred through private exclusive use.

(b) *Applicability.* This regulation is applicable to all field operating agencies with Civil Works responsibilities.

This regulation is not applicable to lake project lands when such application would result in an impingement upon existing Indian rights.

(c) *References.*

(1) Section 4, 1944 Flood Control Act, as amended, Pub. L. 87-874.

(2) The Act of August 31, 1951 (31 U.S.C. 483a).

(3) The National Environmental Policy Act of 1969, Pub. L. 91-190.

(4) The Federal Water Pollution Control Act (FWPCA).

(5) Title 36, Chapter III, Part 327, Code of Federal Regulations, "Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers."

(6) Executive Order 11752.

(7) 33 CFR Parts 320-329, "Regulatory Program of the Corps of Engineers."

(d) *Policy.* (1) It is the policy of the Chief of Engineers to manage and protect the shorelines of all lakes under its jurisdiction to properly establish and maintain acceptable fish and wildlife habitat, esthetic quality and natural environmental conditions and to promote the safe and healthful use of these shorelines for recreational purposes by all of the American people. Ready access to an exit from these shorelines of the general public shall be provided, in accordance with paragraph (c)(1) of this section. For projects where Corps real estate interest is limited to easement title only, management action will be appropriate to assure the safety of the public who use the lake waters. It is the objective of the Corps to manage private exclusive use of public property to the degree necessary to gain maximum benefits to the general public. Such action will consider all forms of benefits such as: recreation, esthetics and fish and wildlife.

(2) It is the policy of the Chief of Engineers that private exclusive use will not be permitted on new lakes or on lakes where no private facilities or uses exist as of the date of this regulation. Such use will be permitted only to honor any past commitments which have been made.

(3) A Lakeshore Management Plan, as described in paragraph (e) of this section will be prepared for each Corps lake project where private recreation facilities exist as of the date of this regulation. Discretion will be used in preparation of those plans to provide for protection of public lands and private investments and honor any past commitments which might have been made. For projects where two or more agencies have jurisdiction, the plan will be cooperatively prepared with the Corps assuming the role of coordinator. Public participation will be encouraged to the fullest extent in preparation and implementation of the Lakeshore Management Plans. A Lakeshore Management Plan will not be required for new lakes or at completed projects where no private facilities exist as of the date of this regulation. However, a statement of policy will be furnished by the District Engineer to the Division Engineer to present the lake project management condition.

(4) Boat owners will be encouraged to moor their boats at commercial marinas, utilize dry storage facilities off project lands or trailer their boats to public launching ramps which are provided by the Corps at no charge.

(5) When private floating boat moorage facilities are desired, community mooring facilities will be encouraged in an effort to reduce the proliferation of individual facilities. It is the policy to issue only one permit for a community boat mooring facility with one person designated as the permittee and responsible for all moorage spaces of the facility. If, for extenuating circumstances, this approach is not feasible the District Engineer is authorized to grant individual permits for individual moorage sections of the community moorage facility. The latter method is strongly discouraged.

(e) *Lakeshore Management Plan.*—(1) *General.* The policies outlined in paragraph (d) of this sectin will be implemented by preparation of Lakeshore Management Plans as described below.

(2) *Preparation.* For each project having limited development areas a Lakeshore Management Plan will be prepared as Appendix F to the Master Plan. Lakeshore Management Plans will be prepared as soon as practicable and, like the other Appendixes to the Master Plan, will be working, management tools. Upon announcement of initiation of each specific Lakeshore Management Plan the District Engineer will declare a moratorium on accepting applications for permits until the plan is completed. Consideration should be given to preparing Lakeshore Management Plans during the period of least recreation activity and maximum effort will be devoted to early completion of the Lakeshore Management Plan, once the effort has begun. The objectives are to be able to inform individuals of decisions regarding lakeshore management at an early date and not create an undue hardship on private industries dependent upon private recreation facilities. Approval of this Appendix rests with the Division Engineer. After approval, two copies of the Lakeshore Mangement Plan will be forwarded to HQDA (DAEN-CWO-R) WASH DC 20314.

(3) *Scope and Format.* The Plan will consist of an area allocation map, related rules and regulations, a time-phase definitive objective plan for managing the lakeshore, descriptions of recreational waste management systems and sanitary facilities, and other information pertinent to the effective management of the lakeshore. Activities on land areas which affect the lakeshore, as well as activities on the water areas will be addressed in the Lakeshore Management Plan.

(4) *Lakeshore Designation.* As part of the Lakeshore Mangement Plan, the entire lakeshore of the project will be designated within the classification below and depicted on a map. In addition to the classification described below, District Engineeers are authorized to add specific constraints and identify areas having unique characteristics not identified herein.

(i) *Limited Development Areas.* Limited development areas are those areas where private exclusive use privileges and facilities may be permitted consistent with Appendix A and paragraph (h) of this section. When vegetation modification on these lands is accomplished by chemical means the program will be consistent with the current Federal regulations as to herbicide registration and application rates.

(ii) *Public Recreation Areas.* On shorelines within or proximate to designated or developed recreation areas, private floating recreation facilities are not permitted. The extent of the term, proximate, will depend on the terrain, road system and similar factors. Commercial concessionaire facilities are permitted in these areas. An adequate buffer area withing this allocation type will be established to protect the concession operation from invasion by private exclusive use facilities. Modification of land form or vegetative characteristics is not permitted by individuals in these areas.

(iii) *Protected Lakeshore Areas.* Protected lakeshore areas are designated primarily to protect esthetic, invironmental, fish, and wildlife values in accordance with the policies of the National Environmental Policy Act of 1969 (Pub. L. 91-190). Lakeshores may also be designated in this category for physical protection reasons, such as heavy siltation, rapid dewatering or exposure to high winds and currents. Land access and boating are permitted along these lakeshores, provided esthetic, environmental and natural resource values are not damaged or destroyed, but no private floating recreation facilities may be moored in these areas. Modification of land form or vegetative communities by individuals in Protected Lakeshore Areas will be permitted only after due consideration of the effects of such action on environmental and physical characteristics of the area.

(iv) *Prohibited Access Areas.* These lakeshore areas are allocated for protection of ecosystems or the physical safety of the recreation visitors; for example, unique fish spawning beds, certain hazardous locations, and areas located near dams or spillways. Mooring of private floating recreation facilities and modification of land form and vegetative communities are not permitted in these areas.

(5) *Public Participation.* District Engineers will insure that the public participates to the maximum practicable extent in the formulation and preparation of Lakeshore Management Plans and any subsequent major revisions. When master plan updates and preparation of the Lakeshore Management Plans are concurrent, the public meetings should be combined and consider all aspects, including the lakeshore allocation classifications. Maximum use will be made of news releases, public notices, congressional liaison and public meetings to encourage full public participation. Special care will be taken to advise local citizen orginizations, conservation organizations, Federal, State and local natural resource management agencies and other concerned bodies as well as adjacent landowners during the formulation of Lakeshore Management Plans. Published notices shall be required on several successive weeks prior to public meetings to assure maximum public participation. Ample time shall be permitted for review and comment by concerned organizations and individuals. Public notices shall be issued by the District Engineer allowing a minumum of 30 days for receipt of public comment in regard to the proposed Lakeshore Management Plan or any major revision thereto.

(f) *Instruments for Private Exclusive Use.* Criteria used to determine the type of instrument to be used for private exclusive use facilities or developments are as follows:

(1) *Lakeshore Use Permit.* Lakeshore Use Permits are issued and enforced in accordance with provisions of § 327.19, Chapter III, Title 36, Code of Federal Regulations, for private floating recreation facilities. Lakeshore Use Permits are issued for floating structures of any kind in waters of resource projects whether or not such waters are deemed navigable and where such waters are under the primary jurisdiction of the Secretary of the Army and under the management of a Corps of Engineers Park Manager. On waters deemed non-navigable, Lakeshore Use Permits will be issued for non-floating structures when such waters are under management of a Corps Park Manager. Lakeshore Use Permits are issued for vegetative modification activities on the land which do not involve in any way a disruption to or a change in land form. Situations which require a Real Estate instrument are covered in paragraph (f)(3) of this section.

(2) *Department of the Army Permits.* Activities such as dredging, construction of fixed structures, including fills and combination fixed-floating structures and the discharge of dredged or fill material in navigation waters will be permitted under conditions specified in permits issued under authority of Section 10, River and Harbor Act of March 3, 1899 (33 U.S.C. 403) and Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) in accordance with reference (c)(7). Lakeshore Use Permits, paragraph (f)(1) of this section, will not be used under these circumstances.

(3) *Real Estate Instruments.* All commercial development activities and all activities by individuals which are not covered above and involve grade, cuts, fills, other changes in land form or appropriate land-based support facilities required for private floating facilities will be covered by a lease, license or other legal grant issued by the Real Estate Directorate.

(g) *Transfer of Permits.* All Lakeshore Use Permits are non-transferable. Upon sale or other transfer of the permitted facility or the death of the permittee the permit is null and void. The voided permit site, if located in a Limited Development Area, may become available for permit application by all members of the public for issuance in an impartial manner if consistent with the Lakeshore Management Plan.

(h) *Existing Facilities Now Under Permit.* The schedule for implementation of the Lakeshore Management Plan shall be developed in full consideration of existing permitted exclusive use facilities, their residual value and the prior Corps commitment implicit in the issuance of the permits. Except under unusual circumstances, such facilities should in general remain under permit until replacement is required, or until death of the permittee, or until sale or cessation of use of the facility. In the instance of multi-slip, multi-owner permits for private floating facilities and corporation-owned private floating facilities, the structure must be located in areas specifically allocated in the Lakeshore Management Plan. When existing floating facilities of this type are located in areas not approved for limited development under the Lakeshore Management Plan, a grandfather rights provision will apply. Such provision will extend for the period of time that the facility will pass annual inspections without major repair by the permittee(s). At that time the floating facility will be removed or repaired and relocated to an approved location by the owner under a new permit.

(i) *Density of Development.* The density of private floating recreation facilities will be established by the District Engineer for all portions of Limited Development Use Areas in the Lakeshore Management Plan. The densities will be consistent with ecological and esthetic characteristics. In all cases, the density of development specified in the Lakeshore Management Plan will not be more than 50 percent of that shoreline allocated as Limited Development Areas. In those cases where current density of development exceeds the density level established in the Lakeshore Management Plan, and density will be reduced gradually to the prescribed level by employing such guidelines necessary to protect the integrity of the shoreline environment.

(j) *Administration Charge.* In accordance with the provisions of paragraphs (c)(1) and (c)(2) of this section, a charge will be made for Lakeshore Use Permits to help defray expenses associated with issuance and administration of the permits. As permits become eligible for renewal after July 1, 1976 a charge of $10 for each new permit and a $5 annual fee for inspection of floating facilities will be made. There will be no annual inspection fee for permits for vegetative modification on lakeshore areas. In all cases the total administration charge will be collected initially at the time of permit issuance rather than on a piecemeal annual basis.

(k) *Compliance.* Lakeshore Management Plans will be prepared for all applicable Corps of Engineers lakes at which private exclusive recreation uses exist.

APPENDIX A—GUIDELINES FOR GRANTING PERMITS FOR PRIVATE FLOATING RECREATION FACILITIES

1. GENERAL

a. Decisions regarding the granting of permits for private floating recreation facilities must be made in considered relationship to the operating objectives and physical characteristics of each project. Such decisions must avoid giving the appearance of converting public property, on which the permitted facility is located, to private, exclusive use. In every case, the foremost objective is to secure maximum storage of boats and related equipment at commercial concession areas. Through direction of the boat-owning public to such areas, the Corps strives to minimize the number of shoreline developments which could prove esthetically distracting, unreasonably injurious to the environment or limit use of Federal property by the general public.

b. Revocable permits for private exclusive use facilities, either individually or community-owned, will be granted in Limited Development Areas when the sites are removed from commercial marine services and the granting of such permits will not despoil the shoreline nor inhibit the public use or enjoyment thereof. District Engineers will

insure that private floating recreation facilities will be located in areas that do not presently enjoy reasonable access to commercial marine services and that, insofar as practicable, the installation and use of such facilities will not be in conflict with the preservation of the natural characteristics of the lake or shoreline. Park Managers will continuously monitor the number and nature of permits with a view towards timely establishment of additional commercial storage areas in lieu of permitting dispersed private facilities. Administrative charges will be made for Lakeshore Use Permits in accordance with paragraph (j) of § 327.30.

c. Revocable permits will be granted for ski jumps, floats, boat moorage facilities, all types of duck blinds, and other private floating recreation facilities, where such facilities will not inhibit the public use or enjoyment of the project waters or shoreline. At projects where ice fishing houses or duck blinds are regulated by State program, a Corps permit will not be required. Permits will not be granted for private floating recreation facilities at or proximate to existing or potential public recreation areas.

d. Private floating recreation facilities will be permitted only in areas of the lakeshore which have been allocated as Limited Development Areas in the Lakeshore Management Plan. The density of development in such areas will not exceed 50% of areas allocated to such use.

e. Community boat mooring facilities will be encouraged where practicable in an effort to reduce the proliferation of individual facilities.

2. APPLICATIONS FOR LAKESHORE USE PERMITS

a. Applications for any private waterfront recreation facilities made to District Engineers or their designated Park Managers will be reviewed with full consideration of the policies set forth in the previous paragraph, referenced regulations, and the Lakeshore Management Plan. Applicants for a permit shall, prior to the start of construction, submit for approval plans and specifications of the facility proposed, including: engineering details, structural design, anchorage method, construction materials, the type, size, location and ownership of the facility, the expected duration of the use and an indication of willingness to abide by the rules and regulations and the conditions of the permit. Specifications and plans which have been certified by a licensed Engineer will be approved. Permit applications shall also identify any located land-based support facilities which may require a Real Estate instrument.

b. Permits will be issued by the District Engineer or authorized representative in accordance with approved forms for periods of 1 to 5 years, but are revocable by the District Engineer whenever the District Engineer determined that the public interest requires such revocation or that the permittee has failed to comply with conditions of the permit or of this regulation. Permits for duck blinds and ice fishing houses will be issued for one year only. Specified acts permits will continue to be issued by the District Engineer as necessary, for short terms to provide for corrective measures such as tree removal and erosion control.

c. Effective on receipt of this regulation, the following will guide the issuance of this type of permit:

(1) The use of boating mooring facilities, including piers and boathouses, will be limited to the mooring of watercraft and the storage of gear essential to the operation of the watercraft.

(2) Private floating recreation facilities, including boat mooring facilities described in (1) above, shall not be used for human habitation or in a manner which gives the appearance of converting public property on which the facility is located to private, exclusive use.

(3) No private floating facility will exceed the minimum size required to moor the owner's boat or boats plus the minimum size required for an enclosed locker for the storage of oars, life preservers and other items essential to the operation of the watercraft.

(4) All private floating recreation facilities will be constructed in accordance with plans and specifications approved by the District Engineer, authorized representative, or as certified by a licensed Engineer.

(5) The size of all structures will be kept to a minimum to limit encroachment of the water surface.

(6) The procedures set forth in this regulation regarding the issuance of permits for individual facilities shall also apply to the issuance of permits for non-commercial community piers.

(7) Where facilities are anchored to the shore, they shall be securely anchored by means of moorings which do not obstruct the free use of the shoreline or unduly damage vegetation.

(8) Boat mooring buoys and flotation units of floating facilities shall be constructed of material which will not become waterlogged or sink when punctured.

(9) The color and marking of all boat mooring buoys will conform to the Uniform State Waterway Marking System, and the top of the buoy will be no less than eighteen inches above the waterline.

(10) All private floating recreation facilities will be placed so as not to interfere with navigation.

(11) Permits for private boat piers or boathouses and mooring facilities will be issued only when the owner files a permanent address and telephone number with the Park Manager at which the applicant may be reached in case of emergency.

(12) The District Engineer or his authorized representative is authorized to place special conditions in the permit deemed necessary. It may be desirable in some locations to establish a minimum surveillance interval to be observed by the facility owner or representative.

3. REMOVAL OF FACILITIES

The facilities of permittees which are not removed when specified in the permit or when requested after revocation of the permit will be treated as unauthorized structures pursuant to Title 36, Chapter III, § 327.20, of the Code of Federal Regulations.

4. POSTING OF PERMIT NUMBER

Each District will procure 5" x 8" printed permit tags for posting on the floating facilities. The permit tags will be fabricated of either light metal or paper. Where display permits are printed on paper, they will be placed in plastic to make them weatherproof after the permit number and the expiration date have been affixed thereon. The original of the completed application-permit is to be in the possession of the permittee. The duplicate of this form will be retained in the Park Manager's office. The permit numbers will be consecutive for each project beginning with number 0001. The District Engineer is authorized to include letters in the permit for further identification as an aid to the project management. The permittee will be required to display the printed tag so that it can be visually checked with ease.

APPENDIX B—APPLICATIONS FOR LAKESHORE USE PERMIT [RESERVED]

APPENDIX C—CONDITIONS OF PERMIT FOR LAKESHORE USE

1. This permit is granted solely for the purpose described by the permittee on the opposite side of this form.

2. The permittee agrees to and does hereby release and agree to save and hold the Government harmless from any and all causes of action, suits at law or equity, or claims or demands or from any liability of any nature whatsoever for or on account of any damages to persons or property, including the permitted facility, growing out of the ownership, construction, operation or maintenance by the permittee of the permitted facilities.

3. The ownership, construction, operation or maintenance of the permitted facility is subject to the Government's navigation servitude.

4. No attempt shall be made by the permittee to forbid the full and free use by the public of all navigable waters at or adjacent to the permitted facility or to unreasonably interfere with navigation in connection with the ownership, construction, operation or maintenance of the permitted facility.

5. The permittee agrees that if subsequent operations by the Government require an alteration in the location of the permitted facility or if in the opinion of the District Engineer the permitted facility shall cause unreasonable obstruction to navigation or that the public interest so requires the permittee shall be required, upon written notice from the District Engineer to remove, alter, or relocate the permitted facility without expense to the Government.

6. The Government shall in no case be liable for any damage or injury to the permitted facility which may be caused by or result from subsequent operations undertaken by the Government for the improvement of navigation or for other lawful purposes, and no claims or right to compensation shall accrue from any such damage.

7. The ownership, construction, operation and maintenance of the permitted facility is subject to all applicable Federal, State and local laws and regulations.

8. This permit does not convey any property rights either in real estate or material; and does not authorize any injury to private property or invasion of private rights or any infringement of Federal, State or local laws or regulations nor does it obviate the necessity of obtaining State or local assent required by law for the construction, operation or maintenance of the permitted facility.

9. The permittee shall comply promptly with any lawful regulations or instructions of any Federal, State or local government agency.

10. The permittee agrees to complete the facility construction action within one year of the permit issuance date. The permit shall become null and void if the construction action is not completed within that period. Further, the permittee agrees to operate and maintain the permitted facility in

a manner so as to minimize any adverse impact on fish and wildlife habitat, natural environmental values and in a manner so as to minimize the degradation of water quality.

11. At such time that the permittee ceases to operate and maintain the permittee facility, upon expiration of this permit, or upon revocation of this permit, the permittee shall remove the permitted facility within 30 days, at his/her expense, and restore the waterway and lands to its former condition. If the permittee fails to remove and so restore to the satisfaction of the District Engineer, the District Engineer may do so by contract or otherwise and recover the cost thereof from the permittee.

12. The use of the permitted facility shall be limited to the mooring of watercraft and the storage, in inclosed locker facilities, of gear essential to the operation of such watercraft.

13. Neither the permitted facility nor any houseboat, cabin cruiser, or other vessel regularly moored thereto shall be used for human habitation or in any manner which gives the appearance of converting the public property, on which the facility is located, to private, exclusive use.

14. No houseboat, cabin cruiser, or other vessel shall be used for human habitation at a fixed permanent mooring point.

15. No charge may be made for use by others of the permitted facility nor may any commercial activity be engaged in thereon.

16. The size of all structures shall be kept to a minimum to limit encroachment on the water surface.

17. Boating mooring buoys and flotation units of floating facilities shall be constructed of materials which will not become waterlogged or sink when punctured.

18. Floating structures are subject to periodic inspection by the Corps rangers. If an inspection reveals that conditions exist which make the facility unsafe in any way or that conditions exist which deviate from the approved plans, such conditions will be corrected immediately by the owner upon receipt of notification. No deviation or changes from approved plans will be permitted without prior written approval of the Park Manager.

19. Floating facilities shall be securely anchored to the shore in accordance with the approved plans by means of moorings which do not obstruct the free use of the lakeshore.

20. That the display permit tag provided shall be posted on the floating facility or on the land areas covered by the permit so that it can be visually checked with ease in accordance with instructions of the Park Manager.

21. No vegetation other than that prescribed in the permit may be damaged, destroyed, or removed.

22. No change in land form such as grading, excavation, or filling may be done.

23. No vegetation planting of any kind may be done, other than that specifically prescribed in the permit.

24. This permit is nontransferable. Upon the sale or other transfer of the permitted facility or the death of the permittee, this permit is null and void.

25. By 30 days' written notice, mailed to the permittee by registered or certified letter the District Engineer may revoke this permit whenever it is determined that the public interest necessitates such revocation or when the District Engineer determines that the permittee has failed to comply with the conditions of this permit. The revocation notice shall specify the reasons for such action. If within the 30-day period, the permittee, in writing requests a hearing, the District Engineer shall grant such hearing at the earliest opportunity. In no event shall the hearing date exceed 60 days from the date of the hearing request. At the conclusion of such hearing, the District Engineer shall render a final decision in writing and mail such decision to the permittee by registered or certified letter. The permittee may, within 5 days of receipt of the decision of the District Engineer, appeal such decision to the Division Engineer. The decision of the Division Engineer shall be rendered as expeditiously as possible and shall be sent to the permittee by registered or certified letter. The permittee may, within 5 days of receipt of the decision of the Division Engineer appeal such decision in writing to the Chief of Engineers. The decision of the Chief of Engineers shall be final from which no further appeal may be taken.

26. Notwithstanding condition 25 above if, in the opinion of the District Engineer, emergency circumstances dictate otherwise the District Engineer may summarily revoke the permit.

APPENDIX D—PERMIT [RESERVED]

Dated: February 22, 1979.

For the Chief of Engineers.

THORWALD R. PETERSON,
Colonel, Corps of Engineers, Executive Director, Engineer Staff.

[FR Doc. 79-7098 Filed 3-7-79; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 79-125]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

PART 97—AMATEUR RADIO SERVICE

Amendments of Rules Concerning the Northern Mariana Islands

AGENCY: Federal Communications Commission.

ACTION: Order (Rulemaking).

SUMMARY: The Northern Mariana Islands has recently been added to the Commission's jurisdiction. Certain charts and tables in the amateur rules are being amended to reflect this change in the Commission's jurisdiction.

EFFECTIVE DATE: March 13, 1979.

ADDRESSES: Federal Communications Commission, 1919 "M" St. NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Cassler, Private Radio Bureau (202-634-6620).

SUPPLEMENTARY INFORMATION:

In the matter of amendments of Parts 2 and 97 of the Commission's rules concerning the Northern Mariana Islands.

Adopted: February 22, 1979.

Released: March 2, 1979.

By the Commission:

1. On January 9, 1978, as a step toward eventual political union with the United States as a Commonwealth, the Northern Mariana Islands came under the jurisdiction of those laws of the United States which have general applicability to the several States. Previously, these islands were administered by the United States for the United Nations as part of the Trust Territory of the Pacific Islands, and those persons seeking authorization to operate a radio station were required to apply to the High Commissioner of the Trust Territory of the Pacific Islands. As of January 9, 1978, the Communications Act of 1934, being a law of general applicability to the several States, became applicable to the Northern Mariana Islands, and jurisdiction over radio stations on the Northern Mariana Islands passed from the High Commissioner to the Federal Communications Commission.

2. Certain amendments to the rules governing the Amateur Radio Service in Parts 2 and 97 of the Commission's Rules are necessary to reflect the change of status of the Northern Mariana Islands. Two minor amendments to Parts 2 and 97 concern the frequency bands available to amateur radio operators on the Northern Mariana Islands. The Northern Mariana Islands lie in Region 3. Most of the rest of the United States lies in Region 2. International allocations for the Amateur Radio Service are different for Region 3 than for Region 2. Footnote NG62 to § 2.106 and § 97.61(b)(4) are being amended to reflect this.

3. The other two amendments concern the use of the 1800-2000 kHz amateur band. Because this band is shared with the radionavigation (LORAN-A) service, input power is limited according to geographic area. The charts in footnote NG15 to § 2.106 and § 97.61(b)(2) are being amended to add the Northern Mariana Islands to the list.

4. Authority for these rule changes is contained in Sections 4(i) and 303 of the Communications Act of 1934. Because these amendments are basically minor changes in the rules to reflect

the addition of the Northern Mariana Islands to the Commission's jurisdiction, the Commission finds that, for good cause, the notice and public procedures provisions of the Administrative Procedure Act are unnecessary (5 U.S.C. 553(b)). For more information about these rule changes, contact Mr. Robert Cassler, Personal Radio Division, FCC, 1919 "M" Street, NW., Washington, D.C. 20554 (202-634-6620).

5. Accordingly, it is ordered that, effective March 13, 1979, Part 2 and Part 97 of the Commission's Rules are amended as set out in the Appendix.

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

FEDERAL COMMUNICATIONS COMMISSION,

WILLIAM J. TRICARICO,
Secretary.

APPENDIX

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In Section 2.106, footnote NG15, and footnote NG 62 are amended to read as follows:

§ 2.106 Table of frequency allocations.

* * * * * * *

NG15 * * *
(a) * * *
(4) * * *

MAXIMUM DC PLATE INPUT POWER IN WATTS

Area	1800-1825 kHz Day/Night	1825-1850 kHz Day/Night	1850-1875 kHz Day/Night	1875-1900 kHz Day/Night	1900-1925 kHz Day/Night	1925-1950 kHz Day/Night	1950-1975 kHz Day/Night	1975-2000 kHz Day/Night
*	*	*	*	*	*	*	*	
Baker, Canton, Enderbury, Howland	100/25	0	0	100/25	100/25	0	0	100/25
Guam, Johnston, Midway, Northern Mariana	0	0	0	0	100/25	0	0	100/25
American Samoa	200/50	0	0	200/50	200/50	0	0	200/50
*	*	*	*	*	*	*	*	

NG62 Consistent with Resolution 10, Radio Regulations, Geneva, 1959, interregional amateur contacts in this band should be limited to that portion between 7000 and 7100 kHz. In the band 7100 to 7300 kHz, the provisions of No. 117 of the Radio Regulations, Geneva, 1959, are applicable. In addition, 7100 to 7300 kHz is not available in the following U.S. possessions: Baker, Canton, Enderbury, Guam, Howland, Jarvis, Northern Mariana Islands, Palmyra, American Samoa and Wake Islands.

* * * * * * *

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

2. In Section 97.61, paragraphs (b)(2) and (b)(4) are amended to read as follows:

§ 97.61 Authorized frequencies and emissions.

* * * * * *

(b) * * *
(2) * * *

MAXIMUM DC PLATE INPUT POWER IN WATTS

Area	1800-1825 kHz Day/Night	1825-1850 kHz Day/Night	1850-1875 kHz Day/Night	1875-1900 kHz Day/Night	1900-1925 kHz Day/Night	1925-1950 kHz Day/Night	1950-1975 kHz Day/Night	1975-2000 kHz Day/Night
*	*	*	*	*	*	*	*	
Baker, Canton, Enderbury, Howland	100/25	0	0	100/25	100/25	0	0	100/25
Guam, Johnston, Midway, Northern Mariana	0	0	0	0	100/25	0	0	100/25
American Samoa	200/50	0	0	200/50	200/50	0	0	200/50
*	*	*	*	*	*	*	*	

(4) 3900-4000 kHz and 7100-7300 kHz are not available in the following U.S. possessions: Baker, Canton, Enderbury, Guam, Howland, Jarvis, the Northern Mariana Islands, Palmyra, American Samoa and Wake Islands.

* * * * * * *

[FR Doc. 79-6859 Filed 3-7-79; 8:45 am]

[6712-01-M]

PART 97—AMATEUR RADIO SERVICE

Editorial Amendment Concerning Application for Station License

AGENCY: Federal Communications Commission.

ACTION: Correction of final rule.

SUMMARY: FCC amends rule to correct error in paragraph sequence.

EFFECTIVE DATE: March 13, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Upton Guthery, Office of General Counsel, 202-632-6444.

In the matter of editorial amendment of § 97.41 Rules of Practice and Procedure; Order.

Adopted: February 26, 1979.

Released: March 2, 1979.

1. To correct inconsistencies between the amendatory language and the paragraphing of the rule changes in two orders amending § 97.41 of the Rules, we are issuing this order specifying the correct text of that section. The orders in question are FCC 78-76, 43 FR 7323, February 22, 1978, and FCC 78-210, 43 FR 15331, April 12, 1978.

2. Authority for this action is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and § 0.261(d) of the Rules, 47 CFR 0.261(d). Because the correction is editorial in nature, compliance with the prior notice and effective date provisions of 5 U.S.C. 553 is unnecessary.

3. Accordingly, it is ordered, effective March 13, 1979, That § 97.41 is corrected to read as set forth below.

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

R. D. LICHTWARDT,
Executive Director.

In part 97 of Chapter I of Title 47 of the Code of Federal Regulations, § 97.41 is corrected to read as follows:

§ 97.41 Application for station license.

(a) Each application for a club or military recreation station license in the Amateur Radio Service shall be made on the FCC Form 610-B. Each application for any other amateur radio license shall be made on the FCC Form 610.

(b) One application and all papers incorporated therein and made a part thereof shall be submitted for each amateur station license. If the application is only for a station license, it shall be filed directly with the Commission's Gettysburg, Pennsylvania office. If the application also contains an application for any class of amateur operator license, it shall be filed in accordance with the provisions of § 97.11.

(c) Each applicant in the Safety and Special Radio Services (1) for modification of a station license involving a site change or a substantial increase in tower height or (2) for a license for a new station must, before commencing construction, supply the environmental information, where required, and must follow the procedure prescribed by Subpart I of Part I of this chapter (§§ 1.1301 through 1.1319) unless Commission action authorizing such construction would be a minor action with the meaning of Subpart I of Part I.

[FR Doc. 79-7026 Filed 3-7-79; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

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

PART 33—SPORT FISHING

Opening of Catahoula, Delta-Breton, Lacassine, and Sabine National Wildlife Refuges, La., to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Catahoula, Delta-Breton, Lacassine, and Sabine National Wildlife Refuges is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: March 1, 1979 through October 15, 1979 on Catahoula, Lacassine, and Sabine National Wildlife Refuges, and year-round, except during waterfowl season, on Delta-Breton National Wildlife Refuge.

FOR FURTHER INFORMATION CONTACT:

Russell D. Earnest, Area Manager, U.S. Fish and Wildlife Service, Jackson Area Office, 200 E. Pascagoula St., Suite 300, Jackson, Mississippi 39201. Telephone: (601) 969-4900.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Catahoula, Delta-Breton, Lacassine, and Sabine Refuges, Louisiana, only on the areas designated by signs as being open to fishing. These areas comprising the Cowpen Bayou and Duck Lake Marsh on Catahoula, 48,000 acres on Delta-Breton, 28,000 acres on Lacassine, and 40,000 acres on Sabine are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, 200 E. Pascagoula St., Suite 300, Jackson, Miss. 39201. Sport fishing shall be in accordance with applicable State regulations and shall be subject to the following conditions:

CATAHOULA NATIONAL WILDLIFE REFUGE

(1) The sport fishing season on the refuge extends from March 1, 1979, through October 15, 1979.

(2) Fishing permitted from 30 minutes before sunrise to 30 minutes after sunset.

(3) Gasoline powered outboard motors are not allowed in Cowpen Bayou. Electric trolling motors only may be used. Outboard motors may be used in Duck Lake Marsh.

(4) Boats may not be left in the refuge overnight.

(5) No camping or camp fires permitted.

(6) No firearms permitted on refuge.

(7) No Yo-yo's, trotlines, or nets permitted.

DELTA-BRETON NATIONAL WILDLIFE REFUGE

(1) The sport fishing and sport shrimping season on the refuge shall be closed during the waterfowl hunting season.

(2) Fishing and shrimping permitted during daylight hours only.

(3) Sport shrimp trawls are restricted to a maximum of 25 feet.

(4) Air thrust boats are prohibited.

LACASSINE NATIONAL WILDLIFE REFUGE

(1) No person may possess more than the creel limit allowed by State law.

(2) Fishing is permitted from 1 hour before sunrise until 1 hour after sunset.

(3) Entry into Lacassine Pool is restricted to the four rollerway sites.

(4) Boats may not be left inside the refuge overnight.

(5) Boats with outboard motors totaling not more than 25 hp. are permitted in Lacassine Pool. There are no size restrictions on boats and motors used in the canals and streams. Airboats of any size may not be used on the refuge.

SABINE NATIONAL WILDLIFE REFUGE

(1) The sport game fishing season on the refuge extends from March 1 through October 15.

(2) No person may possess more than the daily creel limit allowed by State regulations.

(3) Fishermen must not enter refuge waters earlier than 1 hour before sunrise and shall leave refuge waters by 1 hour after sunset.

(4) Boats may be moored only at designated areas on Pool 1-b or Pool 3. Boats left at these mooring sites must bear owner's name and address. Boats found moored outside designated areas or without required indentification will be removed from the refuge prior to the close of the fishing season.

(5) Boats may not be dragged across levees for access to pool areas. Travel over the refuge is restricted to waterways. Fishermen are not to walk canal banks or levees. Boat access into Pool 1-b is restricted to bridge sites on Road Canal.

(6) Boats with not more than 25 hp. are permitted on refuge lakes and impoundments. No size restrictions on boats and motors in the canals and bayous.

(7) Waters open to public fishing are designated on the map and by appropriate signs on the refuge. Waters *NOT* marked on the map are closed to public use and are designated on the refuge by signs which read, "AREA BEYOND THIS SIGN CLOSED."

The provisions of this special regulation supplement the general regulations which govern fishing on the wildlife refuge areas which are set forth on the Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that no area of the refuge system is used for forms of recreation not directly related to the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

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.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

Dated: February 28, 1979.

DENNIS F. HOLLAND,
Acting Area Manager.

[FR Doc. 79-7111 Filed 3-7-79; 8:45 am]

[4310-55-M]

PART 33—SPORT FISHING

Opening of Choctaw and Wheeler National Wildlife Refuges, Ala., to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The director has determined that the opening to sport fishing of Choctaw and Wheeler National Wildlife Refuges is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Year-round.

FOR FURTHER INFORMATION CONTACT:

Russell D. Earnest, Area Manager, U.S. Fish and Wildlife Service, Jackson Area Office, 200 E. Pascagoula St., Suite 300, Jackson, Mississippi 39201. Telephone: (601) 969-4900.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Choctaw and Wheeler National Wildlife Refuges, Alabama, only on the areas designated by signs as being open to fishing. These areas comprising 2,000 and 18,000 acres respectively are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, 200 E. Pascagoula St., Suite 300, Jackson, Mississippi 39201. Sport fishing shall be in accordance with applicable state regulations and subject to the following conditions:

CHOCTAW NATIONAL WILDLIFE REFUGE

(1) The sport fishing season is open year round on all refuge waters not closed by signs.

(2) Fishing permitted during daylight hours only.

(3) Boats and motors are permitted.

(4) Trotlines are not permitted in refuge waters.

(5) Equipment (boats, trailers, vehicles, etc.) not permitted overnight.

(6) Boat launching is permitted at the refuge's north end boat ramp.

WHEELER NATIONAL WILDLIFE REFUGE

The display pool adjoining the observation building and the area immediately north of its dike and along the headquarters shoreline are closed to fishing. The remaining waters of the refuge are open to fishing in conformance with Alabama state fishing regulations.

The provisions of this special regulation supplement the general regulations which govern fishing on wildlife refuge areas which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that no area of the refuge system is used for forms of recreation not directly related to the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreation use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established.

This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

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.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651 secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270 sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16

U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

Dated: February 28, 1979.

DENNIS F. HOLLAND,
Acting Area Manager.

[FR Doc. 79-7112 Filed 3-7-79; 8:45 am]

[4310-55-M]

PART 33—SPORT FISHING

Opening of Big Lake, Holla Bend, Wapanocca, and White River National Wildlife Refuges, Ark., to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Big Lake, Holla Bend, Wapanocca, and White River National Wildlife Refuges is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: March 1, 1979 through October 31, 1979 on Big Lake and White River National Wildlife Refuges. March 15, 1979 through September 30, 1979 on Holla Bend National Wildlife Refuge. April 1, 1979 through September 30, 1979 on Wapanocca National Wildlife Refuge.

FOR FURTHER INFORMATION CONTACT:

Russell D. Earnest, Area Manager, U.S. Fish and Wildlife Service, Jackson Area Office, 200 E. Pascagoula St., Suite 300, Jackson, Mississippi 39201. Telephone: (601) 969-4900.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Big Lake, Holla Bend, Wapanocca and White River National Wildlife Refuges, Arkansas, only on the areas designated by signs as being open to fishing. These areas comprising 5,500 acres on Big Lake, 1,000 acres on Wapanocca, 2,592 acres on White River, and all waters on Holla Bend are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, 200 E. Pascagoula St., Suite 300, Jackson, Mississippi 39201. Sport Fishing shall be in accordance with applicable state regulations and subject to the following conditions:

BIG LAKE NATIONAL WILDLIFE REFUGE

(1) The area around the Floodway Dam south of the Highway 18 bridge will be open to bank fishing throughout the year, 24 hours a day. The rest of the refuge will be open during daylight hours only.

(2) Trespassing on water control structures and associated support materials is prohibited.

(3) Limb lines and bowfishing are not permitted.

(4) A length of cotton line of at least 24 inches must be attached to each end of a trotline and must be extended from the point of attachment into the water.

(5) Boats may only be launched in areas designated for that use.

(6) Airboats are prohibited.

HOLLA BEND NATIONAL WILDLIFE REFUGE

(1) Fishing is permitted only during the period March 15 through September 30.

(2) Visitors may enter the refuge when the entrance gate unlocks each morning. They must leave the refuge by the time posted at the entrance gate.

WAPANOCCA NATIONAL WILDLIFE REFUGE

(1) Sport fishing is permitted on the refuge from April 1 through September 30 during daylight hours only. The lake is closed to all access during other periods.

(2) Boats may be launched only at the Public Fishing Access Area.

(3) Boat motors larger than 10 h.p. are prohibited.

(4) No fishing is permitted within 100 yards of any refuge building or structure.

(5) All applicable state regulations are in effect. The use of live carp, shad, buffalo, and goldfish for bait is prohibited. Yo-yo's, jugs, drops, trotlines, and all commercial fishing tackle are prohibited.

(6) Gates to the public parking area will be subject to closure in the event all parking spaces are taken and will only be reopened as space becomes available.

(7) Visitors must comply with all regulatory signs.

WHITE RIVER NATIONAL WILDLIFE REFUGE

(1) Boats without owner's name plate affixed in a conspicuous place may not be left overnight.

(2) Taking of frogs is prohibited.

The provisons of this special regulation supplement the general regulations which govern fishing on wildlife refuge areas which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that no area of the refuge system is used for forms of recreaton not directly related to the primary purposes for which the area was estalished; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

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.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651 secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270 sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

Dated: February 28, 1979.

DENNIS F. HOLLAND,
Acting Area Manager

[FR Doc. 79-7113 Filed 3-7-79; 8:45 am]

[4310-55-M]

PART 33—SPORT FISHING

Opening of Hillside and Noxubee National Wildlife Refuges, Miss., to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Hillside and Noxubee National Wildlife Refuges is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: March 1, 1979 through October 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Russell D. Earnest, Area Manager, U.S. Fish and Wildlife Service, Jackson Area Office, 200 E. Pascagoula St., Suite 300, Jackson, Mississippi 39201. Telephone (601) 969-4900.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Hillside and Noxubee National Wildlife Refuges, Mississippi, only in the areas designated by signs as being open to fishing. These areas comprising 2,000 acres on each refuge are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, 200 E. Pascagoula St., Suite 300, Jackson, Miss. 39201. Sport fishing shall be in accordance with applicable state regulations and subject to the following conditions:

HILLSIDE NATIONAL WILDLIFE REFUGE

(1) Areas open to fishing include all waters north of the Thornton-Tolersville Road, Bear Lake, borrow pit ponds adjacent to Highway 49 E, west side of the Corps of Engineers Floodway Levee, Black Creek Ditch and Tipton/Parker Bayou.

(2) Fishing is limited to daylight hours only.

(3) Trotlines, Yo-yo's and nets are prohibited.

(4) Fishing from bridges is prohibited.

NOXUBEE NATIONAL WILDLIFE REFUGE

(1) The sport fishing season extends from March 1, through October 31, 1979.

(2) Fishing permitted during daylight hours only.

(3) A daily permit ($1.00) is required by the Mississippi Game and Fish Commission to fish in Bluff and Loakfoma Lakes and tailwaters of the spillways.

(4) No limb lines or limb hooks are permitted in Bluff or Loakfoma Lakes.

(5) All trotlines will be removed from the refuge by the close of the refuge fishing season.

(6) Private boats may not be left overnight on the refuge.

(7) No snag lines permitted.

The provisions of this special regulation supplement the general regulations which govern fishing on wildlife refuge areas which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that no area of the refuge system is used for forms of recreation not directly related to the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

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.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651 secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270 sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

Dated: February 28, 1979.

DENNIS F. HOLLAND,
Acting Area Manager.

[FR Doc. 79-7114 Filed 3-7-79; 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.

[6450-01-M]

DEPARTMENT OF ENERGY

[10 CFR Part 475]

ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECT

Notice of Inquiry Regarding Amendments to Performance Standards for Demonstrations

AGENCY: Department of Energy.

ACTION: Notice of inquiry.

SUMMARY: The Department of Energy (DOE) is considering what amendments may be necessary to its regulations prescribing the minimum performance standards required of electric or hybrid vehicles to be purchased or leased for the demonstration program under the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, as amended by the Department of Energy Act of 1978—Civilian Applications. This notice is intended to encourage timely public comment for consideration in preparing a proposed rulemaking which would revise these performance standards.

DATES: Comments must be received on or before May 7, 1979, 4:30 p.m.

ADDRESS: Send comments to Docket Number CAS-RM-79-201, Margaret Sibley, Conservation and Solar Applications, Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Charles E. Pax, Office of Assistant Secretary, Conservation and Solar Applications, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, 202-376-4893.

SUPPLEMENTARY INFORMATION: Section 7(b)(1) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (Pub. L. 94-413), as amended by the Department of Energy Act of 1978—Civilian Applications (Pub. L. 95-238), (Act) requires DOE to promulgate rules establishing performance standards representing the minimum level of performance required of electric or hybrid vehicles purchased or leased for use in the demonstration projects to be conducted by DOE under section 7 of the Act. DOE issued proposed regulations to establish the performance standards on February 6, 1978 (43 FR 5841, February 10, 1978) and invited public comments. The final regulations prescribing minimum performance standards for electric and hybrid vehicles to be purchased or leased for the first phase of the demonstration program were issued on May 24, 1978 (43 FR 23498, May 30, 1978).

As required by section 7(b)(1) of the Act, the standards were developed by DOE taking into account the factors of energy conservation, urban traffic characteristics, patterns of use for "second" vehicles, consumer preferences, maintenance needs, battery recharging characteristics, agricultural requirements, materials demand and their ability to be recycled, vehicle safety and insurability, cost, the best current state-of-the-art and reasonable estimates as to the near-term future state-of-the-art, and other relevant considerations. As required by section 7(b)(2) the initial standards were set at levels determined by DOE to be necessary to promote the acquisition and use of such vehicles for transportation purposes within the capability (determined by DOE) of electric and hybrid vehicles.

Section 7(b)(3) of the Act, as amended, requires that the initial performance standards "be revised, by rule, as the state-of-the-art improves." DOE is considering what revisions may be necessary to the initial standards and, pursuant to DOE's policy to develop regulations in an open and accountable manner with extensive public participation early in the process, DOE is publishing this notice of inquiry.

Interested persons are invited to participate in this inquiry by submitting data, views or arguments regarding (1) any improvements in the state-of-the-art of electric or hybrid vehicles which would justify revisions to the initial standards, (2) the manner in which the standards should be revised in light of these improvements and (3) any other basis for revising the standards. All comments should be sent to: Docket Number CAS-RM-79-201, Margaret Sibley, Conservation and Solar Applications, Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "EHV-Revisions to Performance Standards." Fifteen copies should be submitted.

All comments received by DOE by May 7, 1979, 4:30 p.m., and all other relevant information, will be considered by DOE in the development of any revised performance standards. All comments received by DOE will be retained by DOE and made available for inspection at DOE Freedom of Information Office, Forrestal Building, Independence Avenue and L'Enfant Plaza, S.W., Washington, D.C., 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

If it is determined, after consideration of the comments and all other relevant information available to DOE, that the regulations regarding performance standards should be amended, a notice of proposed rulemaking will be issued.

(Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, Pub. L. 94-413, as amended by the Department of Energy Act of 1978—Civilian Applications, Pub. L. 95-238; Energy Reorganization Act of 1974, Pub. L. 93-438; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009 (42 FR 46267); E.O. 12044 (43 FR 12661, 43 FR 18634).)

Issued in Washington, D.C., March 3, 1979.

OMI G. WALDEN,
Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-7013 Filed 3-7-70;8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 27, 29, 43, 61, 91, 121, 127, 133, and 135]

[Docket No. 18689; Notice No. 79-1A]

ROTORCRAFT REGULATORY REVIEW PROGRAM

Invitation To Submit Proposals for Consideration; Extension of Submittal Period

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice extending submittal period.

SUMMARY: This notice extends the period for submission of proposals relating to Notice No. 79-1 by 60 days. Since the regulations cited in the scope of the Rotorcraft Regulatory Review Program, Notice No. 79-1, are important in developing and updating rotorcraft airworthiness and operating requirements, the agency believes it is in the public interest to encourage submitters to undertake a thorough review of these regulations.

DATES: Proposals must be received on or before May 31, 1979.

ADDRESSES: Send proposals in duplicate to: Rotorcraft Regulatory Review Program, Federal Aviation Administration, Flight Standards Service, Operations Review Branch, AFS-920, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Thomas G. Walenta, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: 202-755-8715.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) announced in Notice No. 79-1, (44 FR 3250; January 15, 1979), the agency's Rotorcraft Regulatory Review Program and invited interested persons to submit proposals for consideration at a Rotorcraft Regulatory Review Conference.

By letter dated February 12, 1979, the Helicopter Association of America (HAA) requested a 60-day extension of the date (March 31, 1979) provided in Notice No. 79-1 for the submission of proposals. The HAA stated they do not have sufficient professional manpower available to translate the grassroots comments into constructive proposals and justifications within the time allotted. Accordingly, more time was requested to allow for a more thorough and objective assessment of the regulations.

The United Kingdom Civil Aviation Authority (CAA) in their letter dated February 14, 1979, requested a 90-day extension of the March 31, 1979, date. The CAA believes it can make a contribution to this program because of the knowledge and experience gained in developing its own rotorcraft requirements and because of the evidence gained from the extensive transport category operations conducted by rotorcraft on the United Kingdom register, particularly in connection with the North Sea operation. However, due to staffing limitations the CAA states that no more than a broad survey of proposals could be presented by March 31, 1979. Accordingly, an extension of the submission date for proposals was requested.

In light of these comments, the FAA concludes that it is in the public interest to encourage a thorough review of the regulations and that good cause exists for extending the date for the submission of proposals by 60 days.

EXTENSION OF PERIOD FOR SUBMITTING PROPOSALS

Accordingly, proposals submitted in response to Notice No. 79-1 must be received on or before May 31, 1979.

(Secs. 313, 601 through 605, and 608 through 610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421 through 1425, and 1428 through 1430) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044, and set forth in the "Department of Transportation Regulatory Policies and Procedures" published in the FEDERAL REGISTER February 26, 1979 (44 FR 11034).

Issued in Washington, D.C., on March 2, 1979.

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

[FR Doc. 79-7036 Filed 3-7-79; 8:45 am]

[4910-13-M]

[14 CFR Part 39]

[Docket No. 79-WE-1-AD]

AIRWORTHINESS DIRECTIVES

Lockheed-California Co. Model L-1011-385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) which requires interim initial and repetitive visual inspections of the existing main landing gear brakes aluminum input straps with replacement of straps as necessary and installation of new type design steel input straps as a terminating action. The AD is necessary to preclude failures of the input straps which could result in degradation of the aircraft controllability during braking.

DATES: Comments must be received on or before May 14, 1979.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009.

SUPPLEMENTARY INFORAMTION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, view, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed to light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The main landing gear brake input straps transmit the brake pedal inputs to the main landing gear brake system. The pilot or co-pilot brake pedal inputs initiate the airplane braking and setting of the parking brake. All aircraft in the L-1011-385 series have two brake pedals on the pilot's side and two brake pedals on the co-pilot's side. A handle for setting of the parking brake is available to both pilot and co-pilot, however, the handle is considerably more convenient to the pilot. The L-1011-385 series aircraft up to Serial Number 1140 provide a parking brake setting capability for the pilot only; the subsequent aircraft provide a parking brake setting capability for both the pilot and the co-pilot.

There have been reports of numerous individual failures of the existing aluminum input straps during setting and/or release of the parking brake. To this date FAA has not received a report of any occurrences of input strap failures during braking operations.

The failures of the existing aluminum input straps are attributed to stress concentrations by the improper application of compression loading on the straps by virtue of pulling aft on the rudder pedal(s). Although the air-

line maintenance manuals include a cautionary note not to pull aft on the rudder pedals, the numerous strap failures indicate inadequacy of this maintenance caution note.

FAA became aware of the input strap failures in September, 1978, and since that time has conducted a review of overall aspects of these failures, including its own analysis of the potential safety implications to the aircraft in service. In an FAA/Lockheed/airlines meeting of November 30, 1978, this item was a subject of general discussion. As a result of an FAA request stated in this meeting, the manufacturer and the airlines have submitted to FAA their evaluations relative to the potential safety degradation to the aircraft during braking operations while experiencing an input strap failure. These evaluations have been reviewed by the FAA and on the basis of the following rationale the agency has concluded that need for this AD exists, because:

"Although it appears the failure rate is minimum according to the reported service history and has occurred only during the setting of the parking brake by the captain, FAA believes that there is a potential hazard if this failure should occur during a rejected takeoff under critical conditions, such as a V_1 decision on a limited runway.

The service history report does not indicate the number of rejected takeoffs that have occurred using maximum braking. Therefore, the likelihood of a weakened brake input strap not failing when the parking brake is set prior to engine start and then failing when the takeoff is rejected on a critical runway is not known. Also, if a particular air carrier's operational procedure allows the first officer to make takeoffs, the potential failure is more likely because the first officer does not normally set the parking brakes. A single brake strap failure does not eliminate the braking capabilities of the aircraft in that the other pilot still has normal brakes. However, the added delay in redelegating the braking task is not accounted for in the published stopping performance."

As a result of the in-service failure history of the existing aluminum input straps, the manufacturer has established a new type design configuration of these straps composed of steel material and with certain detail geometrical changes. The FAA has witnessed a structural test program conducted on the new steel input straps to assure the continued structural integrity of the new steel input straps after being subjected to a load which represents a rational potential rudder pedal aft load application. The new steel input straps are considered to possess the necessary structural integrity for the entire expected operational life of the L-1011 airplanes and are therefore required to be installed in the L-1011 fleet with interim visual inspections and replacements as necessary of the existing aluminum input straps.

PROPOSED AMENDMENT

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

LOCKHEED-CALIFORNIA COMPANY. Applies to all L-1011-385 series airplanes certificated in all categories.

To ensure the integrity of the main landing brakes input straps, accomplish the following:

(a) Within the next 200 hours' time in service from the effective date of this AD, unless already accomplished within the last 200 hours' time in service, perform a visual inspection of the four input straps P/N 1545026 (-129, -130, -131, -132) located in the forward electronics service center compartment. If any obvious structural deformations and/or cracks are found replace the strap(s) prior to the next flight.

(b) Repeat the visual inspections and replacement of straps as necessary, of paragraph (a) above, at intervals of 400 hours' time in service, unless paragraph (c) below, has already been accomplished.

(c) On or before December 31, 1979, install the new type design steel input straps P/N 1617522 (-101, -102, -103, -104). This constitutes terminating action for the inspection requirements of paragraphs (a) and (b) of this AD.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(e) Equivalent inspections and replacements may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(f) Upon request of operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region may adjust the initial and repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

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

NOTE.— The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in interim Department of Transportation Guidelines.

Issued in Los Angeles, Calif., on February 27, 1979.

BENJAMIN DEMPS, Jr.,
Acting Director,
FAA Western Region.

[FR Doc. 79-7037 Filed 3-7-79;8:45 am]

[4910-13-M]

[14 CFR Part 39]

(Airworthiness Docket No. 79-ASW-4)

AIRWORTHINESS DIRECTIVES

SL Industries (Callair) B-1 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspections and repair or replacement as necessary of the rear spar of the wing on SL Industries (Callair) B-1 series airplanes. The AD is prompted by a report of cracks in the wing rear spar which could result in failure of the wing rear spar and cause loss of the airplane.

DATES: Comments must be received on or before April 6, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The applicable service bulletins may be obtained from: SL Industries, Inc., P.O. Box 32406, Oklahoma City, Oklahoma 73132.

A copy of the service bulletin is contained in the Rules Docket, Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT:

R. T. Weaver, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone 817-642-4911, Extension 516.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, con-

cerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of cracks in the rear spar on SL Industries (Callair) Model B-1 airplanes. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require visual repetitive inspections and repair or replacement, as necessary, of the wing rear spar on SL Industries (Callair) B-1 series airplanes.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation regulations (14 CFR 39.13) by adding the following new airworthiness directive:

SL INDUSTRIES (CALLAIR). Applies to Models B-1 and B-1a airplanes, all Serial Numbers, certificated in all categories with over 500 hours' time in service. Airworthiness Docket No. 79-ASW-4.

Compliance required within the next 50 hours after the effective date of this AD, unless already accomplished within the last 50 hours' time in service and thereafter at intervals not to exceed 100 hours' time in service from the last inspection.

To prevent failure of the wing rear spar at the wing-fuselage attachment fitting (P/N 160049) due to cracking, accomplish the following:

(a) Inspect both rear wing spars by the following procedures:

(1) Remove the wing-fuselage fairings covering the rear spar attach bolt.

(2) Hoist the wing and jack the landing gear to relieve the load on the rear spar attach bolt and remove the rear spar attach bolt.

(3) Remove the P/N 16049-1 and -2 spar fittings by removal of (6) AN 4 bolts attaching fittings to the spar web.

(4) Visually and with dye penetrant methods, inspect the spar web in the area of the P/N 16049-1 and -2 fittings for cracks. Give particular attention to the upper and lower fasteners in the pattern of (6) fasteners attaching the P/N 16049-1 and -2 fittings to the spar web. Inspect these holes for elongation beyond .254 inches.

(5) Visually inspect the inboard 24 inches of the spar web for corrosion.

(b) Repair any discrepancies found during the inspections of paragraph (a) as follows:

(1) For cracks or elongated fastener holes in the spar web, replace the damaged spar with a new spar.

(2) For corrosion on the spar web, repair as follows:

(i) Remove corrosion in accordance with AC 43.13-1.

(ii) If corrosion is less than 10 percent of spar web thickness locally and reduces the spar web cross-section area by less than 2 percent, treat the corroded spar web area with two coats of zinc chromate primer in accordance with MIL-P-6889 or MIL-P-8585A.

(iii) If corrosion exceeds 10 percent of local spar web thickness or 2 percent of spar web cross-section area, replace the spar or repair with a repair approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

(iv) Reinstall the 16049-1 and -2 spar fittings with the fasteners removed as specified in paragraph (a)(3).

(v) Reinstall the wing fairings removed during paragraph (a) inspections.

NOTE: (SL Industries Service Bulletin A-25 covers this same subject.)

(c) Modification of the rear spar by installation of the new wing-fuselage attach fittings of SL Industries Service Bulletin A-25 (or equivalent modifications approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region) will remove the requirement for the 100-hour repetitive inspections.

(d) Aircraft may be flown in accordance with FAR 21.197 to a base where this AD can be accomplished.

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

NOTE: The FAA has determined that this document involves a (proposed) regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Fort Worth, Texas, on February 23, 1979.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 79-6836 Filed 3-7-79; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 79-GL-6]

ALTERATION OF CONTROL ZONE AND TRANSITION AREA

Rhinelander, Wisconsin

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Rhinelander, Wisconsin to accommodate a new (VOR Runway 9) instrument approach procedure into Rhinelander Oneida County Airport. In addition, amendments to existing procedures (VOR Runway 15, VOR Runway 5 and VOR/DME Runway 23) are being accomplished. The intended effect of this action is to insure segregation of the aircraft using these approach procedures in instrument weather conditions and other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before April 16, 1979.

ADDRESS: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 79-GL-6, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT:

Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using these approach procedures in instrument weather conditions and other aircraft operating under visual weather conditions. The floor of the controlled airspace will be lowered from 1200′ above ground to 700′ above ground for a distance of approximately two miles beyond the present 700′ transition area. The control zone description will be expanded on the west to accommodate a new E/W Runway recently completed. The development of the proposed instrument approach procedures necessitates the FAA to alter the designated airspace to insure that the procedures will be contained within controlled airspace. The minimum descent altitude for these procedures may be established below the floor of the 700′ controlled airspace at times when the control zone is not effective. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable the aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

COMMENTS INVITED

Interests persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 79-GL-6, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before April 16, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking

(NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700' controlled airspace, and is considering an amendment to Subpart F of Part 71 to alter the control zone area near Rhinelander, Wisconsin. Subparts G and F of Part 71 were published in the FEDERAL REGISTER of January 2, 1979 (44 FR 353 and 442).

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amended §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (44 FR 442), the following transition area is amended to read:

RHINELANDER, WISCONSIN

That airspace extending upward from 700 feet above the surface within a 9½ statute mile radius of the Rhinelander-Oneida County Airport.

In § 71.171 (44 FR 353), the following control zone is amended to read:

RHINELANDER, WISCONSIN

Within a 5 statute mile radius of the Rhinelander-Oneida County Airport (latitude 45° 37' 54" N, longitude 89° 27' 35" W estimated) and within 2½ statutue miles each side of the Rhinelander VORTAC 322° radial (T) extending from the 5 statute mile radius zone to 6 statute miles northwest of the VORTAC; and within 2 statute miles each side of the Rhinelander VORTAC 058° radial (T) extending from the 5 mile radius zone to 7 statute miles northeast of the VORTAC; and within 2½ statute miles each side of the Rhinelander VORTAC 229° radial (T) extending from the 5 statute mile radius zone to 7 statute miles southwest of the VORTAC; and three statute miles each side of the Rhinelander VORTAC 262° radial (T) extending from the 7 statute mile extension on the south and from the 6 statute mile extension on the north to 8½ statute miles west of the VORTAC. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective dates and times will thereafter be continuously published in the Airman's Information Manual or equivalent.

(Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 C.F.R. 11.61).)

The Federal Avaiation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Des Plaines, Illinois, on March 1, 1979.

JOAN B. BARRIAGE,
Acting Director,
Great Lakes Region.

[FR Doc. 79-6837 Filed 3-7-79; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-EA-104]

VOR FEDERAL AIRWAY

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign the segment of V-30 between East Texas, Pa., and Solberg, N.J., to be direct rather than via the FRENS intersection which is approximately 5 miles south of the direct line. The procedural requirement for the indirect airway no longer exists. Rerouting V-30 via direct radials would reduce the airway distance and fuel consumption required for its use.

DATES: Comments must be received on or before April 5, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 78-EA-104, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before April 5, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABLILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would realign the segment of V-30 from East Texas direct to Solberg. The present alignment via an intersection south of a direct route was established for procedural separation of enroute and terminal air traffic. Since that time, the procedures in this area have changed and the indirect route is no longer required.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows:

Under V-30 all after "East Texas., Pa.;" is deleted and "to Solberg." is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation

which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on February 28, 1979.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-7038 Filed 3-7-79; 8:45 am]

[6820-94-M]

UNITED STATES METRIC BOARD

[15 CFR Part 501]

AVAILABILITY OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

Proposed Procedures; Request for Public Comment

AGENCY: United States Metric Board.

ACTION: Proposed Rule.

SUMMARY: The United States Metric Board proposes to adopt procedures for its operations in order to implement the Freedom of Information Act. Such procedures shall afford maximum access for the public to information regarding the activity of the United States Metric Board. Written comments concerning proposed procedures are invited from interested persons.

DATE: All relevant materials received on or before April 9, 1979, will be considered.

ADDRESS: Mail comments to: United States Metric Board Magazine Building, Suite 301, 1815 North Lynn Street, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT:

John Milo Bryant, Office of General Counsel, (703) 235-1933.

Title 15, Chapter V of the Code of Federal Regulations is proposed to be amended by adding Part 501 to read as follows:

Sec.
501.1 Organization and authority—United States Metric Board.
501.2 Statement of policy.
501.3 Material to be published in the FEDERAL REGISTER.
501.4 Effect of non-publication.
501.5 Incorporation by reference.
501.6 Records generally available.
501.7 Current index.
501.8 Additional documents and records generally available for inspection and copying.
501.9 Exemptions.
501.10 Procedures for obtaining records.
501.11 Actions on requests.
501.12 Appeal.
501.13 Fees for services.

Authority: 5 U.S.C. 552.

§ 501.1 Organization and authority—United States Metric Board.

(a) The United States Metric Board is an independent agency of the Federal Government created by the Metric Conversion Act of 1975 (P.L. 94-168, 15 USC 205a-205k), hereinafter referred to as the Act.

(b) Section 3 of the Act states "that the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system". In implementing the policy the Board has the responsibility to devise and carry out a broad program of planning, coordination, and public education.

(c) The Board consists of a Chairman and sixteen members appointed by the President with the advice and consent of the Senate to serve for six-year terms of office with the exception of the first appointees. The terms of office of the members of the Board first taking office shall expire as designated by the President at the time of nomination; five at the end of the 2nd year; five at the end of the 4th year and six at the end of the sixth year. The term of office of the Chairman of the Board will be six years.

§ 501.2 Statement of Policy.

United States Metric Board records and informational materials are available to the fullest extent possible consistent with 5 U.S.C. section 552, as amended, and will be promptly furnished to any member of the public.

§ 501.3 Material to be published in the Federal Register.

The Board will separately state and concurrently publish the following materials in the FEDERAL REGISTER for the guidance of the public:

(a) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available.

(b) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, and examinations.

(c) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency.

(d) Every amendment, revision, or repeal of the foregoing.

§ 501.4 Effect of non-publication.

Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by, any matter required to be published in the FEDERAL REGISTER and not so published.

§ 501.5 Incorporation by Reference.

For purposes of this part, matter which is reasonably available to the class of person affected thereby shall be deemed published in the FEDERAL REGISTER when incorporated by reference therein with the approval of the Director of the Federal Register.

§ 501.6 Records generally available.

The Board will make promptly available to any member of the public the following documents:

(a) Proposed and Final Decisions (including dissenting opinions and all orders made with respect thereto);

(b) Statements of policy and interpretations which have been adopted by the Board which have been published in the FEDERAL REGISTER; and

(c) A current index, which shall be updated at least quarterly covering the foregoing material adopted, issued or promulgated after July 1, 1978. Publication of an index is deemed both impractical and unnecessary. However, copies of the index are available upon request for a fee of the direct cost of duplication.

§ 501.7 Current index.

This Board shall maintain and make available for public inspection and copying, current indices providing identifying information for the public as to any matter issued, adopted, or promulgated after July 1, 1978, as required to be indexed by 5 U.S.C. 552(a)(2).

§ 501.8 Additional documents and records generally available for inspection and copying.

The following kinds of documents are also available for inspection and copying at the Offices of the Board:

(a) Rules of practice and procedure.

(b) Annual report of the Board to the Congress of the United States and the President of the United States.

(c) Bound volumes of Board decisions.

(d) The Metric Act of 1975 and related Acts.

(e) Press releases and other miscellaneous material concerning Board operations.

§ 501.9 Exemptions.

In the event any document or record requested shall contain material which is exempt from disclosure under this section, any reasonably segregable portion of that record shall be provided to any person requesting same, after deletion of the portions which are exempt under this section. Docu-

ments or records determined to be exempt from disclosure hereunder may nonetheless be provided upon request in the event it is determined that the provision of such document would not violate the public interest or the right of any person to whom such information may pertain, and the disclosure is not prohibited by law or Executive Order. The following categories or records are exempt from disclosure under the provision of 5 U.S.C. 552(b):

(a) Records specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy and are in fact properly classified pursuant to such Executive Order. This exemption may apply to records in the custody of the Board which have been transmitted to the Board by another agency which has designated the record as nonpublic under Executive Order.

(b) Records related solely to the internal personnel rules and practices of the Board.

(c) Records specifically exempted from disclosure by statute.

(d) Information given in confidence. This includes information obtained by or given to the Board which constitutes confidential commercial or financial information, privileged information, or other information which was given to the Board in confidence or would not customarily be released by the person from whom it was obtained.

(e) Interagency or Intraagency memoranda or letters which would not be available by law to a private party in litigation with the Board. Such communications include interagency memoranda, drafts, staff memoranda transmitted to the Board, written communications between the Board, the Executive Director, and the General Counsel, regarding the preparation of Board decisions, other documents received or generated in the process of issuing a decision, or regulation, and reports and other work papers of staff attorneys, accountants, and investigators.

(f) Personnel and medical files and similar files, the disclosure of which would consititute a clearly unwarranted invasion of personal privacy.

(g) Investigation files compiled for law enforcement purposes but only to the extent that the production of such records would—

(1) Interfere with information proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of criminal investigation, or by an agency conducting a lawful security intelligence investigation, confidential information furnished only by the confidential source;

(5) Disclose investigative techniques and procedure; or

(6) Endanger the life or physical safety of law enforcement personnel.

§ 501.10 Procedures for obtaining records.

(a) Each person desiring access to a record covered by this part must comply with the following provisions:

(1) A written request must be made for the record.

(2) Such request must indicate that it is being made under the Freedom of Information Act.

(3) The envelope in which the request is sent must be prominently marked with the letters "FOIA".

(4) The request must be addressed to the appropriate official or employee of the Board as set forth in paragraph (c) of this section.

(5) The foregoing requirements must be complied with whether the request is mailed or hand-delivered to the Board.

(b) If the requirements of paragraph (a) of the section are not met, the ten day time limit described in § 501.11 will not begin to run until the request has been identified by an official or employee of the Board as a request, under the Freedom of Information Act and has been received by the appropriate official or employee of the Board.

(c) Each person desiring access to a record covered in this Part that is located at the Board, or to obtain a copy of such a record must make a written request to Director, Office of Public Information, United States Metric Board, 1815 North Lynn Street, Suite 301, Arlington, VA 22209.

(d) Each request would reasonably describe the particular record requested. The request should specify the subject matter, the date when it was made and the person or office that made it. If the description is insufficient, the official or employee handling the request may notify the person making the request and to the extent possible, indicate the additional data required.

(e) Each record made available under this section is available for inspection and copying during regular working hours. Original documents may be copied but may not be released from custody.

(f) Authority to administer this Part in connection with Board records is delegated to the Director, Office of Public Information or Board employee acting in his or her stead.

§ 501.11 Actions on requests.

(a) The Director, Office of Public Information or any employee acting in his stead shall determine within ten days (excepting Saturdays, Sundays or legal public holidays) after the receipt of any such request, whether to comply with such request. Upon receipt of a request for a Board record which is available, the Director, Ofice of Public Information or any employee acting in his stead shall notify the requester as to the time the record is available, and shall promptly make the record available after advising such requester of the applicable fees under § 501.13. The person making such request shall be notified immediately after any adverse determination, the reasons for making such adverse determination and the right of such person to appeal.

(b) Any denial of a request for a record shall be written and signed by Director, Office of Public Information or Board employee acting in his or her stead, including a statement for the reason of denial. Such statement shall contain, as applicable:

(1) A reference to the specific exemption under the Freedom of Information Act authorizing the withholding of a record, and to the extent consistent with the purpose of the exemption of how the exemption applies to the record withheld.

(2) If a record requested does not exist or has been legally disposed of, the requester shall be so notified.

(c) In unusual circumstances, the time prescribed in paragraph (a) may be extended by written notice to the person making such request setting forth the reasons for such extension and the data on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this paragraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request—

(1) The need to search for and collect the requested records from other establishments that are separate from the office processing the request;

(2) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practical speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest herein.

(d) With respect to determinations on appeals, such determinations shall be made within twenty days (excepting Saturdays, Sundays, and holidays) after the receipt of such appeal. If, on appeal, the denial of the request for

records is in whole or in part upheld, the Board shall notify the person making such request of the provisions for judicial review of that determination under section 552(a)(4) of Title 5 U.S.C.

§ 501.12 Appeal.

(a) Any person to whom a record has not been made available within the time limits established by paragraph (a) of § 501.11, and any person who has been given an adverse determination pursuant to paragraph (b) of § 501.11, that a record he or she has requested will not be disclosed, may apply to the General Counsel of the Board, for reconsideration of the request. A determination that a record will not be disclosed is not administratively final for the purpose of judicial review unless it was made by the General Counsel, unless the applicable time limit has passed without a determination of the appeal having been made.

(b) Each application for reconsideration must be made in writing within thirty days from the date of receipt of the original denial and must include all information and arguments relied upon by the person making the request. Such application must indicate that it is an appeal from a denial of a request made under the Freedom of Information Act. The envelope in which the application is sent must be prominently marked with the letters "FOIA". If these requirements are not met, twenty day time limit described in § 501.11(d) will not begin to run until the application has been identified by an employee of the Board as an application under the Freedom of Information Act and has been received by the appropriate office.

(c) Whenever the General Counsel determines it to be necesary, he or she may require the person making the request to furnish additional information, or proof of factual allegations, and may order other proceedings appropriate in the circumstances. The decision of the General Counsel as to the availability of the record is administratively final.

(d) The decision by the General Counsel not to disclose a record under this part is considered to be a withholding for the purposes of Section 552(a)(3) of Title 5, U.S.C.

§ 501.13 Fees for services.

Unless otherwise waived by paragraphs (d) and (e) of this section, the following fees shall be imposed for the reproduction of any record disclosed pursuant to this part.

(a) Copying of records and documents. Five cents per copy for each page.

(b) Search fees, (1) clerical searches. $6.00 for each hour spent by clerical personnel searching for and producing a requested record or document, including time spent copying any record. (2) $15.00 for each one hour spent by supervisory or professional personnel searching for and producing a requested record, including time spent copying any record.

(c) Certification and validation of records. $1.00 per certification or authentication.

(d) The General Counsel may reduce or waive payment of fees in whole or in part when he determines that such reduction or waiver is in the public interest because furnishing the information can be considered as primarily benefiting the general public, or unless the requester is a government agency or indigent.

(e) No fees will be charged (1) for time spent in examining the requested records for the purpose of determining whether an exemption can and should be asserted, (2) for time spent in deleting exempt matters being withheld from records to furnish, (3) for time spent monitoring a requester's inspection of agency records made available to him in this manner, or (4) for records not found or determined to be totally exempt from disclosure.

(f) Payment of fees under this part should be made to the Treasury of the United States.

(g) Unless the request for services where fees are chargeable under this part, specifically states that whatever cost is involved will be acceptable or acceptable up to a specified limit that covers anticipated costs, a request that is expected to involve assessed fees in excess of $50 will not be deemed to have been received until the requester is advised promptly at the time of receipt of request of the anticipated cost and agrees to bear it. When the anticipated fees exceed $50, a deposit of $25 must be made within ten working days of advising the requester of such costs.

Dated at Arlington, Virginia this 2nd day of March 1979.

For United States Metric Board.

MALCOLM E. O'HAGAN,
Executive Director.

[FR Doc. 79-7097 Filed 3-7-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

Parole Commission

[28 CFR Part 2]

PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Parole, Release, Supervision, and Recommitment

AGENCY: United States Parole Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Parole Commission is proposing to adopt a "preponderance of the evidence" standard to aid in the resolution of disputed factual issues at parole determination proceedings. This proposal would extend to parole proceedings, by administrative rule, the standard for resolving factual disputes presently made applicable by statute in parole revocation cases.

DATES: Written comments must be received by April 13, 1979.

ADDRESS: Send comments to the U.S. Parole Commission, 320 First Street, NW., Washington, D.C. 20537; Attn: General Counsel's Office.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, U.S. Parole Commission, phone (202) 724-1991.

SUPPLEMENTARY INFORMATION: In 1976, Congress enacted the Parole Commission and Reorganization Act, which requires (among other provisions) that the U.S. Parole Commission follow a "preponderance of the evidence" standard in determining whether or not a parolee has violated the conditions of his parole. These fact-findings serve as the basis for the Commission's decision to revoke or not to revoke parole, as well as for the decision as to how much additional imprisonment should be ordered in the event parole is revoked. See 18 U.S.C. 4214(d) (1976).

Congress did not, however, specify a standard of persuasion to be followed in resolving factual disputes that may arise in parole release proceedings. Nonetheless, the statutory requirement that the Commission consider "the nature and circumstances of the offense and the history and characteristics of the prisoner" (18 U.S.C. 4206) as a practical matter obliges the Commission frequently to resolve in such proceedings critical issues of fact that may not have been settled at trial. See *Rosati* v. *Haran*, 459 F. Supp. 1148, 1160 (E.D. N.Y. 1977). Moreover, the scope of the Commission's authority to consider fully the contents of the presentence report and any other information available to it has been held to be coextensive with that of the trial judge at sentencing. See *Billiteri* v. *U.S. Board of Parole*, 541 F. 2d 938, 944 (2d Cir. 1976) and 18 U.S.C. 4207.

The Commission has therefore determined that it would be appropriate to extend its "preponderance" standard to the resolution of disputed factual issues that arise in the context of parole determination proceedings. Formal extension of the preponderance standard to parole proceedings by administrative rule should serve as a useful clarification, both for prison-

ers and interested members of the public, of the Commission's approach to this aspect of its responsibilities.

The proposed rule set forth below deals with the two principal issues involved in the application of such a standard. These are: (1) the procedural point at which the standard is to be invoked; and (2) what the standard means in terms of practical guidance to the decision-maker.

PROCEDURAL ASPECTS

The proposed rule incorporates the Commission's current procedures in that it requires the Commission to restrict the scope of its consideration to that information which meets a threshhold test of reliability. (The requirement for reliability means that the Commission must not take into account patently vague and improbable allegations.) The rule also requires the Commission to apprise the prisoner of information which it considers and offer him an opportunity for comment. (This aspect of the proposed rule also reflects present law and procedure: See 18 U.S.C. 4208 and 28 CFR 2.13 and 2.55.)

Under the proposed rule, if the prisoner admits or does not dispute the truth of any apparently reliable information once the Commission has provided the prisoner with an opportunity for comment, the Commission will accord to that information whatever weight that information is deemed to warrant. However, if the prisoner denies that such information is true, or offers a version of the facts that conflicts with the information presented to the Commission, the Commission would resolve that dispute with reference to the "preponderance" standard contained in the proposed rule.

APPLICATION OF THE STANDARD

Parole hearings are not adversarial proceedings, nor do they involve burdens of proof. Moreover, the Commission's decisional task is not simply to grant or deny the parole application, but to establish a release date that adequately reflects its evaluation of the facts and circumstances of the case.

Prisoners may dispute official information either by offering an alternative explanation of the facts or by simple denial. It then becomes the Commission's task to accept only as much of the official version as has the greater convincing power than the prisoner's version, or appears more likely than not to be accurate notwithstanding the prisoner's denial. By this procedure, the Commission can achieve an appropriate balance between society's interest in preventing the too-early release of a convicted and sentenced prisoner, against the legitimate interest of prisoners in having their parole decisions based on accurate information.[1] The proposed rule reflects a judgment that the interest of society should be the predominant interest but not at the expense of traditional standards of accuracy expected of administrative adjudication. See *Charlton* v. *F.T.C.* 543 F.2d 903 (D.C. Cir. 1976).

TEXT OF THE PROPOSED RULE

The proposed rule would be an additional paragraph to 28 CFR 2.19 (Information considered). This paragraph would read as follows:

§ 2.19 Information considered.

* * * * *

The Commission may take into account any reliable information available to it in establishing the prisoner's offense severity rating, salient factor score, and any aggravating or mitigating circumstances, provided the prisoner is apprised of the information and afforded an opportunity to respond. If the prisoner disputes the accuracy of the information presented, the Commission shall resolve such dispute by a preponderance of the evidence standard; that is, the Commission shall rely upon such information only to the extent that it represents the explanation of the facts that best accords with reason and probability.

Dated: March 5, 1979.

CECIL C. MCCALL,
Chairman, United States Parole Commission.

[FR Doc. 79-7039 Filed 3-7-79; 8:45 am]

[1] 18 U.S.C. 4206 requires that release neither depreciate the seriousness of the offense, promote disrespect for the law, nor jeopardize the public welfare.

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 126]

[CGD 78-038]

LIQUEFIED NATURAL GAS FACILITIES

AGENCY: Coast Guard, DOT.

ACTION: Supplemental advance notice of proposed rulemaking; extension of comment period.

SUMMARY: This supplemental advance notice changes the authority citation published in the advance notice of proposed rules for waterfront liquefied natural gas (LNG) facilities and allows additional time for the public to comment on the change in jurisdiction reflected by the new authority citation. The change in the authority citation reflects the delegation made by the Secretary of Transportation to the Coast Guard of certain functions and responsibilities vested in the Secretary by the Natural Gas Pipeline Safety Act. This delegation ensures that all waterfront LNG facilities will operate under uniform regulations by allowing the Coast Guard to carry out its regulatory responsibilities under the Memorandum of Understanding with the Materials Transportation Bureau (MTB) with the same pre-emptive authority as the MTB.

DATE: Comments must be received by April 1, 1979.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81) (CGD 78-038), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander Edward H. Bonekemper, III, U.S. Coast Guard, Port Safety and Law Enforcement Division (G-WLE-1/73), United States Coast Guard, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1927).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, and arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 78-038) and the specific sections of the proposal to which their comments apply, and give reasons for their comments. All comments received before expiration of the extended comment period will be considered before further rulemaking action is taken on this proposal. The proposal may be changed in light of the comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Lieutenant Commander Edward H. Bonekemper, III, Project Manager, Office of Marine Environment and Systems, and Mr. Stanley M. Colby, Project Attorney, Office of the Chief Counsel.

DISCUSSION

In the July 14, 1978 issue of the FEDERAL REGISTER (34 FR 30381), the Department of Transportation published a Memorandum of Understanding (MOU) between the Coast Guard and the MTB concerning each agency's responsibility for regulating waterfront LNG facilities. This MOU became effective on February 7, 1978.

The agencies considered the MOU necessary because they share certain regulatory authority over waterfront LNG facilities and wanted to avoid duplication of regulations. This authority affects the siting, design, equipment, operation, and maintenance of waterfront LNG facilities.

Regulatory authority of the Coast Guard has been derived from the Ports and Waterways Safety Act (Pub. L. 95-474, 33 U.S.C. 1221 et. seq.) and the Magnuson Act (50 U.S.C. 191). Regulatory authority of the MTB is derived from the Natural Gas Pipeline Safety Act of 1968 (NGPSA) (49 U.S.C. 1671), as amended by the Natural Gas Pipeline Safety Act Amendments of 1976 (Pub. L. 94-474, 90 Stat. 2073), and the Hazardous Materials Transportation Act (49 U.S.C. 1801).

By the terms of the MOU, the Coast Guard is responsible for establishing and the MTB will refrain from establishing, regulatory requirements for: (1) Site selection as it relates to management of vessel traffic in and around each waterfront LNG facility; (2) fire prevention and fire protection equipment, systems, and methods for use at each waterfront LNG facility; (3) security of each waterfront LNG facility; and (4) all other matters pertaining to each facility between each vessel moored thereto and the last manifold or valve immediately before a receiving tank.

Under Section 4 of the NGPSA (49 U.S.C. 1672(b)), the following limitations were placed on the States:

> Any State agency may adopt additional or more stringent standards for intrastate pipeline transportation if such standards are compatible with the Federal minimum standards. No State agency may adopt or continue in force any such standards applicable to interstate transmission facilities, after the Federal minimum standards become effective.

No similar pre-emptive authority is granted by either the PWSA or the Magnuson Act. Without such pre-emption, it would be possible for a given LNG facility to have to operate under requirements of two Federal agencies and the State and local governments.

To ensure uniformity in regulating all LNG facilities, the Secretary of Transportation has delegated certain functions and responsibilities vested in the Secretary by the NGPSA to the Coast Guard. This delegation, which appeared in the January 26, 1979 issue of the FEDERAL REGISTER (44 FR 5436) will allow the Coast Guard to carry out its responsibilities under the MOU with the same pre-emptive authority delegated to the MTB. The new delegation, codified in 49 CFR 1.46(y) reads as follows:

> The Commandant of the Coast Guard is delegated authority to—
>
> * * * * *
>
> Carry out the functions and responsibilities vested in the Secretary by the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1671 et seq.) relating to rulemaking so far as it applies to liquefied natural gas facilities adjacent to the navigable waters of the United States provided that such rulemaking is in accordance with the Memorandum of Understanding between the Coast Guard and Materials Transportation Bureau executed on February 7, 1978, for regulation of such facilities.

When the Coast Guard issued the advance notice of proposed rulemaking concerning waterfront LNG facilities in the August 3, 1978 issue of the FEDERAL REGISTER (43 FR 34362), the authority citation included only the PWSA and the Magnuson Act. This document notifies the public that the authority citation to the advance notice of proposed rulemaking is changed by striking the PWSA and inserting the NGPSA. As changed, the authority citation reads as follows:

> AUTHORITY: 40 Stat. 220 (50 U.S.C. 191); 82 Stat. 720, as amended (49 U.S.C. 1672); 49 CFR 1.46(b) and (y).

State and local authorities who planned regulatory programs for state transmission facilities after publication by the Coast Guard of the advance notice of proposed rulemaking may now have to reconsider such programs under the new pre-emption. It is also possible that those authorities did not comment on the advance notice under the assumption that their programs would not be affected. In fairness to the public, the Coast Guard is extending the comment period from December 1, 1978 to April 1, 1979, so those who wish to comment on the advance notice under the new pre-emption authority may have that opportunity.

(40 Stat. 220, as amended (50 U.S.C. 191), 82 Stat. 720, as amended (49 U.S.C. 1672); 49 CFR 1.46(b) and (y))

Dated: February 28, 1979.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 79-7117 Filed 3-7-79; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

[38 CFR Part 3]

VETERANS BENEFITS

Improved Pension Program

AGENCY: Veterans Administration.

ACTION: Proposed Regulations.

SUMMARY: The Veterans Administration is amending its pension regulations to implement a new law, the Veterans' and Survivors' Pension Improvement Act of 1978. The new law provides for major reform of the non-service-connected pension program. Major provisions of the new law assure all veteran pensioners a level of income above the poverty level and provide that pension benefits will never be reduced solely as a result of cost-of-living increases in social security benefits. In addition to implementing the new law, this regulatory development effects minor changes in various regulations to eliminate gender reference.

DATES: Comments must be received on or before May 7, 1979. We propose to make these changes effective January 1, 1979, as this is the effective date of the new law, designated as Pub. L. 95-588 (92 Stat. 2497).

ADDRESSES: Send written comments to: Administrator of Veterans Affairs, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until May 16, 1979.

FOR FURTHER INFORMATION CONTACT:

T. H. Spindle (202-389-3005)

SUPPLEMENTAL INFORMATION: Pub. L. 95-588, the Veterans' and Survivors' Pension Improvement Act of 1978, provides for major reform of the non-service-connected pension program, effective January 1, 1979.

Pension payable under Pub. L. 95-588 is termed "improved pension." Pension payable under the law in effect on December 31, 1978, is to be known as "section 306 pension" and pension payable under the law in effect on June 30, 1960, is to be referred to as "old-law pension." Pension payable to Spanish-American War veterans is termed "service pension."

It is proposed to add this terminology to the regulations in § 3.1(u), (v), (w) and (x).

Improved pension is payable to veterans of a "period of war." A "period of war" is defined by Pub. L. 95-588 as the Mexican border period, World War I, World War II, the Korean conflict and the Vietnam era.

The proposed amendment of § 3.2 implements the definition of a period of war.

The basic entitlement requirements for receiving improved pension are set forth in the proposed amendment of § 3.3.

The improved pension program assures all veteran pensioners a level of income above the poverty level. For example, the maximum annual rate of

improved pension for a single veteran is increased from the section 306 rate of $2,364 to $3,550. The improved pension maximum annual rates are reduced by the amount of the pensioner's countable income.

The proposed addition of §§ 3.23 and 3.24 set forth the improved pension maximum annual rates.

One of the principal purposes of the improved pension program is to assure that pension benefits will never be reduced solely as a result of cost-of-living increases in social security benefits. To accomplish this, Pub. L. 95-588 provides that, whenever there is a cost-of-living increase in social security benefits, the maximum rates of improved pension will be increased by the same percentage as the social security cost-of-living increase and at the same time.

The proposed addition of § 3.27 implements this provision of the new pension program.

Pub. L. 95-588 increases the maximum annual income limitations and maximum monthly rates of the parents' dependency and indemnity compensation program by 7.1 percent. In addition, the maximum income limitations and maximum rates will be further increased whenever there is a cost-of-living social security increase and by a like percentage. Changes in the rate-decrement formulas, under which rates of awards are computed, will reflect percentage increases in the cost-of-living, and will be made administratively by the Veterans Administration.

The increased maximum annual income limitations and monthly rates are set forth in the proposed § 3.25. The cost-of-living increase provision is implemented by the proposed § 3.27(b).

The law provides that payment of improved pension may be made less frequently than monthly if the amount of the annual benefit is less than 4 percent of the maximum rate payable to a veteran without dependents ($3,550). We proposed to implement this provision of the improved pension program by the addition of § 3.30.

Under the improved pension program, the countable income of a child in the custody of a veteran or surviving spouse is included in the veteran's or surviving spouse's countable income to the extent that it is reasonably available to them, and where doing so will not work a hardship. In addition, the income of a person legally responsible for a child's support is included in the child's countable income if the person legally responsible for the child's support has custody of the child.

The term "child custody" is defined the proposed addition of § 3.57(d).

Pub. L. 95-588 provides that a veteran shall be considered as living with his or her spouse, even though they are residing apart, unless they are estranged. The proposed addition of § 3.60 restates this provision.

The proposed regulations implementing the income and net worth provisions of the improved pension program are §§ 3.271 through 3.277.

The applicability of the existing regulations concerning dependency, income and estate determinations is set forth in the proposed § 3.270.

Under the improved pension program, additional pension is payable to an entitled surviving spouse who is housebound by reason of disability. The proposed amendment of § 3.351 sets forth the criteria for payment of the housebound rate to a surviving spouse.

A number of proposed changes have been made concerning apportionments. These changes result from the definition of the term "child custody" which is defined in the proposed addition of § 3.57(d). In summary, these changes provide that an apportionment may be made for a child in the custody of a veteran or surviving spouse when the child resides with someone else. In addition, the amount apportionable under § 3.454 has been changed to the difference between $60 and the amount of section 306 pension payable on December 31, 1978, because under the provisions of Pub. L. 95-588 the rate of section 306 pension payable on December 31, 1978, will remain unchanged.

The proposed amendment of §§ 3.450, 3.452, 3.454, 3.460 and 3.551(c) implement the apportionment changes.

The improved pension program provides that pension payable to a veteran without dependents shall be reduced to $60 monthly after a specified period of government-paid hospitalization, domiciliary or nursing home care.

The proposed amendments of §§ 3.501(i) and 3.551(c) implement this change.

Pension payable to a veteran who is in need of regular aid and attendance is reduced to the housebound rate after 1 full calendar month of hospitalization at government expense.

The proposed amendment of § 3.552 implements this provision of law as it now affects the section 306, old-law and the improved pension programs.

Pub. L. 95-588 provides that the effective date of discontinuance or reduction of an award of improved pension or parents' dependency and indemnity compensation by reason of a change in income shall be the last day of the month in which the income change occurred. Under the rule previously in effect such a change was made at the end of the year in which the change in income occurred.

The proposed amendment of § 3.660(a)(2) implements this provision of Pub. L. 95-588.

Under the improved pension program, a veteran who is entitled to improved pension on the basis of the veteran's own service and who is also entitled to pension under any pension program currently or previously in effect on the basis of another person's service shall receive only the greater benefit.

This provision of the improved pension program is being implemented by the proposed amendments to § 3.700.

Persons on the pension rolls on December 31, 1978, have a right to elect to receive improved pension. An election of improved pension is final when the payee negotiates a check for improved pension, there being no right of reelection. An election by a veteran controls the rights of all dependents. An election by a surviving spouse controls the claims of all children in the surviving spouse's custody. An election of improved pension is effetive on the date of receipt of the election. However, the effective date of an election to receive improved pension received before October 1, 1979, is retroactive to January 1 if the person electing was entitled to pension on December 31, 1978.

It is proposed to implement these provisions of the improved pension program by the amendment of §§ 3.701(a) and 3.711, and the addition of § 3.713.

Spanish-American War pensioners may also elect the improved pension program. Currently, veterans and surviving spouses receiving Spanish-American War pension who are in need of aid and attendance may be paid whichever is the greater: The Spanish-American War pension aid and attendance rate or the section 306 pension aid and attendance rate. Pub. L. 95-588 preserves this right after December 31, 1978. An election of improved pension, however, would terminate any right to receive either Spanish-American War pension or section 306 pension.

The proposed addition of § 3.712 implements these provisons of Pub. L. 95-588.

Pensioners in receipt of pension on December 31, 1978, may continue to receive such pension subject to certain conditions specified in section 306 of Pub. L. 95-588. The income limitations referred to in the proposed § 3.960 will be increased at the same time and by the same amount as social security cost-of-living increases. In certain cases, persons who file claims for pension after December 31, 1978, or who had a pension claim pending on December 31, 1978, may establish entitle-

ment to section 306 pension for periods after December 31, 1978.

It is proposed to implement these provisions by the addition of §§ 3.960, 3.961, 3.962 and 3.28.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans' Administration, 810 Vermont Ave., NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until May 16, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: March 1, 1979.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. Section 3.1 is amended as follows:

(a) By deleting the cross reference "(See § 3.3(c)(1))" and inserting "(See § 3.3(b)(4) (iii))" in paragraph (d)(2).

(b) By adding paragraphs (u), (v), (w) and (x) to read as follows:

§ 3.1 Definitions.

* * * * *

(u) *"Section 306 pension"* means those disability and death pension programs in effect on December 31, 1978, which arose out of Pub. L. 86-211; 73 Stat. 432.

(v) *"Old-Law pension"* means the disability and death pension programs that were in effect on June 30, 1960. Also known as protected pension, i.e. protected under section 9(b) of the Veteran's Pension Act of 1959 (Pub. L. 86-211; 73 Stat. 432).

(w) *"Improved pension"* means the disability and death pension programs becoming effective January 1, 1979, under authority of Pub. L. 95-588; 92 Stat. 2497.

(x) *"Service pension"* is the name given to Spanish-American War pension. It is referred to as a service pension because entitlement is based solely on service without regard to nonservice-connected disability, income and net worth. (38 U.S.C. 512, 536)

2. Section 3.2 is amended as follows:

(a) By deleting "(See § 3.3(b))" in paragraph (a).

(b) By adding an introductory portion preceding paragraph (a) to read as follows:

§ 3.2 Periods of war.

This section sets forth the beginning and ending dates of each war period beginning with the Indian wars. Note that the term "period of war" in reference to pension entitlement under 38 U.S.C. 521, 541 and 542 means all of the war periods listed in this section except the Indian wars and Spanish-American War. See § 3.3(a)(3) and (b)(4)(i).

* * * * *

3. Section 3.3 is revised and cross references are added to read as follows:

§ 3.3 Pension.

(a) *Pension for veterans*—(1) *Service pension; Spanish-American War.* A benefit payable monthly by the Veterans Administration because of service in the Spanish-American War. Basic entitlement exists if a veteran:

(i) Had 70 (or 90) days or more active service during the Spanish-American War; or

(ii) Was discharged or released from such service for a disability adjudged service connected without benefit of presumptive provisions of law, or at the time of discharge had such a service-connected disability, shown by official service records, which in medical judgment would have justified a discharge for disability. (38 U.S.C. 512)

(2) *Section 306 pension.* A benefit payable monthly by the Veterans Administration because of nonservice-connected disability or age. Basic entitlement exists if a veteran:

(i) Served 90 days or more in either the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, or served an aggregate of 90 days or more in separate periods of service during the same or during different war periods, including service during the Spanish-American War (Pub. L. 87-101, 75 Stat. 218; Pub. L. 90-77, 81 Stat. 178; Pub. L. 92-198, 85 Stat. 663); or

(ii) Served continuously for a period of 90 consecutive days or more and such period ended during the Mexican border period or World War I, or began or ended during World War II, the Korean conflict or the Vietnam era (Pub. L. 87-101, 75 Stat. 218; Pub. L. 88-664, 78 Stat. 1094; Pub. L. 90-77, 81 Stat. 178; Pub. L. 91-588, 84 Stat. 1580; Pub. L. 92-198, 85 Stat. 663; Pub. L. 94-169, 89 Stat. 1013; Pub. L. 95-204, 91 Stat. 1455); or

(iii) Was discharged or released from such wartime service, before having served 90 days, for a disability adjudged service connected without the benefit of presumptive provisions of law, or at the time of discharge had such a service-connected disability, shown by official service records, which in medical judgment would have justified a discharge for disability; and

(iv) Is permanently and totally disabled (*a*) from nonservice-connected disability not due to the veteran's own willful misconduct or vicious habits, or (*b*) by reason of having attained the age of 65 years or by reason of having become unemployable after age 65; and

(v) (*a*) Is in receipt of Pub. L. 86-211 pension or (*b*) has an application for pension pending on December 31, 1978, or (*c*) meets the age or disability requirements for such pension on December 31, 1978, and files a claim within 1 year of that date and also within 1 year after meeting the age or disability requirements.

(vi) Meets the income and net worth requirements of 38 U.S.C. 521 and 522 as in effect on December 31, 1978, and all other provisions of title 38, United States Code, in effect on December 31, 1978, applicable to section 306 pension.

(3) *Improved pension; Pub. L. 95-588 (92 Stat. 2497).* A benefit payable by the Veterans Administration to veterans of a period or periods of war because of nonservice-connected disability or age. The qualifying periods of war for this benefit are the Mexican border period, World War I, World War II, the Korean conflict and the Vietnam era. Payments are made monthly unless the amount of the annual benefit is less than 4 percent of the maximum annual rate payable to a veteran under 38 U.S.C. 521(b), in which case payments may be made less frequently than monthly. Basic entitlement exists if a veteran:

(i) Served in the active military, naval or air service for 90 days or more during a period of war (38 U.S.C. 521(j)); or

(ii) Served in the active military, naval or air service during a period of war and was discharged or released from such service for a disability adjudged service-connected without presumptive provisions of law, or at time of discharge had such a service-connected disability, shown by official service records, which in medical judgment would have justified a discharge for disability (38 U.S.C. 521(j)); or

(iii) Served in the active military, naval or air service for a period of 90 consecutive days or more and such period began or ended during a period of war (38 U.S.C. 521(j)); or

(iv) Served in the active military, naval or air service for an aggregate of 90 days or more in two or more separate periods of service during more than one period of war (38 U.S.C. 521(j)); and

(v) Is permanently and totally disabled (*a*) from nonservice-connected

disability not due to the veteran's own willful misconduct or vicious habits, or (*b*) by reason of having attained age 65 or by reason of having become unemployable after age 65 (38 U.S.C. 502); and

(vi) Meets the net worth requirements under § 3.274 and does not have an annual income in excess of the applicable maximum annual pension rate specified in § 3.23.

(b) *Pension for survivors*—(1) *Indian war death pension.* A monthly benefit payable by the Veterans Administration to the surviving spouse or child of a deceased veteran of an Indian war. Basic entitlement exists if a veteran had qualifying service as specified in 38 U.S.C. 511. Indian war death pension rates are set forth in 38 U.S.C. 534 and 535.

(2) *Spanish-American War death pension.* A monthly benefit payable by the Veterans Administration to the surviving spouse or child of a deceased veteran of the Spanish-American War, if the veteran:

(i) Had 90 days or more active service during the Spanish-American War; or

(ii) Was discharged or released from such service for a disability service-connected without benefit of presumptive provisions of law, or at time of discharge had such a service-connected disability, as shown by official service records, which in medical judgment would have justified a discharge for disability. (38 U.S.C. 536, 537)

(3) *Section 306 death pension.* A monthly benefit payable by the Veterans Administration to a surviving spouse or child because of a veteran's nonservice-connected death. Basic entitlement exists if:

(i) The veteran had qualifying service as specified in paragraph (a)(2) (i), (ii) or (iii) at this section; or

(ii) The veteran was, at time of death, receiving or entitled to receive compensation or retired pay for service-connected disability based on wartime service; or

(iii) The veteran died in active service and the requirements of § 3.1(d)(2) are met; and

(iv) The surviving spouse or child (*a*) was in receipt of Pub. L. 86-211 pension on December 31, 1978, or (*b*) had a claim for pension pending on that date, or (*c*) filed a claim for pension after that date but within 1 year after the veteran's death, if the veteran died before January 1, 1979; and

(v) The surviving spouse or child meets the income and net worth requirements of 38 U.S.C. 541, 542 or 543 as in effect on December 31, 1978, and all other provisions of title 38, United States Code in effect on December 31, 1978, applicable to section 306 pension.

(4) *Improved death pension, Pub. L. 95-588.* A benefit payable by the Veterans Administration to a veteran's surviving spouse or child because of the veteran's nonservice-connected death. Payments are made monthly unless the amount of the annual benefit is less than 4 percent of the maximum annual rate payable to a veteran under 38 U.S.C. 521(b), in which case payments may be made less frequently than monthly. Basic entitlement exists if:

(i) The veteran's service meets the requirements of paragraph (a)(3) (i), (ii), (iii) or (iv) of this section (38 U.S.C. 541(a)); or

(ii) The veteran was at time of death receiving or entitled to receive compensation or retired pay for a service-connected disability based on service during a period of war. (The qualifying periods of war are specified in paragraph (a)(3) of this section.) (38 U.S.C. 541(a)); or

(iii) The veteran died in service and the requirements of § 3.1(d)(2) are met; and

(iv) The surviving spouse or child meets the net worth requirements of § 3.274 and has an annual income not in excess of the applicable maximum annual pension rate specified in § 3.23.

CROSS REFERENCES: Section 306 pension. See § 3.1(u). Improved pension. See § 3.1(w). Improved pension rates. See § 3.23. Frequency of payment of improved pension. See § 3.30. Relationship of net worth to pension entitlement. See § 3.274.

§ 3.16 [Amended]

4. Section 3.16 is amended by deleting "§ 3.3(b)" and inserting "§ 3.3(a)" in the first sentence.

§ 3.17 [Amended]

5. Section 3.17 is amended by deleting "by § 3.3(c)" and inserting "for pension entitlement (see § 3.3)" in the first sentence.

6. Section 3.21 is revised and cross references are added to read as follows:

§ 3.21 Monetary rates.

The rates of compensation, dependency and indemnity compensation for surviving spouses and children, and section 306 and old-law disability and death pension, are published in tabular form in appendix B of the Department of Veterans Benefits Manual M21-1 and are to be given the same force and effect as if published in the regulations (Title 38, Code of Federal Regulations). The maximum annual rates of improved pension payable under Pub. L. 95-588 (92 Stat. 2497) are set forth in §§ 3.23 and 3.24. The monthly rates and annual income limitations applicable to parents' dependency and indemnity compensation are set forth in § 3.25.

CROSS REFERENCES: Section 306 pension. See § 3.1(u). Old-law pension. See § 3.1(v). Improved pension. See § 3.1(w).

7. Sections 3.23, 3.24, 3.25, 3.26, 3.27, 3.28, 3.29 and 3.30 and cross references are added to read as follows:

§ 3.23 Improved pension rates.

(a) *Maximum annual rates of improved pension*—(1) *Veterans permanently and totally disabled (38 U.S.C. 521).* (i) Veteran with no dependents, $3,550; (ii) Veteran with one dependent, $4,651; (iii) For each additional dependent, $600.

(2) *Veterans in need of aid and attendance.* (i) Veteran with no dependents, $5,680; (ii) Veteran with one dependent, $6,781; (iii) For each additional dependent, $600.

(3) *Veterans who are housebound.* (i) Veteran with no dependents, $4,340; (ii) Veteran with one dependent, $5,441; (iii) For each additional dependent, $600.

(4) *Two veterans married to one another; combined rates.* (i) Neither veteran in need of aid and attendance or housebound, $4,651; (ii) Either veteran in need of aid and attendance, $6,781; (iii) Both veterans in need of aid and attendance, $8,911; (iv) Either veteran housebound, $5,441; (v) Both veterans housebound, $6,231; (vi) One veteran housebound and one veteran in need of aid and attendance, $7,571; (vii) For each child, $600.

(5) *Surviving spouses (38 U.S.C. 541).* (i) Surviving spouse alone, $2,379; (ii) Surviving spouse and one child, $3,116; (iii) For each additional child, $600.

(6) *Surviving spouses in need of aid and attendance.* (i) Surviving spouse alone, $3,806; (ii) Surviving spouse with one child, $4,543; (iii) For each additional child, $600.

(7) *Surviving spouses who are housebound.* (i) Surviving spouse alone, $2,908; (ii) Surviving spouse and one child, $3,645; (iii) For each additional child, $600.

(8) *Child not in custody of veteran's surviving spouse, or child if no living surviving spouse of the veteran. (38 U.S.C. 542.)* (See § 3.24 for rate applicable to a child in custody of person other than a surviving spouse who is legally responsible for the child's support.) (i) Child alone, $600; (ii) Each additional child, $600.

(b) *Reduction for income.* The maximum rates of improved pension in paragraph (a) of this section shall be reduced by the amount of the countable annual income of the veteran, surviving spouse, or child. (38 U.S.C. 521, 541, 542.)

(c) *Mexican border period and World War I veterans.* The applicable maximum annual rate payable to a Mexican border period or World War I veteran under this section shall be increased by $800. (38 U.S.C. 521(g).)

(d) *Definitions of terms used in this section*—(1) *Dependent.* A veteran's spouse or child. A veteran's spouse who is not living with the veteran or is not receiving reasonable support contributions from the veteran, or a child not in the custody of the veteran and to whose support the veteran is not reasonably contributing, may not be considered a dependent. (38 U.S.C. 521(b).)

(2) *In need of aid and attendance.* As defined in § 3.351(b).

(3) *Housebound.* As defined in § 3.351(d)(2), (f). This term also includes a veteran who has a disability or disabilities evaluated as 60 percent or more disabling in addition to a permanent and totally disabling condition. See § 3.351(d)(1).

(4) *Veteran's annual income.* This term includes the veteran's annual income, the annual income of the veteran's dependent spouse, and the annual income of each child of the veteran in the veteran's custody or to whose support the veteran is reasonably contributing (to the extent such child's income is reasonably available to or for the veteran, unless in the judgment of the Veterans Administration to do so would work a hardship on the veteran). There is a rebuttable presumption that all of such a child's income is reasonably available to or for the veteran. (38 U.S.C. 521(c), (h))

(5) *Surviving spouse's annual income.* This term includes the surviving spouse's annual income, the annual income of each child of the veteran in the custody of the surviving spouse (to the extent that such child's income is reasonably available to or for the surviving spouse, unless in the judgment of the Veterans Administration to do so would work a hardship on the surviving spouse). There is a rebuttable presumption that all of such a child's income is available to or for the surviving spouse. (38 U.S.C. 541(c), (h))

CROSS REFERENCES: Child. See § 3.57(d). Improved pension. See § 3.1(w). Exclusions from income. See § 3.272. Definition of "living with." See § 3.60.

§ 3.24 Improved pension rates; surviving children.

(a) *Child in custody of surviving spouse who is not eligible for pension.* When a child is in the custody of a surviving spouse who is not eligible for pension under 38 U.S.C. 541, or in cases in which there is no custodian, pension shall be paid to the child at the rate specified in § 3.23(a)(8)(i), reduced by the amount of the child's countable annual income.

(b) *Child in custody of person not legally responsible for support.* Pension shall be paid to each child in the custody of a person who is not legally responsible for such child's support at the annual rate specified in § 3.23(a)(8)(i) reduced by the amount of such child's countable annual income. (38 U.S.C. 542)

(c) *Child in custody of person legally responsible for support.* Pension shall be paid to each child in the custody of a person legally responsible for such child's support at an annual rate equal to the difference between the rate for a surviving spouse and one child under § 3.23(a)(5)(ii), and the sum of the annual income of such child and the annual income of such person. The amount payable, however, may not exceed the amount by which $600 exceeds the child's annual income. (38 U.S.C. 542)

CROSS REFERENCE: Exclusions from income. See § 3.272.

§ 3.25 Parents' dependency and indemnity compensation rates.

Dependency and indemnity compensation (DIC) shall be paid monthly to parents of a deceased veteran in the following amounts. (38 U.S.C. 415)

(a) *One parent.* Except as provided in paragraph (b) of this section, if there is only one parent the monthly rate of DIC paid to such parent shall be $163 reduced on the basis of the parent's annual income according to the following formula:

FOR EACH $1 OF ANNUAL INCOME

	Which is more than—	But not more than—
The $163 monthly rate shall be reduced by:.		
$0.00	$0	$800
.03	800	900
.04	900	1,000
.05	1,000	1,200
.06	1,200	1,400
.07	1,400	1,600
.08	1,600	4,038

No DIC is payable under this paragraph if annual income exceeds $4,038.

(b) *One parent who has remarried.* If there is only one parent and the parent has remarried and is living with the parent's spouse, DIC shall be paid under paragraph (a) or under paragraph (d) of this section, whichever shall result in the greater benefit being paid to the veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's spouse shall be counted in determining the monthly rate of DIC.

(c) *Two parents not living together.* The rates in this paragraph apply to (1) two parents who are not living together, or (2) an unremarried parent when both parents are living and the other parent has remarried. The monthly rate of DIC paid to each such parent shall be $115, reduced on the basis of each parent's annual income, according to the following formula:

FOR EACH $1 OF ANNUAL INCOME OF EACH PARENT

	Which is more than—	But not more than—
The $115 monthly rate shall be reduced by:.		
$0.00	$0	$800
.02	800	1,000
.03	1,000	1,100
.05	1,100	1,800
.06	1,800	2,400
.07	2,400	4,038

No DIC is payable under this paragraph if annual income exceeds $4,038.

(d) *Two parents living together or remarried parents living with spouses.* The rates in this paragraph apply to (1) each parent living with another parent; and (2) each remarried parent, when both parents are alive. The monthly rate of DIC paid to such parents will be $109, reduced on the basis of the combined annual income of the two parents living together or the remarried parent or parents and spouse or spouses, as computed under the following formula:

FOR EACH $1 OF COMBINED ANNUAL INCOME

	Which is more than—	But not more than—
The $109 monthly rate shall be reduced by:.		
$0.00	$0	$1,000
.02	1,000	1,900
.03	1,900	2,500
.04	2,500	3,700
.05	3,700	5,430

No DIC is payable under this paragraph if combined annual income exceeds $5,430.

The rates in this paragraph are also applicable in the case of one surviving parent who has remarried, computed on the basis of the combined income of the parent and spouse, if this would be a greater benefit than that specified in paragraph (a) of this section for one parent.

(e) The monthly rate of DIC payable to a parent under this section shall be increased by $85 if such parent is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(f) The monthly rate of DIC payable to any parent under this section shall not be less than $5.

§ 3.26 Section 306 and old-law pension annual income limitations.

(a) *Section 306 pension income limitations.* (1) Veteran or surviving spouse with no dependents, $4,038.

(2) Veteran with no dependents in need of aid and attendance (38 U.S.C. 521(d), as in effect on December 31, 1978), $4,538.

(3) Veteran or surviving spouse with one or more dependents, $5,430.

(4) Veteran with one or more dependents in need of aid and attendance (38 U.S.C. 521(d), as in effect on December 31, 1978), $5,930.

(5) Child (no entitled veteran or surviving spouse), $3,299.

(b) *Old-law pension income limitations.* (1) Veteran or surviving spouse without dependents, $3,534.

(2) Veteran or surviving spouse with one or more dependents, $5,098.

§ 3.27 Automatic adjustment of benefit rates.

(a) *Improved pension.* Whenever there is a cost-of-living increase in benefit amounts payable under section 215(i) of Title II of the Social Security Act, the Veterans Administration shall, effective on the dates such increases become effective, increase by the same percentage each maximum annual rate of pension specified in § 3.23. (38 U.S.C. 3112(a))

(b) *Parents' dependency and indemnity compensation*—(1) *Maximum annual income limitation and maximum monthly rates.* Whenever there is a cost-of-living increase in benefit amounts payable under section 215(i) of Title II of the Social Security Act, the Veterans Administration shall, effective on the dates such increases become effective, increase by the same percentage the maximum monthly rates of dependency and indemnity compensation for parents specified in § 3.25(a), (c) and (d), the monthly rate specified in § 3.25(e), and the annual income limitations prescribed in § 3.25(a), (c) and (d). (38 U.S.C. 3112(b)(1))

(2) *Formula adjustment.* (i) Whenever there is an increase in the rates and income limitations applicable to parents' dependency and indemnity compensation under paragraph (b)(1) of this section, the Veterans Administration shall, effective on the date of sch increase, adjust correspondingly the formulas for determining the rates of parents' dependency and indemnity compensation as specified in § 3.25(a) and (c) for a parent whose countable annual income is more than $800 but not more than the maximum specified therein, and in § 3.25(d) for a parent whose countable annual income is more than $1,000 but not more than the maximum specified therein. (38 U.S.C. 3112(b)(2)(A))

(c) *Publishing requirements.* Increases in pension rates and parents' dependency and indemnity compensation rates and income limitation made under this section shall be published in the FEDERAL REGISTER. (38 U.S.C. 3112(c)(1))

§ 3.28 Automatic adjustment of section 306 and old-law pension income limitations.

Whenever the maximum rates of pension specified in § 3.23 are increased by reason of the provisions of 38 U.S.C. 3112, the following will be increased by the same percentage effective the same date:

(a) The maximum annual income limitations applicable to continued receipt of section 306 and old-law pension; and

(b) The dollar amount of a veteran's spouse's income specified in § 3.262(b)(2) as excludable in determining the income of a veteran for section 306 pension purposes.

These increases shall be published in the FEDERAL REGISTER at the same time that increases in the rates specified in § 3.23 are so published. (Section 306, Pub. L. 95-588, 92 Stat. 2497)

CROSS REFERENCES: Section 306 and old-law pension rates. See § 3.26. Section 306 and old-law pension protection. See § 3.960.

§ 3.29 Rounding.

Where the computation of an increase in improved pension rates under §§ 3.23 and 3.24 would otherwise result in a figure which includes a fraction of a dollar, the benefit rate will be adjusted to the next higher dollar amount. This method of computation will also apply to increases in old-law and section 306 pension annual income limitations under § 3.26, including the income of a spouse which is excluded from a veteran's countable income, and parents' dependency and indemnity compensation benefit rates and annual income limitations under § 3.25. (38 U.S.C. 3112(c)(2)).

§ 3.30 Frequency of payment of improved pension.

(a) *Monthly.* Payment shall be made monthly if the annual rate payable is $120 or more.

(b) *Quarterly.* Payment shall be made every 3 months on or about March 1, June 1, September 1, and December 1, if the annual rate payable is at least $40 but less than $120.

(c) *Semiannually.* Payment shall be made every 6 months on or about June 1, and December 1, if the annual rate payable is at least $20 but less than $40.

(d) *Annually.* Payment shall be made annually on or about June 1, if the annual rate payable is less than $20.

(e) *Payment of less than one dollar.* Payments of less than $1 shall not be made.

CROSS REFERENCE: Pension. See § 3.3(a)(3), (b)(4).

8. Section 3.57 is amended as follows:

(a) Section 3.57 is amended by adding the words "or her" after the word "his" in paragraphs (a)(1), (c)(1) and (c)(3).

(b) By adding paragraph (d) as set forth below:

§ 3.57 Child.

* * * * *

(d) *Definition of "child custody".* Custody of a child shall be considered to rest with a veteran, surviving spouse of a veteran or person legally responsible for the child's support if that person exercises or has the right to exercise parental control and responsibility for the welfare and care of the child. A child of the veteran residing with the veteran, surviving spouse or person legally responsible for the child's support shall be presumed to be in the custody of that individual. Where the veteran, surviving spouse, or person legally responsible for the child's support has not been divested of legal custody, but the child is not residing with that individual, the child will be considered in the custody of the individual for purposes of Veterans Administration benefits. (38 U.S.C. 210(c), 521(c), 541(c)).

§ 3.59 [Amended]

9. Section 3.59 is amended by adding the words "or her" following the word "his" in paragraph (a).

10. Section 3.60 is added to read as follows:

§ 3.60 Definition of "living with".

A person shall be considered as living with his or her spouse even though they reside apart unless they are estranged. (38 U.S.C. 521(h)(2)).

11. Immediately preceding § 3.250 and following the centerhead "DEPENDENCY, INCOME AND ESTATE" add "Regulations Applicable to Programs in Effect Prior to January 1, 1979".

12. In § 3.252, paragraph (a) is revised to read as follows:

§ 3.252 Annual income; pension; Mexican border period and later war periods.

(a) *Annual income limitations; old-law pension.* Where the right to old-law pension is payable under section 306(b) of Pub. L. 95-588 (92 Stat. 2497), pension is not payble if the pensioner's annual income exceeds the income limitations prescribed by § 3.26(b).

* * * * *

13. Section 3.262 is amended as follows:

(a) By deleting the word "widow" and inserting "surviving spouse" in the first sentence of paragraph (e)(1).

(b) By deleting the word "widow" and inserting "surviving spouse" in the first sentence and by inserting the

words "or her" after the word "his" in the third sentence of paragraph (e)(2).

(c) By inserting the words "or her" following the word "his" in the third sentence of paragraph (e)(4).

(d) By deleting the word "Widows" and inserting "Surviving Spouses" in the headnote of paragraph (g)(1).

(e) By revising paragraph (b)(2) to read as follows:

§ 3.262 Evaluation of income.

* * * * *

(b) *Income of spouse.* Income of the spouse will be determined under the rules applicable to income of the claimant.

* * * * *

(2) *Veterans.* The separate income of the spouse of a disabled veteran who is entitled to pension under laws in effect on June 30, 1960, will not be considered. Where pension is payable under Pub. L. 86-211 (73 Stat. 432), to a veteran who is living with a spouse there will be included as income of the veteran all income of the spouse in excess of whichever is the greater, $1,285 ($1,200 prior to January 1, 1979) or the total earned income of the spouse, which is reasonably available to or for the veteran, unless hardship to the veteran would result. The presumption that inclusion of such income is available to the veteran and would not work a harship on him or her may be rebutted by evidence of unavailability or of expenses beyond the usual family requirements. (38 U.S.C. 521(f); Sec. 306(a)(2)(B) of Pub. L. 95-588, 92 Stat. 2497)

* * * * *

§ 3.263 [Amended]

14. Section 3.263 is amended as follows:

(a) By inserting the words "or her" following the word "his" twice in paragraph (d).

(b) By deleting the cross reference "Children; no widow entitled. See § 3.662" following § 3.263.

15. Sections 3.270 through 3.277 and a center title are added to read as follows:

§ 3.270 Applicability of various dependency, income and estate regulations.

(a) *Sections 3.250 to 3.270.* These sections are applicable to dependency, income and estate determinations needed to determine entitlement or continued entitlement for the following programs:

(1) Parents' death compensation.

(2) Old-law pension.

(3) Section 306 pension.

(4) Parents' dependency and indemnity compensation.

NOTE.—Citations to title 38, United States Code in §§ 3.250 to 3.270 referring to section 306 or old-law, pension generally refer to provisions of law in effect on December 31, 1978.

(b) *Sections 3.271 to 3.300.* These sections apply to income and estate determinations of entitlement to the improved disability and death pension program which became effective January 1, 1979.

REGULATIONS APPLICABLE TO THE IMPROVED PENSION PROGRAM WHICH BECAME EFFECTIVE JANUARY 1, 1979

§ 3.271 Computation of income.

(a) *General.* Payments of any kind from any source shall be counted as income in the calender year in which received unless specifically excluded under § 3.272.

(b) *Salary.* Salary means the gross amount of a person's earnings or wages before any deductions are made for such things as taxes, insurance, retirement plans, social security, etc.

(c) *Business, farm or professional income.* (1) This include gross income from a business, farm or profession as reduced by the necessary operating expenses such as cost of goods sold, or expenditures for rent, taxes, and upkeep, or costs of repairs or replacements. The value of and increase in stock inventory of a business is not considered income.

(2) Depreciation is not a deductible expense.

(3) A loss sustained in operating a business, profession, farm, or from investments, may not be deducted from income derived from any other source.

(d) *Income from property.* Income from real or personal property is countable as income of the property's owner. The terms of a recorded deed or other evidence of title shall constitute evidence of ownership. This includes property acquired through purchase, gift, devise, or descent. If property is owned jointly, income of the various owners shall be determined in proportion to shares of ownership of the property. The owner's shares of income held in partnership shall be determined on the basis of the facts found.

(e) *Installments.* Income shall be determined by the total amount received or anticipated during the calendar year.

(f) *Deferred determinations.* When an individual is unable to predict with certainty the amount of countable annual income, the annual rate of improved pension shall be reduced by the greatest amount of anticipated countable income until the end of the calendar year, when total income received during the year will be determined and adjustments in pension payable made accordingly.

(g) *Compensation (civilian) for injury or death.* Compensation paid by the United States Department of Labor, Office of Workers' Compensation Programs, Social Security Administration, or the Railroad Retirement Board, or pursuant to any worker's compensation or employer's liability statute, or damages collected because of personal injury or death, will be considered income as received. However, medical, legal or other expenses incident to the injury or death, or incident to the collection or recovery of the amount of the award or settlement, may be deducted. The criteria in § 3.272(g) apply as to all medical expenditures after the award or settlement. (38 U.S.C. 210(c))

(h) *Fractions of dollars.* Fractions of dollars will be disregarded in computing annual income.

§ 3.272 Exclusions from income.

The following shall be excluded from countable income for the purpose of determining entitlement to improved pension:

(a) *Welfare.* Donations from public or private relief, welfare, or charitable organizations. (38 U.S.C. 503(a)(1))

(b) *Maintenance.* The value of maintenance furnished by a relative, friend, or a charitable organization (civic or governmental) will not be considered income. Where the individual is maintained in a rest home or other community institution or facility, public or private, because of impaired health or advanced age, money paid to the home or the individual to cover the cost of maintenance will not be considered income, regardless of whether it is furnished by a relative, friend, or charitable organization. The expense of maintenance is not deductible if it is paid from the individual's income. (38 U.S.C. 210(c), 503(a)(1))

(c) *Veterans Administration pension benefits.* Payments under chapter 15 of title 38, United States Code. (38 U.S.C. 503(a)(2))

(d) *Fire insurance.* Proceeds of fire insurance policies. (38 U.S.C. 503(a)(5))

(e) *Profit from sale of property.* Profit realized from the disposition of real or personal property other than in the course of business, except amounts received in excess of the sales price. for example, interest on deferred sales is included as income. In installment sales, any payments received until the sales price is recovered are not included as income, but any amounts received which exceed the sales price are included, regardless of whether they represent principal or interest. (38 U.S.C. 503(a)(6))

(f) *Joint accounts.* Amounts in joint accounts in banks and similar institutions acquired by reason of death of

the other joint owner. (38 U.S.C. 503(a)(7))

(g) *Medical expenses.* Within the provisions of the following subparagraphs, there will be excluded from the amount of an individual's annual income any unreimbursed amounts which have been paid within the calendar year for medical expenses regardless of the year the indebtedness was incurred. An estimate based on a clear and reasonable expectation that unusual medical expenditure will be realized may be accepted for the purpose of authorizing prospective payments of benefits subject to necessary adjustment in the award upon receipt of an amended estimate, or after the end of the calendar year upon receipt of an income questionnaire. (38 U.S.C. 503(a)(8))

(1) *Veteran's income.* (i) Unreimbursed medical expenses will be excluded when both of the following requirements are met:

(*a*) They were or will be paid by a veteran or spouse for medical expenses of the veteran, spouse, children, parents and other relatives in the ascending or descending class for whom there is a moral or legal obligation of support;

(*b*) They were or will be incurred on behalf of a person who is a member or a constructive member of the veteran's or spouse's household; and

(ii) The amount of the exclusion is limited to the amount by which the expenses were or will be in excess of 5 percent of the applicable maximum annual pension rate for the veteran (including increased pension for family members but excluding increased pension because of need for aid and attendance or being housebound) as in effect on January 1 of the year in which the medical expenses were incurred.

(2) *Surviving spouse's income.* (i) Unreimbursed medical expenses will be excluded when both of the following requirements are met:

(*a*) They were or will be paid by a surviving spouse for medical expenses of the spouse, veteran's children, parents and other relatives in the ascending or descending class for whom there is a moral or legal obligation of support;

(*b*) They were or will be incurred on behalf of a person who is a member or a constructive member of the spouse's household; and

(ii) The amount of the exclusion is limited to the amount by which the expenses were or will be in excess of 5 percent of the applicable maximum annual pension rate for the spouse (including increased pension for family members but excluding increased pension because of need for aid and attendance or being housebound) as in effect on January 1 of the year in which the medical expenses were incurred.

(3) *Children's income.* Unreimbursed amounts paid by a child for medical expenses for himself (herself), parents, brothers and sisters, to the extent that such amounts exceed 5 percent of the maximum annual pension rate payable to the child on January 1 of the year in which the medical expenses were incurred.

(h) *Expenses of last illnesses, burials and just debts.* The expenses specified in subparagraphs (1) and (2) of this paragraph shall be deducted from annual income for the year in which their payment is made. However, if payment is made during the calendar year following that in which the death occurred, the deduction may be taken from income for the calendar year of the last illness or burial if to do so is advantageous to the pension recipient. (38 U.S.C. 210(c)).

(1) *Veteran's final expenses.* (i) Amounts paid by a spouse or child before a veteran's death for expenses of the veteran's last illness will be deducted from the income of the surviving spouse or child.

(ii) Amounts paid by a surviving spouse or child of a veteran for the veteran's just debts, expenses of last illness and burial (to the extent such burial expenses are not reimbursed under chapter 23 of title 38, United States Code) will be deducted from the income of the surviving spouse or child. (38 U.S.C. 503(a)(3))

(2) *Spouse or child's final expenses.* (i) Amounts paid by a veteran for the expenses of the last illness and burial of the veteran's deceased spouse or child will be deducted from the veteran's income.

(ii) Amounts paid by a veteran's spouse or surviving spouse for expenses of the last illness and burial of the veteran's child will be deducted from the spouse's or surviving spouse's income. (38 U.S.C. 503(a)(4))

(i) *Educational expenses.* Amounts equal to expenses paid by a veteran or surviving spouse pursuing a course of education or vocational rehabilitation or training, to include amounts paid for tuition, fees, books, and materials, and in the case of a veteran or surviving spouse in need of regular aid and attendance, unreimbursed amounts paid for unusual transportation expenses in connection with the pursuit of such course. Unusual transportation expenses are those exceeding the reasonable expenses which would have been incurred by a nondisabled person using an appropriate means of transportation (public transportation, if reasonably available). (38 U.S.C. 503(a)(9))

(j) *Child's income.* In the case of a child, any current work income received during the year, to the extent that the total amount of such income does not exceed an amount equal to the sum of the following:

(1) The lowest amount of gross income for which a Federal income tax return must be filed, as specified in section 6012(a) of the Internal Revenue Code of 1954, by an individual who is not married (as determined under section 143 of such Code), and is not a surviving spouse (as defined in section 2(a) of such Code), and is not a head of household (as defined in section 2(b) of such Code); and

(2) If the child is pursuing a course of postsecondary education or vocational rehabilitation or training, the amount paid by the child for those educational expenses including the amount paid for tuition, fees, books, and materials. (38 U.S.C. 503(a)(10))

§ 3.273 Rate computation.

(a) *Initial awards; calendar year of entitlement*—(1) *General.* For the purpose of determining initial entitlement, or for resuming payments on an award which was discontinued for a reason other than excess income or a change in marital or dependency status, the rate of pension payable to a person for the calendar year of entitlement shall be determined by using whichever of the following methods is to the claimant's advantage:

(i) Deduct the person's expected total countable income for the whole calendar year of entitlement from the person's applicable maximum annual pension rate, and divide the remainder by 12. This quotient is the monthly rate payable from date of entitlement until the end of the calendar year. Effective the first day of the following calendar year, the person's monthly rate of pension shall be computed by subtracting the person's annual rate of income from the person's applicable maximum annual pension rate and dividing the remainder by 12; or,

(ii) Disregard any income received prior to the date of entitlement. Extrapolate to an annual amount the claimant's expected countable income from date of entitlement through the end of the calendar year (e.g., a claimant becomes entitled on June 1; income from June 1 through December 31 is $600; this projects to an annual amount of $1,023). Subtract the annual amount from the person's applicable maximum annual pension rate. Divide the remainder by 12. This quotient is the monthly rate payable from date of entitlement through the end of the calendar year. Effective the first day of the following calendar year, the person's monthly rate of pension shall be computed by subtracting the person's annual rate of income from the person's applicable maximum annual pension rate and dividing the amount obtained by 12.

(2) *Change in maximum annual pension rate.* If there is a change in the applicable maximum annual pension rate which occurs before the end of the calendar year, the monthly rate of pension payable shall be separately computed for each period during which there is a different applicable maximum annual pension rate.

(b) *Running awards*—(1) *Change in maximum annual pension rate.* Whenever there is a change in a beneficiary's applicable maximum annual pension rate, the monthly rate of pension payable shall be computed by reducing the new applicable maximum annual pension rate by the beneficiary's annual rate of income on the effective date of the change in the applicable maximum annual pension rate, and dividing the remainder by 12.

(2) *Change in annual rate of income.* Whenever there is a change in a beneficiary's annual rate of income, the monthly rate of pension payable shall be computed by reducing the beneficiary's applicable maximum annual pension rate by the beneficiary's new annual rate of income on the effective date of the change in the annual rate of income, and dividing the remainder by 12.

(3) *Nonrecurring income.* Nonrecurring countable income (e.g., an inheritance) received by a beneficiary shall be added, on a prorata monthly basis, to the beneficiary's annual rate of income computed on a monthly basis beginning on the first day of the month following the month of receipt of such income and ending on the last day of the calendar year in which the nonrecurring income was received.

(c) *Resumption of an award previously discontinued for excess income or change in dependency status.* The monthly rate of pension payable from date of entitlement shall be determined by subtracting the person's annual rate of income from the person's applicable maximum annual pension rate. Any nonrecurring income that a person expects to receive, or has received, from date of entitlement through the end of the calendar year shall be added, on a prorata monthly basis, to the person's annual rate of income, computed on a prorata monthly basis, from date of entitlement through the end of the calendar year. (38 U.S.C. 210(c))

§ 3.274 Relationship of net worth to pension entitlement.

(a) *Veteran.* Pension shall be denied or discontinued when the corpus of the estate of the veteran, and of the veteran's spouse, are such that under all the circumstances, including consideration of the annual income of the veteran, the veteran's spouse, and the veteran's children, it is reasonable that some part of the corpus of such estates be consumed for the veteran's maintenance. (38 U.S.C. 522(a))

(b) *Increased pension payable to a veteran for a child.* Increased pension payable to a veteran on account of a child shall be denied or discontinued when the corpus of the estate of the child is such that under all the circumstances including consideration of the veteran's and spouse's income and the income of the veteran's child or children, it is reasonable that some part of the corpus of such child's estate be consumed for the child's maintenance. (38 U.S.C. 522(b))

(c) *Surviving spouse.* Pension payable to a surviving spouse shall be denied or discontinued when the corpus of the estate of the surviving spouse is such that under all the circumstances, including consideration of the surviving spouse's income and the income of any child for whom the surviving spouse is receiving pension, it is reasonable that some part of the corpus of the surviving spouse's estate be consumed for the surviving spouse's maintenance. (38 U.S.C. 543(a)(1))

(d) *Increased pension payable to a surviving spouse for a child.* Increased pension payable to a surviving spouse on account of a child shall be denied or discontinued when the corpus of the estate of the child is such that under all the circumstances, including consideration of the income of the surviving spouse and child and the income of any other child for whom the surviving spouse is receiving increased pension, it is reasonable that some part of the corpus of the child's estate be consumed for the maintenance of the child. (38 U.S.C. 543(a)(2))

(e) *Child.* Pension payable to a child shall be denied or discontinued when the corpus of the estate of the child is such that under all the circumstances, including consideration of the income of the child, the income of any person with whom the child is residing who is legally responsible for such child's support, and the corpus of estate of such person, it is reasonable that some part of the corpus of such estates be consumed for the child's maintenance. (38 U.S.C. 543(b))

§ 3.275 Criteria for evaluating net worth.

(a) *General.* The following rules are for application in determining the corpus of estate or net worth of a veteran, surviving spouse or child under § 3.274.

(b) *Definition.* The terms "corpus of estate" and "net worth" mean the market value, less mortgages or other encumbrances, of all real and personal property owned by the claimant, except the claimant's dwelling (single family unit), including a reasonable lot area, and personal effects suitable to and consistent with the claimant's reasonable mode of life.

(c) *Ownership.* See § 3.271(d).

(d) *Evaluation.* In determining whether some part of the claimant's estate (or combined estates under § 3.274(a) and (e)) should be consumed for the claimant's maintenance, consideration will be given to the amount of the claimant's income together with the following: whether the property can be readily converted into cash at no substantial sacrifice; life expectancy; number of dependents who meet the definition of "member of the family" (the definition contained in § 3.250(b)(2) is applicable to the improved pension program); potential rate of depletion, including unusual medical expenses under the principles outlined in § 3.272(g) for the claimant and the claimant's dependents.

(e) *Educational expenses.* There shall be excluded from the corpus of estate or net worth of a child reasonable amounts for actual or prospective educational or vocational expenses. The amount so excluded shall not be such as to provide for education or training beyond age 23. (38 U.S.C. 210(c))

§ 3.276 Certain transfers or waivers disregarded.

(a) *Waiver of receipt of income.* Potential income, not excludable under § 3.272 and whose receipt has been waived by an individual, shall be included as countable income of that individual for Veterans Administration pension purposes.

(b) *Transfer of assets.* For pension purposes, a gift of property made by an individual to a relative residing in the same household shall not be recognized as reducing the corpus of the grantor's estate. A sale of property to such a relative shall not be recognized as reducing the corpus of the seller's estate if the purchase price, or other consideration for the sale, is so low as to be tantamount to a gift. A gift of property to someone other than a relative residing in the grantor's household will not be recognized as reducing the corpus of the grantor's estate unless it is clear that the grantor has relinquished all rights of ownership, including the right of control of the property. (38 U.S.C. 210(c))

§ 3.277 Income and net worth reports.

(a) *Evidence of entitlement.* As a condition of granting or continuing pension, the Veterans Administration may require from any person who is an applicant for or a recipient of pension such information, proofs, and evidence as is necessary to determine the annual income and the value of the corpus of the estate of such person, and of any spouse or child for whom the person is receiving or is to receive

increased pension (such child is hereinafter in this section referred to as a "dependent child"), and, in the case of a child applying for or in receipt of pension in his or her own behalf (hereinafter in this section referred to as a "surviving child"), of any person with whom such child is residing who is legally responsible for such child's support.

(b) *Required annual report.* It is required that every pension applicant or beneficiary file a report each year, showing:

(1) The annual income which such applicant or beneficiary (and any such person's spouse or dependent child) received during the preceding year, the corpus of the estate of such applicant or beneficiary (and of any such person's spouse or dependent child) at the end of such year, and in the case of a surviving child, the income and corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support;

(2) The applicant's or beneficiary's estimate for the then current year of the annual income such applicant or beneficiary (and any such person's spouse or dependent child) expects to receive and of any expected increase in the value of the corpus of the estate of such applicant or beneficiary (and for any such person's spouse or dependent child); and in the case of a surviving child, an estimate for the then current year of the annual income of any person with whom such child is residing who is legally responsible for such child's support, and of any expected increase in the value of the corpus of the estate of such person;

(c) *Required revised report.* It is required that any pension applicant or beneficiary promptly file a revised report whenever there is a material change in the estimated annual income of such applicant or beneficiary (or of any such person's spouse or dependent child) or a material change in such applicant's or beneficiary's estimate of the value of the corpus of the estate of such applicant or beneficiary (or of any such person's spouse or dependent child), and in the case of a surviving child, a material change in the estimated annual income or value of the corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support; it is also required that any such applicant or beneficiary applying for or in receipt of increased pension on account of a person who is a spouse or child of such applicant or beneficiary promptly notify the Veterans Administration if such person ceases to meet the applicable definition of spouse or child. (38 U.S.C. 506(a))

16. Section 3.351 is revised to read as follows:

§ 3.351 Special monthly dependency and indemnity compensation, death compensation, pension and spouse's compensation ratings.

(a) *General.* This section sets forth criteria for determining whether:

(1) Increased pension is payable to a veteran by reason of need for aid and attendance or by reason of being housebound. (38 U.S.C. 521(d), (e))

(2) Increased compensation is payable to a veteran by reason of the veteran's spouse being in need of aid and attendance. (38 U.S.C. 315(1)(I))

(3) Increased dependency and indemnity compensation is payable to a surviving spouse or parent by reason of being in need of aid and attendance. (38 U.S.C. 411(c), 415(h))

(4) Increased dependency and indemnity compensation is payable to a surviving spouse who is not in need of aid and attendance but is housebound. (38 U.S.C. 411(d))

(5) Increased pension is payable to a surviving spouse by reason of need for aid and attendance, or if not in need of aid and attendance, by reason of being househound. (38 U.S.C. 541(d), (e))

(6) Increased death compensation is payable to a surviving spouse by reason of being in need of aid and attendance. (38 U.S.C. 322)

(b) *Aid and attendance; need.* Need for aid and attendance means helplessness or being so nearly helpless as to require the regular aid and attendance of another person. The criteria set forth in paragraph (c) of this section will be applied in determining whether such need exists.

(c) *Aid and attendance; criteria.* The veteran, spouse, surviving spouse or parent will be considered in need of regular aid and attendance if he or she:

(1) Is blind or so nearly blind as to have corrected visual acuity of 5/200 or less, in both eyes, or concentric contraction of the visual field to 5 degrees or less; or

(2) Is a patient in a nursing home because of mental or physical incapacity; or

(3) Establishes a factual need for aid and attendance under the criteria set forth in § 3.352(a). (38 U.S.C. 502(b))

(d) *Housebound, or permanent and total plus 60 percent; disability pension.* The rate of pension payable to a veteran who is entitled to pension under 38 U.S.C. 521 and who is not in need of regular aid and attendance shall be as prescribed in 38 U.S.C. 521(e) if, in addition to having a single permanent disability rated 100 percent disabling under the Schedule for Rating Disabilities (not including ratings based upon unemployability under § 4.17 of this chapter, the veteran:

(1) Has additional disability or disabilities independently ratable at 60 percent or more, separate and distinct from the permanent disability rated as 100 percent disabling and involving different anatomical segments or bodily systems, or

(2) Is "permanently housebound" by reason of disability or disabilities. This requirement is met when the veteran is substantially confined to his or her dwelling and the immediate premises or, if institutionalized, to the ward or clinical area, and it is reasonably certain that the disability or disabilities and resultant confinement will continue throughout his or her lifetime. (38 U.S.C. 502(c), 521(e))

(e) *Housebound; dependency and indemnity compensation.* The monthly rate of dependency and indenity compensation payable to a surviving spouse who does not qualify for increased dependency and indemnity compensation under 38 U.S.C. 411(c) based on need for regular aid and attendance shall be increased by the amount specified in 38 U.S.C. 411(d) if the surviving spouse is permanently housebound by reason of disability. The "permanently housebound" requirement is met when the surviving spouse is substantially confined to his or her home (ward or clinical areas, if institutionalized) or immediate premises by reason of disability or disabilities which it is reasonably certain will remain throughout the surviving spouse's lifetime. (38 U.S.C. 411(d))

(f) *Housebound; improved pension; death.* The annual rate of death pension payable to a surviving spouse who does not qualify for an annual rate of death pension payable under § 3.23(a)(6) based on need for aid and attendance shall be as set forth in § 3.23(a)(7) if the surviving spouse is permanently housebound by reason of disability. The "permanently housebound" requirement is met when the surviving spouse is substantially confined to his or her home (ward or clinical areas, if institutionalized) or immediate premises by reason of disability or disabilities which it is reasonably certain will remain throughout the surviving spouse's lifetime. (38 U.S.C. 541(e))

17. Section 3.450 is amended as follows:

(a) By deleting "his wife" and inserting "the spouse" in paragraph (a)(1)(i).

(b) By deleting "widow" and inserting "surviving spouse" in paragraph (g).

(c) By revoking paragraph (h).

(d) By revising paragraph (a)(1)(ii) and (2), (c), and (e) to read as follows:

§ 3.450 General.

(a)(1) All or any part of the pension, compensation, or emergency officers' retirement pay payable on account of any veteran may be apportioned.

* * * * *

(ii) If the veteran by reason of estrangement is not living with his or her spouse, or if the veteran's children are not living with the veteran and the veteran is not reasonably discharging his or her responsibility for the children's support.

(2) Where any of the children of a deceased veteran are not living with the veteran's surviving spouse, the pension, compensation, or dependency and indemnity compensation otherwise payable to the surviving spouse may be apportioned. (38 U.S.C. 3107)

* * * * *

(c) No apportionment will be made where the veteran, the veteran's spouse (when paid "as wife" or "as husband"), surviving spouse, or fiduciary is providing for dependents. The additional benefits for such dependents will be paid to the veteran, spouse, surviving spouse, or fiduciary.

* * * * *

(e) The amount payable for a child in custody of and living with the surviving spouse shall be paid to the surviving spouse. Amounts payable to a surviving spouse for a child in the surviving spouse's custody but living with someone else may be apportioned if the surviving spouse is not reasonably contributing to the child's support.

* * * * *

(h) [Revoked]

18. Section 3.451 is revised (gender changes only) to read as follows:

§ 3.451 Special apportionments.

Without regard to any other provision regarding apportionment where hardship is shown to exist, pension, compensation, emergency officers' retirement pay, or dependency and indemnity compensation may be specially apportioned between the veteran and his or her dependents or the surviving spouse and children on the basis of the facts in the individual case as long as it does not cause undue hardship to the other persons in interest, except as to those cases covered by § 3.458(b) and (c). In determining the basis for special apportionment, consideration will be given such factors as: Amount of Veterans Administration benefits payable; other resources and income of the veteran and those dependents in whose behalf apportionment is claimed; and special needs of the veteran, his or her dependents, and the apportionment claimants. The amount apportioned should generally be consistent with the total number of dependents involved. Ordinarily, apportionment of more than 50 percent of the veteran's benefits would constitute undue hardship on him or her while apportionment of less than 20 percent of his or her benefits would not provide a reasonable amount for any apportionee.

19. In § 3.452, paragraphs (a) and (c) are revised to read as follows:

§ 3.452 Veterans benefits apportionable.

Veterans benefits may be apportioned:

(a) If the veteran is not living with his or her spouse by reason of estrangement or is not living with his or her children who are not in his or her custody and a claim for apportionment is filed for or on behalf of the spouse or children.

* * * * *

(c) (1) Where an incompetent veteran without a fiduciary is receiving institutional care by the United States or a political subdivision, his or her benefit may be apportioned for a spouse or child, or, except as provided in paragraph (c)(3), for a dependent parent, unless such benefit is paid to a spouse ("as wife" or "as husband") for the use of the veteran and his or her dependents.

(2) Where benefits for an incompetent veteran are discontinued under the provisions of § 3.557(b), because of hospitalization by the U.S. Government or any political subdivision, there may be paid to his or her dependent parent or parents on the basis of need as determined by the Veterans' Services Officer all or any part of the benefit which would otherwise be payable. (38 U.S.C. 3203(b)(2)

(3) Where a married veteran is receiving section 306 or improved pension and the amount payable is reduced under § 3.551(c) because of hospitalization, an apportionment may be paid to the veteran's estranged spouse as provided in § 3.454(b). (38 U.S.C. 3203(a))

* * * * *

20. Section 3.454 is amended as follows:

(a) By deleting "wife, husband" and inserting "spouse" in the first and last sentence of paragraph (a).

(b) By revising the introductory portion preceding paragraph (a) and paragraphs (b) and (c) and adding paragraph (d) so that the added and revised material reads as follows:

§ 3.454 Veterans disability pension.

Apportionment of disability pension will be as follows:

* * * * *

(b) (1) Where the amount of section 306 pension payable to a married veteran under 38 U.S.C. 521(b), as in effect on December 31, 1978, is reduced to $60 monthly under § 3.551(c), an apportionment may be made to such veteran's estranged spouse upon an affirmative showing of hardship. The amount of the apportionment generally will be the difference between $60 and the total amount of pension payable on December 31, 1978. (30 U.S.C. 3203(a))

(2) Where the amount of improved pension payable to a married veteran under 38 U.S.C. 521(b) is reduced to $60 monthly under § 3.551(c), an apportionment may be made to such veteran's estranged spouse upon an affirmative showing of hardship. The amount of the apportionment generally will be the difference between $60 and the rate payable if pension was being paid under 38 U.S.C. 521(c) including the additional amount payable under 38 U.S.C. 521(e) if the veteran is so entitled. (38 U.S.C. 3203(a))

(c) Where section 306 pension for an incompetent veteran is subject both to reduction under § 3.551(c), and to discontinuance under § 3.557(b) because of hospitalization by the U.S. Government or any political subdivision, the rate authorized for a parent or parents will not exceed $60 monthly. (Pub. L. 86-146, 73 Stat. 297; Pub. L. 86-211, 73 Stat. 432; Pub. L. 93-177, 87 Stat. 694; Pub. L. 95-588, 92 Stat. 2497)

(d) Where improved pension for an incompetent veteran is subject both to reduction under § 3.551(c), and to discontinuance under § 3.557(b) because of hospitalization by the U.S. Government or any political subdivision, the rate authorized for a parent or parents will not exceed $60 monthly. (38 U.S.C. 3203(a), (b))

§ 3.458 [Amended]

21. Section 3.458 is amended as follows:

(a) By deleting "wife or husband" and inserting "spouse" in paragraph (b).

(b) By deleting "wife, husband," and inserting "spouse," in the first and last sentence of paragraph (c).

(c) By deleting "wife or husband" and inserting "spouse" in the first sentence of paragraph (e).

(d) By deleting "wife or husband" and inserting "spouse" in the first sentence of paragraph (f)(1).

(e) By deleting "widow or widower," and inserting "or surviving spouse," in paragraph (f)(2).

(f) By deleting "wife or husband" and inserting "spouse" in the first sentence of paragraph (g).

§ 3.459 [Amended]

22. Section 3.459 is amended by deleting "widow or widower" and inserting "surviving spouse" in paragraphs (a) and (b).

23. Section 3.460 is amended as follows:

(a) By deleting "wife or husband" and inserting "spouse" in the introductory portion preceding paragraph (a).

(b) Paragraph (b) is revised and paragraph (c) is added so that the revised and added material reads as follows:

§ 3.460 Death pension.

* * * * *

(b) *Section 306 and old-law death pension.* Appointment of benefits provided under these pension programs will be at rates approved by the Chief Benefits Director except when the facts and circumstances in a case warrant special apportionment under § 3.451. (38 U.S.C. 3107)

(c) *Improved death pension.* Apportionment of the benefits provided under this program shall be made under the special apportionment provision of § 3.451. (38 U.S.C. 3107)

24. In § 3.501, paragraph (i)(2) is revised to read as follows:

§ 3.501 Veterans.

The effective date of discontinuance of pension or compensation to or for a veteran will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

* * * * *

(i) *Hospitalization.* * * *

(2) § *3.551(c).* (i) First day of the third calendar month following admission to domiciliary care if veteran without spouse or child or, though married, is receiving pension at the rate for a veteran without dependents. (38 U.S.C. 3203(a))

(ii) First day of the fourth calendar month following admission for hospital or nursing home care if veteran without spouse or child or, though married, is receiving pension at the rate provided for a veteran without dependents. (38 U.S.C. 3203(a))

* * * * *

25. Section 3.551 is amended as follows:

(a) By deleting "wife, husband" and inserting "spouse" in the first sentence of paragraph (f).

(b) By revising paragraphs (a), (b), (c) and (d) to read as follows:

§ 3.551 Reduction because of hospitalization.

(a) *General.* Pension payable under the section 306, the old-law and the improved pension programs is subject to reduction when a veteran who has neither spouse, child or dependent parent is hospitalized, unless the veteran is hospitalized, for Hansen's disease. The provisions of this section apply to initial periods of hospitalization and to readmissions following discharge from a prior period of hospitalization. If the veteran is hospitalized for observation and examination, the date treatement began is considered the date of admission. Special rules governing discontinuance of aid and attendance allowance are contained in § 3.552 and for discontinuance of awards for incompetent veterans in § 3.557. Except as otherwise indicated the terms "hospitalized" and "hospitalization" in §§ 3.551 through 3.559 mean:

(1) Hospital treatment in a Veterans Administration hospital or in any hospital at Veterans Administration expense.

(2) Institutional, domiciliary or nursing home care in a Veterans Administration institution or domiciliary or at Veterans Administration expense.

(b) *Old-law pension.* Old-law pension in excess of $30 monthly for a veteran who has neither spouse, child nor dependent parent shall continue at the full monthly rate until the end of the sixth calendar month following the month of admission for hospitalization. The rate payable will be reduced effective the first of the seventh calendar month to $30 monthly or 50 percent of the amount otherwise payable, whichever is greater. The reduced rate will be effective the first day of the seventh calendar month following admission. Payment of the amount withheld may be made on termination of hospitalization, as provided in § 3.556. (Sec. 306(b), Pub. L. 95-588; Stat. 2497)

(c) *Section 306 and improved pension.* (1) Where any veteran having neither spouse nor child, or any veteran who is married or has a child and is receiving pension as a veteran without dependents, is being furnished domiciliary care by the Veterans Administration, no pension in excess of $60 monthly shall be paid to or for the veteran for any period after the end of the second full calendar month following the month of admission for such care. (38 U.S.C. 3203(a))

(2) Where any veteran having neither spouse nor child, or any veteran who is married or has a child and is receiving pension as a veteran without dependents is being furnished hospital or nursing home care by the Veterans Administration, no pension in excess of $60 monthly shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission for such care. (38 U.S.C. 3203(a))

(3) No pension in excess of $60 monthly shall be paid to or for a veteran having neither spouse nor child, or to a veteran who is married or has a child and is receiving pension as a veteran without dependents, for any period after the month in which the veteran is readmitted within 6 months of a period of care of not less than 2 full calendar months. (38 U.S.C. 3203(a))

(4) Where improved pension is being paid to a married veteran at the rate prescribed by 38 U.S.C. 521(b) all or any part of the rate payable under 38 U.S.C. 521(c) may be apportioned for an estranged spouse as provided in § 3.454(b). (38 U.S.C. 3203(a))

(5) Where section 306 pension is being paid to a married veteran at a rate for a veteran without dependents all or any part of the monthly amount of pension withheld in excess of $60 may be apportioned for an estranged spouse as provided in § 3.454(b).

(d) *Computation of period.* For purposes of computing periods of hospitalization in paragraph (c) of this section, authorized absences of 96 hours or less will be included as periods of hospitalization, and those of over 96 hours excluded. Also, for purposes of that paragraph, periods of treatments or care of 60 consecutive days will be considered 2 calendar months of hospitalization, and periods of 90 consecutive days considered 3 calendar months.

* * * * *

26. In § 3.552, paragraphs (e) and (j) are revised to read as follows:

§ 3.552 Adjustment of allowance for aid and attendance.

* * * * *

(e) Where a veteran is in receipt of section 306 pension, the aid and attendance allowance shall be reduced to the housebound rate of $61 monthly (or $76.25 if the veteran was age 78 or older on December 31, 1978). Where a veteran is in receipt of old-law pension, the total amount payable shall be reduced to $100 monthly. Where a veteran is in receipt of improved pension, the applicable aid and attendance rate shall be reduced to the otherwise applicable rate under 38 U.S.C. 521(e). No reduction shall be made, however, for any case involving the disabilities specified in paragraph (a)(2) of this section.

* * * * *

(j) The section 306 pension aid and attendance allowance authorized by § 3.252(f) is subject to reduction for hospitalization under the provisions of this section in the same manner as the regular section 306 pension aid and attendance allowance. The amount payable shall not be reduced to less than the housebound rate of $61 monthly (or $76.25 monthly if the veteran was age 78 or older on December 31, 1978).

27. In § 3.660, paragraphs (a)(1) and (2), (b) (introductory portion preceding subparagraph (1)), (b)(2), (c) and (d) are revised to read as follows:

§ 3.660 Dependency, income and estate.

(a) *Reduction or discontinuance*—(1) *General.* A veteran, surviving spouse or child who is receiving pension, or a parent who is receiving compensation or dependency and indemnity compensation must notify the Veterans Administration of any material change or expected change in his or her income or other circumstances which would affect his or her entitlement to receive, or the rate of, the benefit being paid. Such notice must be furnished when the recipient acquires knowledge that he or she will begin to receive additional income or when his or her marital or dependency status changes. In pension claims subject to § 3.252(b) or § 3.274 and in compensation claims subject to § 3.250(a)(2), notice must be furnished of any material increase in corpus of the estate or net worth.

(2) *Contingency.* Where reduction or discontinuance of a running award of section 306 pension or old-law pension is required because of an increase in income, which increase could not reasonably have been anticipated based on the amount actually received from that source the year before, the reduction or discontinuance shall be made effective the end of the year in which the increase occurred. Where reduction or discontinuance of a running award of improved pension or dependency and indemnity compensation is required because of an increase in income, the reduction or discontinuance shall be made effective the end of the month in which the increase occurred. Where reduction or discontinuance of a running award of any benefit is required because of an increase in net worth or corpus of estate, because dependency of a parent ceased, or because dependency of another person ceased due to marriage, annulment, divorce or death, the award shall be reduced or discontinued effective the last day of the calendar year in which the increase occurred or dependency ceased. (38 U.S.C. 3012(b))

* * * * *

(b) *Award or increase; income.* Where pension or dependency and indemnity compensation was not paid for a particular year because the claim was disallowed, an award was deferred under §§ 3.260(b) or 3.271(f), payments were discontinued or made at a lower rate based on anticipated or actual income, benefits otherwise payable may be authorized commencing the first of a calendar year as provided in this paragraph. (38 U.S.C. 3010(h). In all other cases, benefits may not be authorized for any period prior to the date of receipt of a new claim.

* * * * *

(2) *Actual income.* Where the claimant's actual income did not permit payment, or payment was made at a lower rate, improved pension or dependency and indemnity compensation may be awarded or increased, effective January 1 of the next calendar year, if satisfactory evidence is received within that calendar year.

(c) *Increases; change in status.* Where there is change in the payee's marital status or status of dependents which would permit payment at a higher rate and the change in status is by reason of the claimant's marriage or birth or adoption of a child, the effective date of the increase will be the date of the event if the required evidence is received within 1 year of the event. Where there is a change in dependency status for any reason other than marriage, or the birth or adoption of a child, which would permit payment at a higher rate, the increased rate will be effective the date of receipt of notice constituting an informal claim if the required evidence is received within 1 year of Veterans Administration request. The rate payable for each period will be determined, as provided in §§ 3.260(f) or 3.273(c). (See § 3.651 as to increase due to termination of payments to another payee. Also see § 3.667 as to increase based on school attendance.)

(d) *Corpus of estate; net worth.* Where a claim has been finally disallowed or terminated because of the corpus of estate and net worth provisions of §§ 3.263 or 3.274 and entitlement is established on the basis of a reduction in estate or net worth, or a change in circumstances such as health, acquisition of dependent, or increased rate of depletion of the estate, benefits or increased benefits will not be paid for any period prior to the date of receipt of a new claim.

§ 3.661 [Amended]

28. Section 3.661 is amended by adding "or § 3.271(f)" following "§ 3.260(b)" in paragraph (a)(2).

§ 3.662 [Revoked]

29. Section 3.662 is revoked.

30. Section 3.666 is amended to read as follows:

(a) By deleting "wife, (husband)" and inserting "spouse" in the introductory portion of paragraph (a).

(b) By deleting "widow (widower)" and inserting "surviving spouse" in paragraph (b) (introduction), (b)(1), (b)(2) and in the second sentence of paragraph (c).

(c) By deleting "He (she)" and inserting "The veteran" in paragraph (d)(1) and (2).

(d) By revising paragraph (a)(2) to read as follows:

§ 3.666 Penal institutions.

* * * * *

(a) *Disability pension.* * * *

(2) If the annual income of the spouse or child is such that death pension would be payable.

* * * * *

31. Section 3.700 is amended as follows:

(a) By deleting "of the 1957 looseleaf edition of the Schedule for Rating Disabilities, 1945" and inserting "of the Schedule for Rating Disabilities" in the fourth sentence of paragraph (a)(3).

(b) By adding paragraph (a)(4) and revising paragraph (b)(1) and (2) so that the added and revised material reads as follows:

§ 3.700 General.

* * * * *

(a) Veterans. * * *

(4) *Improved pension.* If a veteran is entitled to improved pension on the basis of the veteran's own service and is also entitled to pension under any pension program currently or previously in effect on the basis of any other person's service, the Veterans Administration shall pay the veteran only the greater benefit. (38 U.S.C. 521(i))

(b) *Dependents.*—(1) *Surviving spouse.* Subject to the provisions of paragraph (a)(4) of this section, the receipt of pension, compensation, or dependency and indemnity compensation by a surviving spouse because of the death of any veteran, or receipt of pension or compensation because of his or her own service, shall not bar the payment to the surviving spouse of pension, compensation, or dependency and indemnity compensation because of the death or disability of any other veteran; however, other than insurance, concurrent benefits under laws administered by the Veterans Administration may not be authorized to a surviving spouse by reason of the death of more than one veteran to whom the surviving spouse has been married. The surviving spouse may elect to receive benefits based on the

death of one such spouse and the election places the right to benefits based on the deaths of other spouses in suspense. The suspension may be lifted at any time by another election based on the death of another spouse. Benefits payable in the elected case will be subject to prior payments for the same period based on the death of the other spouse where, under the provisions of § 3.400(c), there is entitlement in the elected case prior to date of receipt of the election. (38 U.S.C. 3104)

(2) *Children.* Except as provided in § 3.703 and paragraph (a)(4) of this section, the receipt of pension, compensation, or dependency and indemnity compensation by a child on account of the death of a veteran or the receipt by the child of pension or compensation on account of his or her own service will not bar the payment of pension, compensation, or dependency and indemnity compensation on account of the death or disability of any other veteran.

* * * * *

32. In § 3.701, paragraph (a) is revised to read as follows:

§ 3.701 Elections of pension or compensation.

(a) *general.* Except as otherwise provided, a person entitled to receive pension or compensation under more than one law or section of a law administered by the Veterans Administration may elect to receive whichever benefit, regardless of whether it is the greater or lesser benefit, even though the election reduces the benefits payable to his or her dependents. Such person may at any time elect or reelect the other benefit. An election by a veteran controls the rights of all dependents in that case. An election by a surviving spouse controls the claims of children in the custody of the surviving spouse. (See § 3.57(d).) Claims of children not in the custody of the surviving spouse are not controlled by an election made by the surviving spouse. Termination of a marriage or marital relationship which had been the reason for terminating an award of section 306 or old-law pension does not restore to the surviving spouse the right to receive section 306 or old-law pension. The claimant's entitlement, if otherwise established, is under the current provisions of 38 U.S.C. 541. (38 U.S.C. 210(c))

* * * * *

§ 3.702 [Amended]

33. Section 3.702 is amended by deleting "widow or widower" and inserting "surviving spouse" in the first and second sentence of paragraph (b).

§ 3.708 [Amended]

34. Section 3.708 is amended as follows:

(a) by deleting "widow or widower" and inserting "surviving spouse" in the first sentence of paragraph (a)(3).

(b) By deleting "widow's or widower's" and "widow or widower" and inserting "surviving spouse's" and "surviving spouse" in the last sentences of paragraphs (a)(3) and (b)(1).

35. Section 3.711 is revised to read as follows:

§ 3.711 Improved pension elections.

Except as otherwise provided by this section and § 3.712, a person entitled to receive section 306 or old-law pension on December 31, 1978, may elect to receive improved pension under the provisions of 38 U.S.C. 521, 541, or 542 as in effect on January 1, 1979. An election of improved pension is final when the payee (or the payee's fiduciary) negotiates one check for this benefit. There is no right of reelection. Any veteran eligible to make an election under this section who is married to a veteran who is also eligible to make such an election may not receive improved pension unless the veteran's spouse also elects to receive improved pension. (Section 306(a)(1) of Pub. L. 95-588, 92 Stat. 2497)

36. Sections 3.712 and 3.713 are added to read as follows:

§ 3.712 Improved pension elections; Spanish American War pensioners.

(a) *Veterans*—(1) *General.* A veteran of the Spanish-American War who meets the service requirements of 38 U.S.C. 512(a) may elect to receive improved pension under 38 U.S.C. 521. A Spanish-American War veteran who elects to receive improved pension is not entitled to the additional rate authorized by 38 U.S.C. 521(g), however. An election of improved pension is final when the payee (or the payee's fiduciary) negotiates one check for this benefit. There is no right of reelection.

(2) *Aid and attendance.* A veteran of the Spanish-American War who meets the service requirements of 38 U.S.C. 512(a) and who is receiving or entitled to receive pension based on need for regular aid and attendance shall be paid whichever is the greater: The monthly rate authorized by 38 U.S.C. 512(a) or the monthly rate authorized by 38 U.S.C. 521 as in effect on December 31, 1978, based on the veteran's current income and net worth. Pension under 38 U.S.C. 521, as in effect on December 31, 1978, is not payable if the current size of the veteran's estate is a bar to payment under § 3.352(b) or if the veteran's income exceeds the applicable limitation as in effect on December 31, 1978. Elections are not required for this purpose. The change in rate shall be effective the first day of the month in which the facts warrant such change. (38 U.S.C. 512)

(b) *Surviving spouses*—(1) *General.* A surviving spouse of a Spanish-American veteran eligible for pension under 38 U.S.C. 536 may elect to receive improved pension under 38 U.S.C. 541. An election of improved pension is final when the payee (or payee's fiduciary) negotiates one benefit check. There is no right of reelection.

(2) *Aid and attendance.* A surviving spouse of a Spanish-American War veteran who is receiving or entitled to receive pension based on need for regular aid and attendance shall be paid whichever is the greater: The monthly rate authorized by 38 U.S.C. 536(a) and (b) and 544 or the monthly rate authorized by 38 U.S.C. 541 and 544, as 38 U.S.C. 541 and 544 were in effect on December 31, 1978, based on the surviving spouse's current income and net worth. Pension under 38 U.S.C. 541 and 544, as in effect on December 31, 1978, is not payable if the current size of the surviving spouse's net worth is a bar to payment under § 3.252(b) or if the surviving spouse's income exceeds the applicable limitation as in effect on December 31, 1978. Elections are not required for this purpose. The change in rate shall be effective the first day of the month in which the facts warrant such change. (38 U.S.C. 536)

§ 3.713 Effective dates of improved pension elections.

(a) *General.* Except as provided in paragraph (b) of this section an election to receive improved pension shall be effective the date of receipt of the election.

(b) *Persons entitled to pension on December 31, 1978.* The effective date of an election to receive improved pension filed before October 1, 1979, by a person entitled to receive either old-law pension or section 306 pension on December 31, 1978, shall be January 1, 1979. The amount of improved pension payable from January 1, 1979, to date of receipt of election shall be reduced by the amount of old-law pension or section 306 pension paid to the beneficiary for such period. (Section 306(d) of Pub. L. 95-588, 92 Stat. 2497)

§§ 3.955 and 3.956 [Revoked]

37. Sections 3.955 and 3.956 are revoked.

38. Sections 3.960, 3.961 and 3.962 are added to read as follows:

§ 3.960 Section 306 and old-law pension protection.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, any person eligible to elect improved pension under § 3.711 or 3.712 who is

in receipt of section 306 or old-law pension on December 31, 1978, shall in the absence of an election to receive improved pension, continue to receive such pension at the monthly rate payable on December 31, 1978.

(b) *Termination.* Pension payable under paragraph (a) of this section shall be terminated for any one of the following reasons:

(1) A veteran pensioner ceases to be permanently and totally disabled.

(2) A surviving spouse pensioner ceases to meet the definition of "surviving spouse" in 38 U.S.C. 101(3).

(3) A child pensioner ceases to meet the definition of "child" in 38 U.S.C. 101(4).

(4) A section 306 pensioner's countable annual income, determined under §§ 3.250 to 3.270, exceeds the applicable amount stated in § 3.26(a).

(5) An old-law pensioner's countable annual income determined under §§ 3.250 to 3.270 exceeds the applicable amount stated in § 3.26(b).

(6) A section 306 pensioner has a net worth of such size that it is reasonable that some part of it be consumed for the pensioner's maintenance. Evaluation of net worth shall be made under § 3.263.

(c) *Reduction.* The pension rate payable under paragraph (a) of this section shall be reduced by the amount of any additional pension payable by reason of a dependent upon the loss of such dependent. A veteran or surviving spouse who no longer has any dependents shall not continue to receive either section 306 pension or old-law pension if countable annual income exceeds the appropriate rate in § 3.26(a)(1) or (b)(1).

(d) *Finality of termination.* Termination of section 306 pension or old-law pension for one of the reasons listed in paragraph (b) of this section precludes a person from thereafter establishing entitlement under any other pension program except the improved pension program. (Sec. 306 of Pub. L. 95-588, 92 Stat. 2497)

§ 3.961 Claims pending on December 31, 1978.

A claim for pension filed by a veteran, surviving spouse or child which is pending in the Veterans Administration on December 31, 1978, shall be adjudicated under title 38, United States Code as in effect on December 31, 1978. Any benefits determined to be payable are subject to § 3.960. (Sec. 306(c) of Pub. L. 95-588, 92 Stat. 2497)

§ 3.962 Claims filed after December 31, 1978.

(a) *No entitlement prior to January 1, 1979.* A claim for pension filed after December 31, 1978, by a veteran who became totally and permanently disabled after December 31, 1978, or by a surviving spouse or child based on the death of a veteran occurring after December 31, 1978, shall be adjudicated under the provisions of title 38, United States Code as in effect on January 1, 1979.

(b) *Entitlement prior to January 1, 1979.* A claim for pension filed by a veteran after December 31, 1978, and within 1 year after the date on which the veteran became permanently and totally disabled, shall be adjudicated under the provisions of title 38, United States Code as in effect on December 31, 1978, if the veteran became permanently and totally disabled prior to January 1, 1979. A claim for pension filed by a surviving spouse or by a child after December 31, 1978, and within 1 year after the date of death of the veteran through whose relationship claim is made shall be adjudicated under the provisions of title 38, United States Code as in effect on December 31, 1978, if the veteran's death occurred before January 1, 1979. Any benefits determined to be payable to a veteran, surviving spouse or child are subject to § 3.960. (Sec. 306(c) of Pub. L. 95-588, 92 Stat. 2497).

[FR Doc. 79-7031 Filed 3-7-79; 8:45 a.m.]

[6315-01-M]

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1061]

[CSA Instruction 6132-2b]

CHARACTER AND SCOPE OF SPECIFIC PROGRAMS

Community Food and Nutrition Program (CFNP)

AGENCY: Community Services Administration.

ACTION: Proposed rule.

SUMMARY: The Community Services Administration is filing a proposed rule revising its policy statement for the Community Food and Nutrition Program (CFNP) funded under section 222 (A)(1) of the Economic Opportunity Act of 1964 as amended. This proposed rule is being published because CSA has determined that there is a need for certain policy and procedural changes from the previous year. The proposed changes are not regarded significant, but rather a refinement of the FY '78 policy, which should result in a more effective and efficient funding process for FY '79.

DATE: CSA invites public review and comment and all comments received on or before April 9, 1979, will be considered.

ADDRESS: Please address all comments to Community Services Administration, Office of Program Development, Attn. Harold L. Gore, 1200 19th Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Harold L. Gore, 202-632-6694, Teletypewriter: 202-254-6218.

SUPPLEMENTARY INFORMATION: CSA is proposing to revise § 1061.50-1 through § 1061.50-15 (CSA Instruction 6132-2). The changes that are being proposed are indicated by arrows at the beginning and end of each change and are incorporated in the text of the FY 1978 rule so that they may be seen in the appropriate context. Deletions which have not been replaced with new language are not identified, but those wishing to make such identifications may do so by comparing the FY '79 proposed rule with the FY '78 final rule. The changes may be summarized as follows:

In FY '79 a stronger emphasis will be placed on *advocacy, mobilization of resources* and *coordination with other anti-hunger efforts* as essential and integral elements of *all* CFNP projects. Sections 1061.50-2 (definitions), 1061.50-5 (policy), Appendix A (Funding Process), and Appendices B and C (rating criteria) have all been amended to reflect these changes. Applicants should note that they will be given credit or penalized in the rating of their applications depending on the extent to which they intend to coordinate their efforts with those of other groups and to undertake advocacy and resource mobilization activities as a part of their program activities.

The four program categories (access, self-help, nutrition and consumer education, and crisis relief) remain the same except that two new activities have been added to the access category and one new activity has been added to nutrition and consumer education.

The order of priority of these categories also remains the same as last year but no extra points are assigned to the categories of access and self-help. This has been done to allow applicants to select, without penalty, the program categories/activities that most effectively meet the needs of the poor in their given community or locality.

It is important to point out that the program category, access, has been given first priority for a number of reasons. For one thing, most of the 9 billion dollars for federal food outlay goes to programs such as the food stamp program; the women, infants and children supplemental feeding program (WIC); and the school breakfast and school lunch programs, all administered by the Department of Agriculture. Under the economic opportunity act, part of CSA's mission is to

stimulate a better focusing of all available local, state, private and *federal* resources on the problems of the poor. CSA, as the Federal agency with very special links to the low-income population, has a responsibility for making sure not only that its constituency is aware of congressionally-authorized feeding programs but also that there are no impediments to full participation in these programs by the poor who wish to take advantage of them. The magnitude of this problem is reflected by the fact that only 40 percent of those eligible nationwide for food stamps are actually receiving them.

Secondly, in order to cope with the confusion among recipients and the administrative difficulties which can be expected during implementation of the new Food Stamp Act, a substantial monitoring and outreach effort on the part of CFNP grantees will be required during the next year or two.

On the other hand, in developing proposals, applicants should take into account not only national priorities but local needs. If an applicant can document that there is a greater need for a project in a program category other than access, and can demonstrate that the poor themselves were involved in the selection of that project, the applicant will not be penalized for that choice. However, the burden will be on the applicants for such projects to document their judgement and show that the poor participated in the formation of that judgement.

Section 1061.50-9 (Eligible Applicants) has been revised to make it possible for public and private non-profit organizations, which meet CSA's eligibility criteria to apply for general community funds to operate projects in areas which are not served by CAA's. In keeping with the requirements of the statute, CAA's will continue to be the *prime sponsors* of projects funded with general community funds in areas which they serve, and non-CAA's must apply through CAA's as delegate agencies. CAA's are not eligible to apply for special support funds in FY 1979. However, CSA will give preference, in funding special support projects, to statewide anti-hunger coalitions that are broadly based and include on their governing boards representatives of community action agencies.

Applicants for regional T. & T.A. projects are advised that CSA will publish, in a separate proposed rule, no later than April 30, 1979, the policy that will govern applications for FY 79 T. & T.A. funds.

Migrants and Indian projects will be governed by the same policies and procedures as other grantees in FY 79 with the following exceptions. (1) Indian applicants will submit their applications to regional offices (instead of headquarters) where they will be reviewed, rated and ranked on the basis of the criteria in appendix B. (2) Migrants conduits will apply to CSA headquarters, as in the past, and will be exempt from the competitive process. (3) Applicants proposing to operate *local* Migrant projects will apply to the Migrant conduits, but their applications will be reviewed, rated and ranked by the conduits on the basis of the criteria set forth in appendix B. The funding process for Indians and Migrants (except conduits) will be competitive, with funding preference given to applicants with the highest scores. (Note: Indians and Migrants will be exempt from the general requirement that applicants score a minimum of sixty-five points in order to be eligible for funding.)

Appendix A has been amended to outline the following changes in the funding process for FY 1979. Community action agencies (and other applicants serving uncapped areas) will be permitted to form consortium arrangements, where feasible and appropriate in a geographical area (within a state) in order to develop sub-state or multi-county anti-hunger strategies and make more efficient use of limited CFNP funds. In such cases it will be permissible for one member of the consortium (a community action agency) to serve as the applicant (conduit) and project administrator. (Note: no applicant may serve as the conduit for an entire state and consortium applicants will be considered on the same basis as any other, i.e., they will be competitive.)

Applicants will be required to indicate the *priority status* of anti-hunger efforts among the range of activities which they will conduct, the kind of anti-hunger activities they are currently undertaking, and the variety and level of resources committed to those efforts, including, in the case of community action agencies, the amount of local initiative funds committed to such efforts.

The funding process (see appendix A) will be competitive for FY 79 and all applicants, except Indians and Migrants, must score a minimum of 65 points, based on the applicable rating criteria, in order to be eligible for funding. However, achieving the minimum score does not *guarantee* funding since sufficient funds may not be available to fund all qualifying applicants. The rating criteria published in appendix B have been revised to reflect the shifts in this year's policy and funding procedures and will be used in the rating and ranking of all general community, regional special support, and Migrant and Indian applications. Applicants will be rated and ranked in their *entirety* rather than by program category as was the case last year. Criteria for rating regional T. & T.A. applications are listed in appendix C and funds will be awarded to T. & T.A. applicants on a competive basis.

The allocation of funds to regions for general community, special support and T. & T.A. funds will be based on the number of poor in each region.

Although the following is not included in this year's proposed rule, CSA is considering, depending upon the availability of funds, the introduction of multi-year funding of a select number of CFNP grantees in FY 80. If such a plan were put into effect the grants would not exceed three years and they would be made on a one-time basis only. CSA welcomes comments and suggestions as to whether and how such a plan should be formulated and what the criteria for selecting grantees would be.

Also, in order to distribute funds on a more equitable basis, in relation to need, CSA in considering the establishment of *target allocations* for CFNP applicants for FY 79. While the mechanism for establishing such allocations has not yet been devised, CSA invites comments and suggestions as to how such a plan could be carried out.

Applicants should note that funds awarded for CFNP projects are provided on a *one-time only* basis. Therefore applicants should apply for projects which can be successfully completed within the proposed funding period or which will be continued beyond the funding period with funds from other sources. There is no stated or implied obligation or commitment on the part of CSA to *refund* any project.

CSA wishes to thank the Community Action agencies and other CFNP grantees who responded to the invitation to submit suggestions and comments for revising the CFNP policy for FY 79. Not all letters were received in time to have their recommendations incorporated in this proposed rule. However, all comments will be given consideration before publication of the final rule.

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR 1061 is proposed to be amended by revising § 1061.50-1 through § 1061.50-15 as follows:

[Note: The following text uses arrows (►◄) to indicate proposed additions or changes to CFR text.]

Sec.
1061.50-1 Applicability.
1061.50-2 Definitions.
1061.50-3 Purpose of the subpart.
1061.50-4 Introduction.
1061.50-5 Policy.
1061.50-6 Purpose of the program.

Sec.
1061.50-7 Program categories.
1061.50-8 Eligible participants.
1061.50-9 Eligible applicants.
1061.50-10 Funding.
1061.50-11 Application procedures.
1061.50-12 Reporting requirements.
1061.50-13 Current fiscal year application and review information.
Appendix A.
Appendix B.
Appendix C.
Appendix D.

AUTHORITY: Sec. 602, 78 Stat. 530, 42 U.S.C. 2942.

§ 1061.50-1 Applicability.

This subpart is applicable to all grants and contracts funded under section 222(a)(1) of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1061.50-2 Definitions.

(a) *Program.* The provision of Federal funds and administrative direction to accomplish a prescribed set of objectives through the conduct of specific activities. Example: CSA's Community Food and Nutrition Program.

(b) *Project.* The implementation level of a program where resources are used to produce an end product that directly contributes to the objectives of the program. Example: The school Breakfast Expansion Campaign of the Milwaukee CAP.

(c) *Limited Purpose Agency.* An organization or agency funded uder sections 221 or 222 of the Act to conduct a specific program or programs, rather than the broad spectrum of programs conducted by a CAA. Limited purpose agencies are not subject to the requirements for local government designation and comprehensive community representation applicable to CAA's.

(d) *Catalytic Activity.* An activity conducted by a person, organization, or group which stimulates, expedites or facilitates change within a given community.

►(E) *Advocacy.* According to the dictionary definition, an advocate is "one who pleads the cause of another" or "defends or maintains a cause or proposal." In the context of this program an advocate is one who takes action on behalf of or in the interests of the poor. Advocacy is any action taken to assure that the views of the poor are heard, that the rights of the poor are observed, that the benefits to which they are entitled are provided, and that their needs are met (to the extent possible) by the institutions which have the ability or responsibility to meet those needs.◄

§1061.50-3 Purpose of the subpart.

This subpart sets forth CSA's policy for the Community Food and Nutrition Program (CFNP) authorized under section 222(a)(1) of the Economic Opportunity Act of 1964, as amended. It discusses the purposes and categories of activities, participant and applicant eligibility criteria, application procedures and reporting requirements. The Appendices provide additional information relating to funding for the current fiscal year and the process for reviewing, rating and ranking applications.

§ 1061.50-4 Introduction.

(a) Section 201(a)(1) of the Economic Opportunity Act of 1964 as amended states that the basic purpose of all title II programs, including the Community Food and Nutrition Program, is . . . "to stimulate a better focusing of all available local, State, private and Federal resources upon the goal of enabling low-income families and low-income individuals . . . to become fully self-sufficient" (emphasis added).

(b) This statement sums up CSA's historic mission which has been to serve as a stimulator or catalyst of activities conducted by other public and private institutions rather than as a provider of sevices in competition with these institutions. CSA's limited funds make it necessary, in any event, for CFNP projects to reduce their involvement in direct service delivery and to function primarily as advocates and catalytic agents.

(c) A second important point made in the statement quoted above is that the catalytic activity of Title II programs, including the CFNP, should be directed to helping the poor escape the cycle of poverty. The relevance of the CFNP to this objective is underscored by a report entitled "Dietary Goals for the United States" (2nd Edition) issued in February 1978, by the U.S. Senate's Select Committee on Nutrition and Human Needs. According to the report, an inadequate diet is a principal cause of six of the ten leading killer diseases—the six being diabetes, strokes and hypertension, heart disease, some cancers, arteriosclerosis and cirrhosis of the liver. An inadequate diet leads to unemployability and chronic dependence on public assistance programs. Hence, the importance of a concentrated attack on the problem of malnutrition among the poor.

§ 1061.50-5 Policy.

(a) Section 222(a)(1) of the Economic Opportunity Act authorizes: "A program to be known as Community Food and Nutrition designed to provide, on an emergency basis, directly or by delegation of authority pursuant to the provisions of title VI of this Act, financial assistance for the provision of such supplies and services, nutritional foodstuffs, and related services as may be necessary to counteract conditions of starvation or malnutition among the poor. Such assistance may be provided by way of supplement to such other assistance as may be used to extend and broaden such programs to serve economically disadvantaged individuals and families where such services are not now provided."

(b) In its effort to "supplement and extend and broaden" other Federal food programs, the CFNP must not lose sight of the essentially catalytic nature of CSA's mission referred to in § 1061.50-4. Funds should be used primarily as seed money or in ways that have a multiplier effect and not for duplicative or long-term feeding programs. The emphasis on catalytic activity does not preclude the use of CNFP funds, in emergency situations, for the direct delivery of foodstuffs and related services to individuals and families within CSA poverty guidelines who are insufficiently served or not served at all by other programs. (See § 1061.50-7(d)(4) below.) Benefits received under the CFNP shall not be considered as income for the purposes of determining eligibility for other Federal food programs.

►(c) Each CFNP project will be expected to include advocacy as an essential and integral element of both design and implementation. While an applicant may select from among the national prioritites (access, self-help, nutrition/consumer education, crisis relief) the program category(ies) which best meet the needs of the poor in the community(ies) served by the applicant, whatever categories are selected must include the element of advocacy. Advocacy efforts should focus upon articulation the views and needs of the poor to the public at large but, more particularly, to those institutions and organizations whose mission is to serve the poor. Advocacy efforts should not only include speaking on behalf of the poor, but actively enlisting the poor to articulate their own needs and to participate in activities which are designed to assure that the benefits to which the poor are entitled are provided. Advocacy should be aimed at initiating new programs to benefit the poor as well as improving and expanding existing ones.◄

►(d) All CFNP projects will be expected to conform to as many of the purposes of title II programs as posible (Listed below in § 1061.50-6). CSA Instruction 7850-1a requires that each project must contribute to the achievement of one or more purposes. CSA is requiring in FY 79 that CFNP grantees meet at least three general purposes and one specific purpose. Applicants are advised that the rating criteria (see Appendix B) include two of the five general purposes.◄

§ 1061.50-6 Purpose of program.

►(a) The following are the purposes of title II programs, including the CFNP, listed in Sections 201(a) and 223 of the Economic Opportunity Act and reflected in CSA's general standards of effectiveness:◄

(1) *Planning and Coordination:* Strengthening community capabilities for planning and coordination so as to insure that available assistance related to the elimination of poverty can be more responsive to local needs and conditions;

(2) *Improvement of Service Delivery:* Better organization of services related to the needs of the poor;

(3) *Maximum Feasible Participation:* Maximum feasible participation of the poor in the development and implentation of all programs and projects designed to serve the poor;

(4) *Mobilization of Resources:* Broadened resource base of programs directed to the elimination of poverty so as to include all elements of the community able to influence the quality and quantity of services to the poor;

(5) *Innovative Approaches:* Greater use of new types of services and innovative approaches in attacking causes of poverty, so as to develop increasingly effective methods of employing available resources.

(b) The following are legislatively mandated purposes of the Community Food and Nutrition Program (Specific Standards of Effectiveness):

(1) Improvement in the nutritional status of the target population;

(2) Reduction in hunger among the target population.

§ 1061.50-7 Program categories.

The categories of projects eligible for funding under the Community Food and Nutrition Program are listed in priority order as follows:

(a) *Access:* To improve the opportunities for low-income people to gain access to, and participate in, Federal and non-Federal food and nutrition programs. Activities eligible for funding under the "access" category include but are not limited to:

(1) The monitoring of programs conducted by other agencies and in particular monitoring the implementation by USDA and State and local governments of the Food Stamp Act of 1977, in order to insure compliance with relevant Federal and State statutes and regulations;

(2) Seeking changes in Federal and State statutes and regulations to insure a more equitable distribution of food and nutrition benefits to the poor;

(3) Aiding, through consultation with parents, school administrators and other officials, in the establishment of school breakfast programs (less than 25 percent of the children receiving free and reduced price school lunches receive school breakfasts);

(4) Participating with a State in the development of State plans, certification manuals, etc., for food and nutrition programs;

(5) Building coalitions to make possible community input into the improvement and implementation of programs;

(6) Designing and carrying out strategies for obtaining matching funds for new and existing projects supported from CNFP funds, and for spinning off such projects funded under HEW and USDA such as Title XX (food stamp outreach);

(7) Catalyzing an expanded and more effective outreach program on the part of other agencies;

(8) Initiating, or stimulating the formation of, community education programs aimed at apprising low-income persons of their entitlements under Federal and non-Federal food programs;

(9) Stimulating efforts to provide the poor with assistance in prescreening and application procedures and with adequate representation in administrative hearings, etc.;

(10) Initiating, or stimulating the formation of, feeding programs (e.g., Meals on Wheels) which are urgently needed and are not now being provided in the community, on the condition that significant mobilization of other resources and early spin-off of the project to a more appropriate agency is included in the application;

(11) Developing and seeking to get adopted innovative proposals to increase the amount of food available to the poor, e.g., tax incentives for food industry donations to the poor;

(12) Organizing consumer action relating to public and private sector food policies, food sales and sales taxes so as to lower costs for the poor;

(13) Initiating feeding projects (using CFNP funds as "seed money") which will be supported in future years with other Federal, State, or local funds;

►(14) Designing or developing projects which will expand and/or enhance the effectiveness of privately-funded, non-governmental feeding projects (e.g., church-sponsored mobile meals, etc.).◄

(b) *Self-Help.* To improve the ability of low-income people to produce and purchase food stuffs in a manner that fosters self-sufficiency. (Note.—Self-Help activities will not be funded on a continuing basis and all prospective grantees should submit with their applications specific plans for the eventual phase-out of CFNP funding, and continuation of the project either with other funds or on a truly self-sustaining basis.) Activities eligible for funding under this category include but are not limited to:

(1) Conservation, distribution and utilization of foodstuffs, such as:

(i) Organizing family and community gardens;

(ii) Organizing food co-ops and buying clubs;

(iii) Establishing greenhouses, canneries, food gleaning projects, etc;

(2) Activities which support self-help projects such as:

(i) Mobilizing the resources of State Agriculture Departments, land grant colleges, co-op extension services, USDA (e.g., the Agricultural Stabilization and Conservation Service), VISTA, CETA, etc., for obtaining seeds, plants, land, water and information;

(ii) Cooperating with land grant and other colleges to provide more assistance to small scale (even part-time) growers, etc.;

(iii) Promoting the utilization of unused Federal, State and local land for food production;

(iv) Seeking to change laws and regulations that impede the involvement of the poor in food production, processing and distribution, etc.

(c) *Nutrition and Consumer Education.* To improve, through catalytic activity in the area of nutrition and consumer education, the ability of low-income individuals and families to understand the connection between diet and health, to obtain at the lowest prices nutritionally superior foods and to prepare and preserve these foods in ways that minimize the loss of nutrients. Activities eligible for funding under this category include but are not limited to:

(1) Developing and demonstrating new and more effective techniques for communicating nutritional information to the poor;

(2) Stimulating the establishment by other agencies or institutions of educational programs to acquaint the low-income public with the potential benefits of altering food preparation and eating habits in the light of the "Dietary Goals for the United States" recommended by the U.S. Senate's Committee on Nutrition and Human Needs;

(3) Stimulating the establishment of educational programs to improve the ability of low-income individuals and families to understand written guidance on food selection and to make comparisons between food based on nutrition labeling and price;

(4) Engaging in advocacy efforts to induce Federal agencies such as USDA and HEW to design new (and redesign existing) nutrition and consumer education programs so they are more responsive to the needs of low-income consumers;

(5) Devising and carrying out strategies to insure that State nutrition education plans address the needs of children, teachers and food service workers in low-income communities and that advisory councils set up to oversee State nutritional education programs include representatives of the poor;

(6) Engaging in advocacy efforts to induce such private organizations as the American Dietetic Association, American Heart Association and American Diabetes Association etc., to direct more of their nutrition education activities to the poor, and to coordinate such activities with CSA's CNFP network;

►(7) Engaging in research to determine the status and quality of nutrition education efforts aimed at the poor, identify gaps in those efforts, and recommend ways in which CSA, CAA's and CFNP grantees should be involved in nutrition education.◄

(d) *Crisis Relief:* To improve community crisis-relief mechanisms. Activities eligible for funding under this category include but are not limited to:

(1) Organizing food banks;

(2) Negotiating for improvement in public welfare systems for distributing, in natural disasters and widespread emengency circumstances, Emergency Food Stamps, WIC packages or vouchers, USDA commodities, local food bank resources; etc;

(3) Assisting communities to improve their crisis relief programs so that those most in need will receive swift relief;

(4) Providing foodstuffs directly and/or issuing food vouchers, but only if at least one of the following conditions is satisfied:

(i) There is a temporary emergency and timely help is not forthcoming from other agencies and,

(ii) The provision of relief is a catalytic effort which includes a plan to transfer the project, within a specified period of time, to an agency which has an assigned responsibility for providing foodstuffs, vouchers, etc. to the poor. A commitment from such an agency to take over the project should be included in the application, if possible. (Among Federal agencies the U.S. Department of Agriculture, in conjunction wtih the Federal Disaster Assistance Association, is responsible for the delivery of foodstuffs to needy households in disasters and other widespread emergencies.)

§ 1061.50-8 Eligible participants.

(a) All activities supported from CNFP funds must be targeted on low-income individuals and families as defined in CSA Income Poverty Guidelines (§ 1061.2 or CSA Instruction 6004-1k and changes thereto). It is important to stress this since in the case of some programs, such as the Food Stamp Program and the National School Lunch Program, the persons eligible for benefits form a larger group that those who fall within CSA poverty guidelines. In such cases, the rule-of-thumb should be that majority of the individuals or families served are within CSA guidelines.

(b) Individuals are eligible to participate upon a self-declaration of need without the delay of a "means test" or income investigation. Self-declaration of need makes possible immediate assistance for those suffering from hunger and in danger of malnutrition.

§ 1061.50-9 Eligible applicants.

(a) *General Community Projects.*

(1) Section 222(a) of the Economic Opportunity Act states that the Director shall provide financial assistance ". . . in a manner that will encourage, wherever feasible, *the inclusion of assisted projects in community action programs . . .*" (emphasis added). In addition, Section 222(a)(17 of the Act required that the Director carry out the CFNP ". . . in a manner that will insure the availability of . . . supplies and services, nutritional foodstuffs and related services *through a community action agency where feasible,* or other agencies and organizations if no such (community action) agency exists or is able to administer the program) . . ." (emphasis and parentheses added).

►(2) Therefore Community Action agencies (CAA's) will be regarded as prime sponsors of projects utilizing general community funds. Any other organization desiring to operate a project in a geographical area served by a CAA must do so as a delegate agency of the CAA. If such organizations are unable to work out a delegate agency agreement with the CAA, then they may apply directly to the appropriate Regional Office of CSA. However, such applications will be considered only if the CAA does not submit a proposal, or submits a proposal which is not funded. (The deadline for submission of applications by prospective delegate agencies and the other procedures outlined in paragraph 2 of CSA Instruction 6441-1 do not apply to this program.)◄

►(3) Other public and private nonprofit organizations which meet CSA's general eligibility criteria may apply directly to the appropriate CSA regional office for general community funds to operate projects in geographical areas not served by CAA's ("uncapped areas").◄

(4) SEOO's and CAP Associations may not apply for General Community Funds as operators of local projects, nor may they apply as conduits for other applicants when the purpose of effect of such an arrangement is to allow those applicants of avoid the competitive process. An SEOO may apply as the prime sponsor of a local project when such is feasible and appropriate in order to cover a geographical area not served by a CAA. SEOO's, and CAP Associations which meet CSA's general eligibility requirements, may also apply to the appropriate Regional Office for General Community funds for the purpose of engaging in advocacy, planning, coordination, and resource mobilization activities on a statewide basis. (Exceptions to the policy states in this paragraph may be made only by the Assistant Director, Office of Community Action, CSA.)

(5) CAA's and anti-hunger groups are strongly encouraged to work together where possible. This can take the form of a CAA's delegating part or all of its work program to an anti-hunger groups, or vice versa; close and systematic coordination on the part of both groups in the planning, implementation and evaluation of CFN projects; and close collaboration in the development of state anti-hunger coalitions and anti-hunger strategies. The formation of such alliances contributes to at least one of the General Standards of Effectiveness (planning and coordination) and in most cases will contribute to more. ►(NOTE: CAA's must indicate in their applications the efforts which have been undertaken to involve various community groups and organizations—including anti-hunger organizations—in the planning and implementation of their proposed activities. In the rating and ranking of applicants points will be given to applicants which furnish evidence that such coordination has taken or will take place.◄

(b) *Special Support Projects.*

►(1) Public and private non-profit organizations which meet CSA's eligibility criteria—other than CAA's, SEOO's, and CAP associations—may apply for special support funds.◄

(2) Special Support projects must be designed to have a broad impact on the problems of hunger and malnutrition among the poor. i.e., and impact that extends beyond the boundaries of particular communities. ►The objective of special support projects is to assist in the development, coordination and expansion of food and nutrition programs for the poor and/or engage in advocacy efforts to improve those programs on a statewide or multi-state basis.◄

►(3) Special support projects must relate to one or more of the four program categories outlined in § 1061.50-7. Special support activities may include but are not limited to:◄

►(i) Developing or strengthening statewide or multi-state anti-hunger coalitions and task forces;◄

►(ii) Monitoring and interpreting changes in relevant Federal and State laws, regulations and procedures;◄

►(iii) Developing or improving statewide food and nutrition information centers or clearinghouses;◄

►(iv) Initiating and/or coordinating legal service activities aimed at improving the delivery of food and nutrition services to the poor.◄

►(v) Providing assistance to poor people or their representatives to attend meetings and conferences on food and nutrition issues, etc.◄

In making funding decisions on applications for special support funds, CSA will give preference to applicants proposing to initiate or strengthen state-wide anti-hunger coalitions which will address a range of hunger problems and issues and which are broadly based, i.e., whose governing boards include representatives of the poor, community action agencies, and other anti-hunger groups/organizations.◄

(4) Applicants must show evidence of successful experience and competence in carrying out the kinds of activities described above. In addition, applicants must indicate on their applications how they intend to coordinate their proposed activities with CAA's in/or adjacent to the areas they propose to serve, other CFNP grantees and the SEOO in the State(s) to be served.

(c) *Regional Training and Technical Assistance (T. & T.A.) Projects.*

(1) Public and private nonprofit organizations and agencies which meet CSA's general eligibility criteria may apply for Regional T. & T.A. funds. Regional T. & T.A. providers may operate on either a regionwide or subregional basis.

►(2) Each regional office will develop and publish in the FEDERAL REGISTER, annual, a list of T. & T.A. requirements for CFNP grantees. T. & T. A. Applicants must design their proposals so as to conform with these requirements. In addition, activities proposed by T. & T.A. Applicants must be designed to assist CFNP grantees in the development of skills required: (i) to conduct effectively the activities outlined earlier in § 1061.50-7; (ii) To achieve local project goals; and (iii) to enable CAA's to make the transition from service delivery to a catalytic and advocacy role and (iv) to engage in effective resource mobilization activities.◄

(3) T. & T.A. applicants must show evidence of successful experience and competence in carrying out the kinds of activities described above. In addition applicants must indicate how they intend to coordinate their proposed activities with CAA's the SEOO and other CFNP grantees in the State(s) to be served.

(d) Headquarters training and technical assistance (T. & T.A.) projects and research and demonstration (R. & D.) projects.

(1) Public and private nonprofit organizations or agencies which meet CSA's general eligibility criteria may apply for headquarters T. & T.A. and R. & D. funds.

(2) As distinct from regional T. & T.A. projects, headquarters T. & T.A. projects will focus on grantee needs that are common to a number of regions or require a national strategy. In addition headquarters T. & T. A. projects may be required to address the needs of other projects administered directly from headquarters, e.g., Migrant conduits.

(3) The objective of R. & D. projects is to develop new knowledge or demonstrate new hypotheses relevant to the solution of the problems of hunger and malnutrition among the poor. Activities proposed in applications for R&D funds should relate to activities described under the four program categories defined earlier in this subpart but should emphasize new and untried approaches to solving problems of hunger and malnutrition and potential solutions so as to have maximum impact on these problems nationwide.

►(e) *Migrant projects.* Farmworker-governed organizations which meet CSA's eligibility requirements may apply for funding under this category. Migrant conduits and other applicants proposing activities of a national or multi-regional scope will apply directly to CSA headquarters and will be exempt from the competitive process.◄

►Applicants proposing to operate local projects, and which meet CSA's eligibility criteria (preferably farmworker-governed organizations, may apply as delegate agencies to the appropriate migrant conduit. Applicants applying as delegates of the migrant conduits will follow the procedures outlined in § 1061.50-11 and appendix A. Their applications will be reviewed, rated and ranked by the migrant conduits on the basis of the criteria listed in appendix B. The funding process will be competitive, with applicants with the highest scores being given funding preference. (Note: Applicants for local migrant projects will be exempt from the general requirement that applicants score a minimum of 65 points in order to be considered eligible for funding.)◄

►(f) *Indian projects.*-Indian groups whose governance is controlled by the populations to be served are eligible to apply for Indian project funds. This includes Indian nations, tribes, bands, pueblos, or other organized groups or communities, including Alaskan Native villages as defined in the Alaskan Claims Settlement Act who are either indigenous to the United States or who otherwise have a special relationship to the United States, or a State, through treaty agreement, Executive order, law, court order, or administrative action of the Department of Interior, except as otherwise provided by Federal law. ► Applicants for Indian projects should submit their applications to the appropriate CSA Regional Office and should follow the application procedures outlined in § 1061.50-11 and appendix A. Their applications will be reviewed, rated and ranked according to the criteria in appendix B and the funding process will be competitive, with funding preference being given to applicants with the highest scores. (Note: Indian applicants are exempt from the general requirement that applicants score a minimum of sixty-five points in order to be considered eligible for funding.)◄

§ 1061.50-10 Funding.

(a) *Non-Federal share.* The non-Federal share is waived for CFNP projects (see § 1068.20 or CSA Instruction 6802-3). However, grantees are expected to mobilize local and state resources throughout the life of the project.

(b) *Federal share.* Federal share as matching funds granted under section 222(a)(1) may be used to match USDA funds to support food stamp outreach projects, as well as title XX funds.

§ 1061.50-11 Application procedures.

(a) *Required forms.* (1) Basic forms.

(i) CSA Form 419: Summary of work program and budget (see OEO Instruction 6710-1). (Note.—Goals and activities must be consistent with the general and specific standards of effectiveness outlined in CSA Instruction 7850-1a and for Form 419 must reflect these standards.)

(ii) OEO Form 25: Program account budget (see OEO Instruction 6710-1).

(iii) SF-424: Federal assistance (see CSA Instruction 6710-3A).

(iv) OEO Form 25a: Program account budget support sheet (see OEO Instruction 6710-1).

(v) OEO Form 301: Summary of grant application (see OEO Instruction 6710-1), for new grantees only.

(vi) CAP Form 5: Application for CAP community information (see OEO Instruction 6710-1), for uncapped areas.

(2) When delegating programs.

(i) CAP Form 11: Assurance of compliance with regulations under Civil Rights Act.

(ii) CAP Form 85: Administering agency funding estimate.

(iii) CAP Form 87: Delegate agency basic information.

►(b) *Clearinghouse review* (A-95). Applicants are reminded that they must comply with the requirements of

OMB Circular A-95 (see 45 CFR 1067.10 and/or CSA Instruction 6710-3a), including the following:◄

►(1) Applicants must, at least 60 days prior to the actual submission of applications to CSA, notify the appropriate clearinghouses of their intent to apply.◄

►(2) Where the clearinghouse, in response to the notification of intent to apply, indicates that it wishes to review and comment on the application, applicants should forward applications to the clearinghouse as soon as possible. (Note: Under the proposed deadline of July 1, 1979 for submission of applications to CSA, notification of intent to apply would have to reach the clearinghouses by May 1 at the latest. Since the applications submitted to CSA must include any comments made by the clearinghouses, applicants are urged to initiate the clearinghouse process on or about April 1. There is no need to wait until publication of the final rule before notifying the clearinghouses of intent to apply. Applicants proposing statewide projects need only submit their proposals to the State clearinghouse for review. Such applicants should indicate in writing to the State clearinghouse that their proposed project is statewide and will not be submitted to other clearinghouses. Applicants may obtain clearinghouse addresses from the appropriate regional office.)◄

(c) *Where to Apply.*

►According to category of project send applications to:

General Community: Appropriate CSA Regional Office.

Special Support: Appropriate CSA Regional Office.

Regional T. & T.A.: Appropriate CSA Regional Office.

Headquarters T. & T.A.: CSA Headquarters.

Migrants: Migrant conduits and applications with a multi-state or national scope, CSA headquarters. Applicants proposing projects of a local nature apply to appropriate Migrant conduit (see appendix D).

Indians: Appropriate CSA Regional Office.◄

NOTE: Migrant organizations are encouraged to make contact with local CAA's in or adjacent to the areas where the projects will operate. Headquarters CSA will send information copies of approved applications from migrant groups to the appropriate CSA Regional Office.

§ 1061.50-12 Reporting requirements.

Grantees will follow the financial and project reporting requirements outlined in CSA Instruction 6800-8 and 6800-9 respectively.

§ 1061.50-13 Current fiscal year application and review information.

The appendices to this subpart provide additional information to funding CFNP projects in the current fiscal year.

APPENDIX A—FISCAL YEAR 1979 FUNDING PROCESS

1. TIMETABLE FOR ACCEPTING APPLICATIONS

Applications will be accepted from the effective date of the final rule though June 30, 1979. Applications postmarked later than June 30th will not be accepted.

2. FISCAL YEAR 1979 PROGRAM CATEGORY PRIORITIES

►The program categories listed in § 1061.50-7 are listed in priority order: (1) access, (2) self-help, (3) nutrition/consumer education, and (4) crisis relief. While no minimum funding percentages or bonus points are being assigned to any of the categories it is hoped that each state will develop strong projects in the "access" category since activities in this category are known to have, in general, the greatest impact on the problem of hunger and malnutrition among the poor.◄

►In developing their proposals, applicants should take into account not only national priorities by also local needs. If the poor in a particular locality—and not merely "representatives" of the poor, or those administering programs for the poor—believe that projects in categories other than access are more suitable or address a more urgent need than access projects, then such projects may be given a higher priority and applicants will not be penalized for their choice. But the burden will be on the applicants to document their judgment and to show that the poor in the locality being served have participated in the formation of that judgment.◄

►Thus, while applicants may select the program categories that best meet the needs of the poor served by them, projects in all program categories are expected to be catalytic, to contain a strong advocacy thrust, and to mobilize significant other resources. These three factors account for thirty of the total points in the rating criteria and failure to include them as essential elements in a project proposal may result in an applicant not being funded.◄

3. CONSORTIUM APPLICATIONS

►Although the CFNP funding process for FY 1979 will be competitive, CSA will permit CAA's and other applicants (where it is geographically appropriate, within a substate area) and submit a single application through one of the CAA's. The applicant would then serve as the conduit for funds and coordinator of CFNP activities within that geographical area. (Note: this is not intended to permit a single applicant to submit an application on behalf of all other applicants within a state, but to permit applications from appropriate geographical groupings of applicants within a state.)◄

►This approach would make possible a fewer number of applicants, thus resulting in a saving of time both for applicants and CSA. It would also encourage coordination and cooperation on the part of grantees and it would permit regional or consortium strategies to become an integral part of state-wide strategies where such is appropriate and desirable.

4. REVIEW PROCESS

►The review process for all applications except headquarters applicants will be competitive, i.e., each application will be reviewed, rated and ranked according to the criteria published in appendices B and C, with funding preference being given those with the highest scores. Unlike last year, applications will be reviewed, rated and ranked in their entirety, rather than by program category. Except in the case of Indians and migrants, each applicant must score a minimum of 65 points in order to be funded. An applicant which scores the minimum points required *may* be funded, if funds are available, but funding is not guaranteed.◄

►The review process for all applications will be undertaken by the office to which applications are submitted as indicated in § 1061.50-11 of this subpart. Regional offices' and migrant conduits' ratings, rankings and favorable or unfavorable funding decisions will be reviewed by CSA headquarters before decisions become final. Applications from conduit organizations must include copies of the applications from the sub-grantees or delegate agencies to which the conduit is redistributing CFNP funds.◄

5. CSA FORM 419 AND ATTACHMENTS

All applicants for CFNP funds are required to submit a CSA Form 419 (Summary of Work Program and Budget). Since funds for most applicants will be awarded on a competitive basis, it is absolutely essential that applicants provide, through the Form 419 and attachments, as complete and specific a picture as possible of what they propose to do and how they intend doing it. Where space on Form 419 is insufficient, continuation sheets should be used. All required forms other than CSA Form 419 must accompany the submission of Form 419 for an application to be considered.

►NOTE.—The consistency of a project with legislative purposes (general standards of effectiveness) is dropped from the rating criteria for FY 1979. This does not mean that the requirement for projects to conform to those purposes is being eliminated or is of less importance. On the contrary, it means that the requirement to conform both to the general standards of effectiveness and the specific standards of effectiveness described in § 1061.50-6 must be met in order for an applicant to be considered eligible for funding.◄

►Therefore, applicants must not only list in item 11 of CSA Form 419 the standards which are being met in each program category, they must describe in the Form 419 or attachments exactly how the standards will be addressed. In other words, in addressing the general standards of effectiveness, the applicant must show how the project will (1) strengthen the community's planning and coordination capabilities, and/or (2) improve service delivery systems, and/or (3) make use of innovative approaches, and/or (4) involve maximum feasible participation by the poor in the planning and implementation of the project, and/or (5) mobilize a broad range of resources.◄

In addressing the specific standards of effectiveness applicants must show, either

in the statement of goals, or in attachments to the Form 419, the extent to which the project will result in (1) improvement in the nutritional status of the target population or (2) reduction in hunger among the target population. Projects that do not meet a minimum of three of the general standards of effectiveness and one of the specific standards will not be considered eligible for funding.◄

6. RATING CRITERIA

In preparing the Form 419 and attachments, applicants should keep in mind the eight criteria (discussed below) which will be used by CSA reviewing teams in rating and ranking applications (see also Appendix B).

(a) *Needs/analysis.* The first criterion—the analysis of needs—refers to the initial step in the planning process which lies behind the project described in the Form 419 and attachments. CSA Instruction 6710-1, change 11, required Title II grantees to develop and maintain planning documents which contain, among other things, an analysis of the particular needs the project is addressing.

Applicants who are currently being funded by CSA and who are operating CFNP projects must attach to the Form 419 that portion of the planning document which deals with the problem of malnutrition and hunger. The information should be updated where necessary. New applicants and current CSA grantees whose planning documents do not deal with the problem of malnutrition and hunger should attach to the Form 419 a needs analysis to support the choice of project goals described in the form.

The needs analysis must describe the nature and extent of the problems of hunger and malnutrition among the poor in the community the project will serve. The analysis should indicate what efforts are currently being undertaken to meet those needs, what gaps or shortfalls there are in these efforts and the extent to which the needs or problems remain unmet or unsolved. The applicant should clearly identify, among the range of needs listed, the precise need(s) the proposed project will address. Appropriate statistics to document the need(s) should be supplied—for example, the number of persons participating in the food stamp program as compared with the number of eligible persons not participating.

►The needs analysis must clearly indicated the order of priority which the problem of hunger and malnutrition among the poor has among the various problems which the applicant is now addressing or proposes to address and should include a description of the types and the level of resources committed to solving those problems. (Community Action agencies should indicate the amount of local initiative funds currently applied to such activities.)◄

The needs analysis must include a description of the process by which the needs to be addressed by the proposed project were determined, how the project goals were established, and whether and to what extent the poor participated.

►(b) *Coordination.* Each applicant must indicate what organizations are, or should be, involved in anti-hunger activities in the community or geographical area to be served, the extent to which these organizations were involved in the planning of the project, and the ways in which the project will be coordinated with their efforts. Where such is possible and appropriate, CAA's must indicate how they intend to coordinate their activities with anti-hunger groups and anti-hunger groups must indicate how they intend to coordinate their activities with CAA's.◄

(c) *Adequacy of work program and budget.* The second of the rating criteria listed in Appendix B—the adequacy of the work program and budget—refers primarily to the project's goals (item 11 of Form 419). The activities that will be undertaken to achieve these goals (item 13) and the budget (CSA Forms 25 and 25a). The applicant must first indicate to which of the four national program categories—access, self-help crisis relief and nutrition education—the project relates. If the applicant proposes to address more than one of the national program categories, the application must indicate the priority assigned to each (item 12).

The project's goals should be stated in specific and quantifiable terms. All specific activities to be undertaken by the grantee in order to achieve the stated goals should not only be listed but adequately described. The description of activities should indicate the relationship of the activities to the stated goals, i.e., the strategy by which the activities will be directed to actually accomplish the goals.

►If an applicant is proposing to carry out activities in more than one program category the categories should be listed on the form 419 in priority order, and the goals, activities and budgets for each category should be clearly delineated. While the application will be reviewed, rated and ranked in its entirety (rather than by program category), this information is necessary because the limitation of funds may make it impossible to fund all program categories for which funds are requested. In addition it is needed because it is important that CSA know the kinds of activities that are being funded and the funding level of each program category.◄

(d) *Anticipated impact on needs.* The statement of goals should include a description of what the applicant intends to accomplish, i.e., what results or changes the applicant intends to bring about in relation to the problem to be solved. The anticipated impact of the project should be stated in specific and measurable terms and should include the number of persons to be served, the extent to which their nutritional needs will be met and the extent to which unmet needs will remain after the project is completed.

►(e) *Mobilization of resources.* Although there is no requirement that an applicant provide a non-Federal share, the limited amount of funds available for CFNP makes it imperative that CSA and its grantees make the CFNP dollars available go as far as possible. Therefore, preference will be given to applicants which mobilize significant other resources to support CFNP projects. A maximum of ten points may be given to applicants which do so. In assigning points for this activity, reviewers will take into account both the variety and quantity of resources mobilized.◄

(f) *Catalytic nature of the project.* The emphasis, in the expenditure of fiscal year 1979 CFNP funds, will be on catalytic activity rather than on direct service delivery (see § 1601.50-4). The application should, therefore, in the statement of project goals and activities, describe the extent to which, and the manner in which, the project will stimulate other institutions, organizations or groups to become involved in the effort to eliminate hunger and malnutrition among the poor. Delegation to another agency of responsibility for operating a CFNP project does not, by itself, qualify as a catalytic activity.

►(g) *Advocacy nature of project.* In addition to the emphasis upon catalytic activity and resource mobilization in FY 1979, CSA will place strong emphasis upon advocacy activities. As stipulated in last year's rule, advocacy is not viewed as a project in and of itself, but rather as an emphasis which should run throughout all projects. Advocacy efforts should focus upon articulating the views and needs of the poor to the public at large, but particularly to those institutions and organizations whose mission is to serve the poor. Advocates should not only speak on behalf of the poor but should actively enlist the participation of the poor in making their needs known and in taking steps to assure that the benefits to which the poor are entitled are provided. Advocacy efforts should focus not only on improving and enlarging existing programs (making participation of the poor easier) but on initiating new ones. A maximum of ten points may be given in rating an applicant's proposal if advocacy is a strong and integral part of the activities proposed.◄

(h) *Ability of applicant to perform.* CSA Instruction 6800-9 requires title II grantees to submit a semi-annual and annual project progress review report (CSA form 440). This report provides an analysis of the accomplishments in relation to each goal in the grantee's currently approved work program, and includes an assessment of grantee status with respect to general and/or specific standards of effectiveness applicable to each goal.

Since the ability of applicants to successfully carry out their proposed work program is one of the important criteria, applicants who are currently operating (or have operated in the past) a CFNP project must attach to the Application a copy of the CFNP portion of the most recent form 440, updating it where necessary. CSA grantees who have never operated a CFNP project must attach to the ► Application ◄ that portion of their most recent form 440 which relates to a project they have operated that is similar to CFNP projects. Applicants not previously funded by CSA should attach to the ► Application ◄ a third-party evaluation of a project they have been operating that is similar to CFNP projects, along with a brief statement summarising their overall administrative ability and general performance record.

►All applicants currently operating CFNP projects are strongly urged to conduct a third-party evaluation of their current CFNP project(s) (or in the absence of such, a self-evaluation) and attach copies of these evaluations to their applications.◄

7. TRAINING AND TECHNICAL ASSISTANCE

The applicant's need for training and technical assistance in carrying out the project should be carefully described in item 15 of the form 419. It is presumed that most, it not all, projects will need some form of technical assistance. The training and technical assistance plans developed by the Regional Offices and Headquarters will depend to a large extent upon the state-

ment of need supplied by applicants on the form 419.

8. PROGRAM ACCOUNTS

For the purposes of the Fiscal Year 1979 funding process, the following program account numbers for the national program categories should be entered in item 16 of form 419:

Program accounts for CFNP activities: 12-Access; 13-Self-help; 15-Nutrition education; 16-Crisis relief; 29-Research; 39-Demonstration; 42-T. & T.A., Seminars;

43-T. & T.A., On Site Assistance; 44-T. & T.A., Other; 48-Evalution.

If the applicant proposes to address more than one national program category in the same project, only one form 419 is needed for the project but the goals and activities falling in separate program categories ►(Program Accounts)◄ must be clearly separated from each other on the form 419 and a separate budget (forms 25 and 25a) should be attached for each program account.

9. ALLOCATION OF FISCAL YEAR 1979 CFNP FUNDS

►(a) The allocation of funds for FY 79 will be published in the final rule.◄

►(b) *Allocation Formula.* The allocation of general community and regional T. & T.A. and special support projects will be made on the basis of the number of poor within each region. State target allotments will be made on the basis of the number of poor within each State.◄

APPENDIX B.—*Rating Criteria*

	Points
1. Analysis of Needs/Priorities	0 to 15
Nature and extent of problem is adequately described and documented.	0 to 15
2. Coordination	0 to 5
Applicant has involved and/or will involve other organizations, where appropriate, in the planning and implementation of the project	0 to 5
3. Adequacy of Work Program and Budget	0 to 25
Goals are appropriate, specific and measurable	0 to 5
Activities are adequately described and appropriately related to goals	0 to 15
Budget is appropriate and adequately documented	0 to 5
4. Anticipated Impact	0 to 15
Impact is minimal	0 to 5
Impact is moderate	6 to 10
Impact is substantial	11 to 15
5. Mobilization of Resources	0 to 10
Mobilizes a broad range of resources	0 to 5
Mobilizes a significant level of resources	0 to 5
6. Catalytic Nature of Project	0 to 10
Project stimulates the delivery of services through institutions other than the grantee	0 to 10
7. Advocacy Nature of Project	0 to 10
Grantee acts on behalf of and in conjunction with poor to assure that their views are heard, their rights observed, that the benefits to which they are entitled are provided, and that their needs are met	0 to 10
8. Ability of Applicant to perform	0 to 10
Assessment of past CFNP or other relevant projects (including written self or third party evaluations, progress reports, or CSA on-site assessments)	0 to 5
Assessment of applicant's overall administrative ability and general track record	0 to 5
Total	100

APPENDIX C

Regional T&TA Rating Criteria	Points
1. Ability of applicant to perform	30
Applicant's past experience	10
Quality of Staff	10
Knowledge of Food & Nutrition field	10
2. Responsiveness to CSA's policy priorities	45
Will assist grantees in moving from service delivery to catalytic role	10
Will assist grantees in undertaking advocacy efforts	10
Will assist grantees in developing and implementing effective mobilization of resource strategies	10
Is responsive to CSA statement of T&TA needs	15
3. Responsiveness to CFNP Grantees' Needs	25
Will assist CFNP applicants and grantees in assessing needs of target population	5
Will assist grantees in program development	5
Will assist grantees in program management/execution (i.e., achieving stated goals and objectives)	10
Will assist grantees in evaluating project's accomplishments	5
Total	100

APPENDIX D

REGIONAL OFFICES

Applicants for general community, special support and regional T. & T.A. projects should address requests for forms and should submit their applications to the appropriate regional office listed below (the names and telephone numbers of CFNP regional coordinators are also shown):

Mr. Ivan Ashley, Regional Director, CSA Region 1, E-400, John F. Kennedy Federal Building, Boston, Mass. 02203, phone 617-223-4080.

CFNP Coordinator: Franklyn B. Jackson, Jr., phone 617-223-3693.

Boston—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Mr. William A. White, Regional Director, CSA Region II, 26 Federal Plaza, 32nd Floor, New York, N.Y. 10007, phone 212-264-1900.

CFNP Coordinator: Saundra Hamilton, phone 212-264-1946.

New York—New Jersey, New York, Puerto Rico, Virgin Islands.

Dr. W. Astor Kirk, Regional Director, CSA Region III, 3535 Market Street—Gateway Bldg., Philadelphia, Pa. 19104, phone 215-569-6001.

CFNP Coordinator: Norma Clarkson, phone 215-569-6103.

Philadelphia—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.

Mr. William "Sonny" Walker, Regional Director, CSA Region IV, 101 Marietta Street, N.W., Atlanta, Ga. 30303, phone 404-242-2717.

CFNP Coordinator: Cathrilla Davis, phone 404-242-2800.

Atlanta—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Mr. Glenwood Johnson, Regional Director, CSA Region V, 300 South Wacker Drive, 24th Floor, Chicago, Ill. 60606, phone 312-353-5562.

CFNP Coordinator: Elizabeth Newsome, phone 312-353-0621.

Chicago—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Mr. Ben Haney, Regional Director, CSA Region VI, 1200 Main Street, Dallas, Tex. 75202, phone 214-749-1303.

CFNP Coordinator: Hamah King, phone 214-749-6139.

Dallas—Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Mr. Wayne Thomas, Regional Director, CSA Region VII, 911 Walnut Street, Kansas City, Mo. 64106, phone 816-758-3761.

CFNP Coordinator: Grace Ledwidge, phone 816-758-3561.

Kansas City—Iowa, Kansas, Missouri, Nebraska.

Mr. David Vanderburgh, Regional Director, CSA Region VIII, 1961 Stout Street, Denver, Colo. 80814 phone 303-327-4767.

CFNP Coordinator: Richard Swenson, phone 303-32713993.

Denver—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Mr. Alphonse Rodriguez, Regional Director, CSA Region IX, 450 Golden Gate Bridge, San Francisco, Ca. 94102, phone 415-556-6737.

CFNP Coordinator: Carl Shaw, phone 415-556-7895.

San Francisco—Arizona, California, Hawaii, Nevada, Trust Territories.

Mr. John Finley, Regional Director, CSA Region X, 1321 Second Avenue, Seattle, Wash. 987101, phone 206-399-4910.

CFNP Coordinator: Alberta Adams, phone 206-442-7184.

Seattle—Alaska, Idaho, Oregon, Washington.

MIGRANT CONDUITS

Applicants for local Migrant projects should submit their requests to the appropriate Migrant Conduit listed below:

Minnesota Migrant Council, P. O. Box 1231, St. Cloud, Minn, 56301, Contact: Rich Echola, phone 612-253-7010.

Migrant and Seasonal Farmworkers Association, Inc., P.O. Box 33315, 3929 Western Boulevard, Raleigh, N.C. 27606, Contact: Marian Tucker, phone 919-851-7611.

Florida Farmworkers Council, 1975 East Sunrise Boulevard, Suite 850, Fort Lauderdale, Fl. 33304, Contact: Anita Magruder, phone 305-763-5252.

Rural New York (Program Funding, Inc.), 339 East Avenue, Suite 305, Rochester, N.Y. 14604, Contact: Kathleen Hynes, phone 716-546-7180.

Campesinos Unidos, P.O. Box 203, Brawley, Ca. 92227, Contact: Jose Lopez, phone 714-344-4500.

Idaho Migrant Council, 7155 Capitol Boulevard, Suite 406, Boise, Idaho 83706, Contact: Sam Byrd, phone

Colonias del Valle, P.O. Box 907, San Juan, Texas, Contact: Isiais Aguayo, phone 512-787-9901.

[FR Doc. 79-6694 Filed 3-7-79; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 30, 32, 34]

[CGD 77-057a]

INERT GAS AND DECK FOAM SYSTEMS

Supplemental Notice of Proposed Rulemaking

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearings.

SUMMARY: The Coast Guard published a notice of proposed rulemaking in the February 12, 1979 FEDERAL REGISTER (44 FR 9039) but omitted reference to hearings on the proposal. This supplemental notice is to inform the public that two hearings will be held.

DATES: Hearings will be held on March 21, 1979 and on March 28, 1979.

ADDRESSES: The Coast Guard will hold two public hearings concerning this proposal. The March 21 hearing will begin at 9:30 a.m., in Room 2230, 400 Seventh Street, S.W., Washington, D.C. 20590. The March 28 hearing will begin at 9:30 a.m., in the Jack Tar Hotel, Van Ness at Geary, San Francisco, CA., 94101.

FOR FURTHER INFORMATION CONTACT:

Daniel F. Sheehan, Office of Merchant Marine Safety (G-MMT/82), Room 8225, U.S. Coast Guard, Department of Transportation, Nassif Building, 400 Seventh Street S.W., Washington, D.C. 20590, Telephone (202) 426-2197.

SUPPLEMENTARY INFORMATION: The Coast Guard published three proposed regulations on February 12, 1979, concerning tanker safety and pollution prevention. In two of those documents the public hearings were scheduled, but no mention of a hearing was made in the Inert Gas and Deck Foam System Proposal. Questions from the public indicate some confusion about whether or not the Inert Gas Proposal would also be discussed at the hearings. It was the Coast Guard's intention to allow comment on all three items and this notice is to clarify that point.

DRAFTING INFORMATION

The principal person involved in drafting this notice is Mr. Bruce Novak, Marine Safety Council.

(46 U.S.C. 391a; 49 CFR 1.46(n)(4))

Dated: March 2, 1979.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard
Acting Commandant.

[FR Doc. 79-7118 Filed 3-7-79; 8:45 am]

[4910-22-M]

Federal Highway Administration

[49 CFR 395]

[BMCS Docket No. MC-86, Notice No. 79-3]

FEDERAL MOTOR CARRIER SAFETY REGULATIONS

Hours of Service—Drivers Declared "Out of Service"

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Comments and information are solicited on a proposed revision to the Federal Motor Carrier Safety Regulations to declare a driver out of service for 8 consecutive hours for not having produced driver's logs for the day of examination and for the prior 7 consecutive days. Presently, a driver can defeat the intent of the regulations by refusing or otherwise failing to produce logs and is cited only for a violation of the logging requirements. As proposed, a driver who does not have the required logs shall be presumed to have exceeded the hours of service limitations and will be placed out of service for a consecutive 8-hour period.

DATE: Comments must be received by May 7, 1979.

ADDRESS: All comments should refer to the docket number and notice number that appear at the top of this document and must be submitted in an original and two copies to Room 3402, Bureau of Motor Carrier Safety, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Gerald J. Davis, Chief, Driver Requirements Branch, Regulations Division, Bureau of Motor Carrier Safety (202-426-9767), or Mr. Gerald M. Tierney, Attorney, Motor Carrier and Highway Safety Law Division, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. EST, Monday through Friday.

SUPPLEMENTARY INFORMATION: Presently §§ 395.8 and 395.9 of the Federal Motor Carrier Safety Regulations (FMCSR) require certain drivers to maintain a current driver's log. Upon failing to comply, the driver at a roadside inspection location is cited only with a violation and is allowed to continue driving on the Nation's highways, unless excess hours of service (or equipment out of service items) are established. It is difficult to establish violations without documentation. The Federal Highway Administration (FHWA) is considering amending the FMCSR to declare a driver out of service for failing to have a driver's log current on the day of examination and for the prior 7 consecutive days. An exception will be provided to the above in the event that the only failure is not having a log current on the day of examination and the prior day. In these instances the driver will be given the opportunity to prepare the logs to current status. Provided the driver does not refuse to prepare current logs, and no other out of service criteria are violated, the driver may continue to drive.

BACKGROUND

Currently, a driver is placed out of service for the following:

(1) Driving a motor vehicle more than 10 hours following 8 consecutive hours off duty or 8 hours off duty in two periods of at least 2 hours in a sleeper berth.

(2) Driving a motor vehicle after having been on duty 15 hours following 8 consecutive hours off duty.

(3) Being on duty more than 70 hours in a period of 8 consecutive days except as otherwise provided.

Presently, drivers who fail to produce logs upon request are not placed out of service but merely are cited for a violation of the hours of service regulations. For a variety of reasons, drivers may fail to produce current logs, namely, because they misplace the log book; are unaware of the regulations; forget to enter change in duty status; because they are engaged in certain operations which are exempt from log requirements.

In addition to the above-cited reasons, some drivers who have exceeded the maximum hours allowed are unwilling or not producing a current log book in order to avoid detection of the hours of service violations which would place them out of service. Instead, the drivers merely indicate they do not have a current log and incur only a written citation. Thus, they circumvent the intent of the present hours of service regulations which are designed to protect the driver and the motoring public by removing fatigued drivers from operating on the highways.

Bureau of Motor Carrier Safety statistics for 1976 and 1977, indicate that a significant percentage of drivers do

not have current logs. Of the driver violations found during roadside inspections in the year 1976, 20 percent were categorized as "no log" violations and 11 percent were categorized as "log not current" violations. Similarly, in 1977, 19 percent were categorized as "no log" violations and 13 percent were categorized as "log not current" violations.

Apparently some States also suspect that drivers are exceeding driving limitations by failing to produce current logs. For instance, the Department of California Highway Patrol has proposed a statute for introduction regarding drivers' hours of service. The new section to the California statute is intended to give a traffic officer authorization to place a driver out of service, when such drivers do not have records in their possession, or when they have exceeded the hours of service requirements. This proposed section provides for presumption of a violation of driving limits when records are not made available upon demand by authorized personnel and should result in placing these drivers out of service for an appropriate rest period. In addition, other States already have similar statutes and are enforcing them when practicable.

The FHWA proposed rule change is intended to encourage drivers to maintain current logs, decrease the mumber of no log and log not current violations, and to provide the FHWA with a consistent rule designed to remove the potentially unsafe and fatigued driver from the public highway.

As proposed, a driver placed out of service, would not be allowed to remain on duty. To the contrary, the driver would be required to be off duty for 8 consecutive hours to have the opportunity to obtain adequate rest before again operating a heavy commercial vehicle on our highways. An Exception to this procedure would be invoked, and is provided in the proposed rule change, for drivers transporting hazardous materials subject to § 397.5, which requires the vehicle to be attended. In effect, a potentially fatigued driver would be allowed to remain on duty to guard hazardous cargo, but, of course, would not be allowed to drive until being relieved from attending the hazardous materials laden vehicle. Even under these circumstances, the driver could only return to driving status after having been off duty for 8 consecutive hours.

Every special agent of the FHWA authorized to declare a driver out of service upon detecting that a driver has violated one or more of the out of service criteria will so indicate in writing. A driver will return to service upon certifying on the form provided as having been off duty for 8 consecutive hours.

In addition it is required that the driver explain the reason for being placed out of service in the remarks section of the log as provided in § 395.8(o).

1. Accordingly, it is proposed that 49 CFR 395.13 be amended to read as follows:

395.13 Drivers Declared "Out of Service."

(a) *Authority to declare drivers "Out of Service."* Every special agent of the Federal Highway Administration (as defined in Appendix B to this subchapter) is authorized to declare a driver out of service and to notify the motor carrier of that declaration, upon finding at the time and place of examination that the driver has violated the out of service criteria as set forth in paragraph (b) of this Section.

(b) *Out of service criteria.* (1) No driver shall:

(i) Drive in excess of the maximum driving time limits permitted in §§ 395.3, 395.10, and 395.11;

(ii) Remain on duty in excess of the maximum period permitted by §§ 395.3, 395.10, and 395.11;

(iii) If required to have a driver's log under §§ 395.8 and 395.9, fail to have a log current on the day of examination and for the prior 7 consecutive days. Exception: A driver failing only to have in his possession a log current on the day of examination and the prior day will be given the opportunity to prepare logs to his current status.

(c) *Responsibilities of the motor carrier.* (1) No motor carrier shall:

(i) Require or permit a driver who has been declared out of service to operate a motor vehicle until that driver may lawfully do so under the rules in §§ 395.3, 395.10, and 395.11;

(ii) Require a driver who has been declared out of service for failure to prepare a daily log to operate a motor vehicle until that driver has been off duty for 8 consecutive hours and is in compliance with §§ 395.8 and 395.9.

(2) A motor carrier shall complete the appropriate portion of the form provided and deliver the copy of the form either personally or by mail to the Director, Regional Motor Carrier Safety Office, Federal Highway Administration, at the address specified upon the form within 15 days following the date of examination. If a motor carrier sends the form to the Director by mail, delivery is made upon the date when it, or the envelope containing it, is postmarked.

(d) *Responsibilities of the driver.* (1) No driver who has been declared out of service shall:

(i) Operate a motor vehicle until that driver may lawfully do so under the rules in §§ 395.3, 395.10, and 395.11.

(ii) For failing to prepare a driver's log, operate a motor vehicle until having been off duty for 8 consecutive hours and is in compliance with §§ 395.8 and 395.9.

(2) A driver to whom a form has been tendered declaring the driver out of service shall within 24 hours thereafter deliver or mail the copy to a person or place designated by the motor carrier to receive it.

(3) Section 395.13 does not alter the hazardous materials requirements prescribed in § 397.5, pertaining to attendance and surveillance of motor vehicles.

2. In addition, it is proposed that 49 CFR 395.8(o) be amended by adding the following sentence:

395.8 Remarks.

(o) * * * Explain the reason for being placed out of service, pursuant to § 395.13.

NOTE: The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044.

Issued on March 2, 1979.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 79-6951 Filed 3-7-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1331]

[Ex Parte No. 297 (Sub-No. 3)]

MODIFIED TERMS AND CONDITIONS FOR APPROVAL OF COLLECTIVE RATEMAKING AGREEMENTS UNDER 49 U.S.C. § 10706(b); CORRECTED*

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission will institute a rulemaking proceeding to determine whether to establish an additional rule requiring that all meetings of rate bureaus operating in accordance with collective ratemaking agreements approved under 49 U.S.C. § 10706(b) be opened to the public. This rule will supplement those proposed in our prior notice in the FEDERAL REGISTER of January 12, 1978, 43 FR 1809, in this proceeding seeking to establish additional terms and conditions for approval of collective ratemaking agreements under section 5a of the Interstate Commerce Act (now 49 U.S.C. § 10706(b)) that would be consistent

*Corrected to show the service date as February 28, 1979 instead of January 28, 1979.

with the prohibitions on collective ratemaking by railroads contained in section 5b of the Act (now 49 U.S.C. § 10706(a)).

DATES: Statements of intent to participate are due March 28, 1979. Written representations of fact, argument, comment or other views on the merits of this proposal are due April 23, 1979. Replies to written representations are due May 22, 1979.

ADDRESSES: Statements of Intent to participate should be addressed to: Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423. Written representations should be addressed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, (202) 275-7693 or (202) 275-7656.

SUPPLEMENTARY INFORMATION: This proceeding was instituted by order dated December 30, 1977, and by notice in the FEDERAL REGISTER on January 12, 1978, 43 FR 1809. The Commission, on its own motion, proposed new rules and regulations designed to apply the provisions of 49 U.S.C. § 10706(a) governing railroad collective ratemaking agreements in accordance with 49 U.S.C. § 10706(b). Comments and replies were filed by 45 parties.

Upon consideration of the evidence submitted, a majority of the Commission voted to seek public comment on the issue of whether all meetings of rate bureaus operating in accordance with agreements approved under 49 U.S.C. § 10706(b) should be opened to the public.

Deadlines for the submission of statements of intent to participate and written representations appear in the heading of this notice. For administrative convenience, parties should indicate in the statement of intent whether they intend to actively participate, in which case they will be placed on the service list, or whether they merely wish to receive copies of reports and orders of the Commission. Parties actively participating in this proceeding by submitting written representations must serve copies of their representations on all parties on the service list. An original and fifteen copies of written representations must be filed with the Commission. An original and one copy of the statements of intent to participate must also be filed. A service list will be sent to all active parties in time to enable them to comply with the filing deadline.

Decided February 14, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Commissioner Stafford dissenting. Commissioner Gresham dissenting in part.

H. G. HOMME, Jr.,
Secretary.

COMMISSIONER STAFFORD, DISSENTING

I would not broaden this rulemaking.

I also agree with Brother Gresham that the Notice announcing the decision on the 8 issues at this time is meaningless and serves no useful purpose.

Nevertheless, since the majority is expressing its preliminary decision, I will indicate my preliminary opposition to items III, IV, and VIII.

COMMISSIONER GRESHAM, DISSENTING IN PART

I believe the majority should have issued a notice which was limited to informing the public that the Commission is considering whether to apply the "sunshine" provisions to non-rail rate bureaus. At this stage, I cannot say with certainty to what extent I will ultimately join the majority in whatever draft decision it finally adopts on the issues listed in this notice because no decision explaining the majority position has been drafted as of this time. For example, I do not know how I can say whether I will join the majority on issue III when I have not yet had the benefit of the majority's reasons for adopting this limitation or its definition of "practicably participate." I am at a loss to explain why the majority is announcing its ultimate conclusions without first providing all members of the Commission with the opportunity to evaluate the reasoning which underlies and defines these conclusions.

[FR Doc. 79-7119 Filed 3-7-79; 8:45 am]

notices

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

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

EXPANSION OF PERMISSIVE GRAIN INSPECTION CRITERIA

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: The Service gives notice of the addition of protein to the list of other criteria (not included in the Official U.S. Grain standards for Grain) under which an official agency shall, upon request, officially inspect for protein all classes of wheat except Mixed Wheat and Unclassed Wheat. Under existing regulations, adding protein to the list of other criteria imposes a duty upon official agencies to own or control equipment and facilities needed to perform protein testing. If adopted, this provision would become effective August 15, 1979. Provisions for exempting those official agencies which handle little or no wheat of any kind are also outlined.

DATE: Comments by April 9, 1979.

ADDRESS: Comments should be sent in duplicate to J. T. Abshier, USDA, FGIS, Compliance Division, Room 2405, Auditors Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250, telephone (202) 447-8262.

FOR FURTHER INFORMATION CONTACT:

Leslie E. Malone (Program Operations), USDA, FGIS, Room 1627, South Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250, telephone (202) 447-9166.

SUPPLEMENTARY INFORMATION: On May 1, 1978, pursuant to section 7(b) of the Act (7 U.S.C. 79(b)), the Administrator of the Federal Grain Inspection Service (FGIS) expanded permissive grain inspection under official criteria to include official protein testing for the classes Hard Red Winter (HRW) and Hard Red Spring (HRS) Wheat (43 FR 13406).

In implementing official protein testing under the Act, the Administrator required FGIS and States delegated authority to officially inspect U.S. grain exports at export port locations to provide, upon request, official protein testing services for HRW and HRS Wheat using only FGIS-approved near-infrared reflectance (NIR) equipment. Furthermore, the Administrator authorized all designated official agencies possessing the capability to perform official protein testing services to provide those services, upon request, using FGIS-approved NIR equipment of other FGIS-approved wheat protein testing methods. Official agencies unable to provide protein testing services were autorized, with permission of the appropriate FGIS Field Office or Regional Office, to consign requests for official protein testing to other official agencies capable of providing the service.

On August 15, 1979, the permissive grain inspection under official criteria will be expanded to include protein testing for all classes of wheat except Mixed and Unclassed Wheat. As a result, requests for official protein testing services are expected to increase considerablly. To provide the necessary testing services, each official agency shall be required to possess an FGIS-approved protein testing method and to provide official protein testing services effective August 15, 1979. Furthermore, FGIS proposes that effective May 1, 1981, only the NIR method shall be used for determining official protein content in wheat.

Requiring official agencies to obtain protein testing capabilities and to provide official protein testing services is consistent with the statutory mandate that FGIS establish an integrated nationwide system of grain inspection. Such a system requires uniform application of all official grain grading standards and all permissive grain inspection under official criteria approved by the Administrator. The proposed nationwide official protein testing system should reduce intermarket differences in protein results which have in the past, under the existing system, caused merchandising costs to fluctuate unnecessarily.

In an effort to minimize the unnecessary expenses due to intermarket differences in protein results and to make official protein testing available at all specified service points, all official agencies should have available FGIS-approved protein testing equipment by August 15, 1979. For the purpose of this notice, a specified service point is a city, town, or other location specified by an agency for the conduct of all or specified official functions and where the agency or one or more of its official licensed inspectors or weighers is located.

Likewise, in a further effort to minimize differences in protein testing results due to differences in equipment, FGIS is considering a requirement that all official protein results be determined by the NIR method using only FGIS-approved NIR equipment effective May 1, 1981. A list of protein testing methods and instruments approved by the Administrator may be obtained from the FGIS, Standardization Division, South Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

Pursuant to Section 7(f)(1)(A) of the Act (7 U.S.C. 79(f)), all official agencies are responsible for complying with all provisions of the Act and any regulations and instructions issued thereunder. After August 15, 1979, any official agency that fails or refuses to provide official protein testing services upon request for the service may have its designation revoked or suspended. If the designation of an agency is suspended or revoked, the FGIS will make suitable arrangements to assure that original grain inspection and protein testing services are available in the affected market until the suspension is terminated or a replacement agency can be found.

If an official agency believes that no substantive need exists for protein testing services in its geographic area, the official agency may request that the Administrator exempt it from the requirements to possess wheat protein testing equipment and to provide official protein testing services for wheat. Requests for exemptions, if this proposed requirement becomes final, should be sent to the supervising FGIS Field Office for review as soon as possible after the publication of the notice as final and should be accompanied by a documented statement as to why the official agency feels no need for official protein testing services exists in its geographic area. The exact date by which all requests for exemptions must be filed will be included in the publication of the notice as final. Exempted official agencies will not be responsible for providing official protein testing services if occasional requests for such services arise in their geographic area. In such cases, the requests to such agency will be

consigned, with the permission of the appropriate FGIS Field Office or Regional Office, to official agencies possessing protein testing capabilities.

Should requests for protein testing services become a common occurrence in an exempted official agency's geographic area, the Administrator may, upon reevaluation, withdraw the exemption and require the official agency to obtain protein testing equipment and to provide the requested services on a permanent basis.

Those official agencies not exempt from the requirement to provide protein testing services will be responsible for training their official personnel in the use of the approved protein testing device. Official agencies also will be responsible for official personnel, once trained, obtaining licenses to perform protein testing functions before performing such functions.

Official personnel who wish to become licensed to perform wheat protein testing will be required to pass a proficiency examination. The examination will be administered by field office personnel at the appropriate field office or official agency office, and official personnel passing the wheat protein testing examination will be licensed to perform official wheat protein testing functions.

The appropriate field office will supervise official agency use of approved testing equipment and will be responsible for reviewing procedures followed by licensed official personnel.

To avoid public confusion, after August 15, 1979, no official agency shall perform protein testing on HRW, HRS, Soft Red Winter, Durum, or White Wheat on an unofficial basis but shall perform the analysis only on an official basis under the Act.

FGIS is limiting the comment period on this proposal to 30 days. This will allow FGIS sufficient time to thoroughly review requests for exemptions and will afford affected official agency ample time to prepare for what may be required of them before the effective date. This will also allow FGIS to give the grain industry ample advance notice that official protein testing of all classes of wheat except Mixed and Unclassed Wheat will become available on August 15, 1979. FGIS believes that substantial advance notice of this proposal has been included in previous protein dockets published in the FEDERAL REGISTER (41 FR 17553, 41 FR 26670, and 43 FR 13406) and in instructions and notices (FGIS Notice 71, ST Notice 8, and IN Instruction 918-6) related to protein testing issued by FGIS to official personnel and interested parties in the grain industry. Such prior notice has afforded interested persons adequate time to formulate opinions, views, arguments, and suggestions. Also, the overall effect of this proposed requirement, if it becomes final, is expected to be minimal, inasmuch as most official agencies in wheat marketing areas are already providing or have the capability to provide official protein testing services.

An approved Draft Impact Analysis is available from J. T. Abshier, USDA, FGIS, Compliance Division, Room 2405, Auditors Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250, telephone (202) 447-8262.

(Sec. 8, Pub. L. 94-582, 90 Stat. (7 U.S.C. 79.)

Done in Washington, D.C., on: February 27, 1979.

L. E. BARTELT,
Administrator, Federal Grain Inspection Service.

[FR Doc. 79-7160 Filed 3-7-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order 79-3-16; Dockets 34203 and 34666]

ALLEGHENY AIRLINES, INC. AND RANSOME AIRLINES

Termination of Service at Liberty/Monticello, N.Y.

Notice of intent of Allegheny Airlines, Inc. to terminate service at Liberty/Monticello, New York (Docket 34203) and notice of intent of Ransome Air, Inc. d/b/a Ransome Airlines to terminate service at Liberty/Monticello, New York (Docket 34666).

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of March, 1979.

On December 8, 1978, Allegheny Airlines filed a notice under section 401(j) of the Act to suspend all air service at Liberty/Monticello, New York, effective March 9, 1979. Allegheny is presently the only air carrier certificated at this point. By Order 78-2-7, dated February 1, 1978, we authorized Allegheny to postpone the inauguration of service at Liberty/Monticello for a period of three years effective March 17, 1978, contingent upon the provision of a minimum level of replacement service by Ransome Airlines, an Allegheny Commuter.[1]

On February 5, 1979, Ransome Airlines filed a notice under section 419 of the Act of its intent to terminate on or after March 9, 1979, all service which it provides to Liberty/Monticello, New York.

No answers to the notices have been filed.

We are very concerned about the orderly maintenance of air service to meet the essential needs of Liberty/Monticello. Prior to relieving Allegheny of its certificate obligation and to allowing Ransome to suspend its operations, we must determine that essential air transportation will be provided in the absence of Allegheny and Ransome. By our action here, we will initiate steps under section 419 to insure that the essential air transportation needs of Liberty/Monticello will be met.

Specifically, we intend to make an interim essential air transportation determination for Liberty/Monticello after we have received and fully considered the views of the community and state officials.[2] Once this interim determination is established, we will formally invite interested applicants to submit service proposals indicating the service patterns and equipment types they would use to serve the point,[3] whether they would require subsidy and, if so, the amount of subsidy that would be required.

We believe that we have a statutory responsibility to insure that communities are directly involved in the process of determining their essential level of air transportation, and that responsible community and state officials have the opportunity to respond directly on the issue. Before we can make an interim determination and formally invite carriers to submit service proposals, we must determine the views of the community and the appropriate state officials concerning the interim level of essential air transportation that should be provided at Liberty/Monticello. Therefore, we are requesting Liberty/Monticello and the appropriate state officials of New York to submit in Docket 34203 within 30 days of the service date of this order their views on:

(1) Liberty/Monticello's principal communities of interest for air service;

(2) the appropriate size and characteristics of aircraft that should be operated at the community; and

(3) the minimum level of frequencies which would provide essential service.

After this information is provided, we will make an interim determination and formally invite interested carriers to submit service proposals. Once we have determined that a qualified carrier (or carriers) will be able to inaugu-

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[1] As amended by Order 78-10-8, October 3, 1978, Allegheny was relieved of its service requirement as long as Ransome provides (1) three daily round trip Liberty/Monticello-New York-Philadelphia flights Sundays through Fridays and one round trip on Saturdays between May 1 and September 30 and (2) two daily round trips over the same routing except Saturdays for the remainder of the year.

[2] We are required to make a determination of essential air transportation for each community such as Liberty/Monticello that is "eligible" under section 419 of the Act by October 24, 1979. See section 419(a)(2)(A) of the Act.

[3] We are serving a copy of this order on all commuter air carriers registered with the Board from either New York, New Jersey, Pennsylvania or New England.

rate and maintain the level of essential air transportation at Liberty/Monticello, we will relieve Ransome and Allegheny of their obligations at the point.

Furthermore, we are giving Allegheny and Ransome notice that a suitable replacement carrier (or carriers) may not be found prior to March 9, the final day of their notice periods. In that event, we will require Allegheny and Ransome to continue to provide service at the existing level to Liberty/Monticello for an additional 30-day period or until another air carrier has begun to provide essential air transportation, whichever occurs first.[4] Having notified Allegheny and Ransome of their service obligation for this 30-day period, we expect the carriers to hold service out to the public for this period and to accept reservations for such service. Finally, we urge Ransome and Allegheny to contact our staff to discuss their ability to continue to provide service at Liberty/Monticello after March 9, and to specify any compensation for losses which may be required.

Accordingly,

1. We request that Liberty/Monticello, New York, and the New York State Department of Transportation submit by April 4, 1979, their views regarding the level of essential air transportation for Liberty/Monticello;

2. We require Allegheny Airlines and Ransome Airlines to continue to provide service at Liberty/Monticello, New York, at the levels specified in Order 78-10-8, for an additional 30-day period, until April 8, 1979, or until a fit, willing and able replacement carrier is found by us to be capable of inaugurating and maintaining essential air transportation at Liberty/Monticello, whichever occurs first;

3. We will serve a copy of this order on all those persons who appear on the service lists of Dockets 34203 and 34666, the New York State Department of Transportation, and all commuter air carriers registered with the Board which operate scheduled air transportation at any point in the States of New York, New Jersey, Pennsylvania, and in New England; and

4. This order may be amended or revoked at any time at our discretion without a hearing.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-7051 Filed 3-7-79; 8:45 am]

[4] We are currently examining the section 419 responsibilities of individual carriers that are parties to suspension/replacement arrangements. Although we have decided here to hold both carriers responsible for providing essential air transportation, our decision on this general question is not final. For now, we will hold one or the other or both carriers to the obligations to provide essential air transportation as the circumstances of each case require.

[5] All Members concurred.

[6320-01-M]

ST. LOUIS-SALT LAKE CITY MARKET

Consideration of Nonstop Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-3-6, (Order to Show Cause), Docket 34886.

SUMMARY: The Board is making final the findings of Order 78-10-98, granting American Airlines nonstop authority in the St. Louis-Salt Lake City market and it has tentatively concluded that such authority should also be granted to Allegheny Airlines, Continental Air Lines, Eastern Airlines, Hughes Air Corp. d/b/a Hughes Airwest, Ozark Air Lines, Trans World Airlines, Western Air Lines, and any other fit, willing, and able carrier, whose fitness can be determined by officially noticeable data, by show cause procedures.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than April 5, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than April 5, 1979.

ADDRESSES: Objections or Additional data should be filed in Docket 34886, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:

James R. Olavarria, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5408.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: American Airlines, Inc., Hughes Air Corp. d/b/a Hughes Airwest, Allegheny Airlines, Inc., Continental Air Lines, Inc., Ozark Air Lines, Inc., Trans World Airlines, Inc., Western Air Lines, Inc., St. Louis Airport Authority—City of St. Louis, St. Louis Regional Commerce and Growth Association, State of Utah, Salt Lake City Corporation, and the Salt Lake City Chamber of Commerce.

The complete text of Order 79-3-6 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-3-6 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-7052 Filed 3-7-79; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

NATIONAL INSTITUTES OF HEALTH

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 79-00051. Applicant: National Cancer Institutes—National Institutes of Health, Building 10, Rm. 2A10, Ultrastructural Pathology Section, Laboratory of Pathology, Bethesda, Maryland 20014. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare biological materials, including human tumor tissues and tissue cultures derived therefrom for electron microscopic examination. Investigations will include diagnosis of human tumors from biopsy specimens, as well as ultrastructural studies on normal and pathologic human tissues, developmental studies on human tumors in vitro, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at tissue-substrate interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The article will also be used in the course entitled Ultrastructural Pathology which involves a study of general principles and techniques and the use of the electron microscope to study the fine structure of cells and various subcellu-

lar organelles and the employment of cytochemical staining methods to localize various enzymes.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a cutting speed range of 0.1 to 50 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the National Bureau of Standards in its memorandum dated February 16, 1979 that (1) cutting speeds in the excess of 4mm/sec. are pertinent to the applicant's research studies and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 79-7045 Filed 3-7-79; 8:45 am]

[3510-25-M]

SMITHSONIAN INST./CAMBRIDGE, MA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 79-00027. Applicant: Smithsonian Institution Astrophysical Observatory, 60 Garden Street, Cambridge, Mass. 02138. Article: Image Intensifier Tube. Manufacturer: Robert Bosch GmbH, Germany. Intended use of article: The article is intended to be used for observations of a variety of astronomical objects using high-efficiency spectrographs attached to large telescopes. These observations will include studies of galactic and extragalactic phenomena such as quasars, galaxy redshifts, cosmological evolution, interstellar absorption, and stellar or galactic chemical composition. The article will be used as an imput stage for a high-gain image intensifier chain, which will in turn feed a photodiode detector array, allowing detection and location of individual photoelectron events.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a spectral response sensitivity of >50 mA/Watt @ 400nm. The National Bureau of Standards advises in its memorandum dated February 2, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 79-7046 Filed 3-7-79; 8:45 am]

[3510-25-M]

UNIV. OF CALIF.—LOS ALAMOS

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 79-00031. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, New Mexico 87545. Article: Image Converter Camera. Manufacturer: John Hadland, United Kingdom. Intended use of article: The article is intended to be used to photograph the behavior of a high velocity (up to 10^8 cm/sec) plasma stream emerging from a coaxial plasma gun. The article will also be used to diagnose a planned liner implosion plasma experiment. The specific experiments to be conducted include the following:

A. Studies of the initial gas breakdown in the gun;

B. Study of the formation and subsequent behavior of the plasma stream in front of the gun nozzle;

C. The injection of this plasma into a magnetic field;

D. The measurement of the plasma properties such as axial velocity, transverse energy, temperature, impurity content, total energy;

E. Experiments to optimize gun parameters for production of thermonuclear plasmas.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides from 6 to 20 frames per run at a rate of 2×10^{-6} frames per second with a 0.1 microsecond exposure per frame. The National Bureau of Standards advises in its memorandum dated February 5, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 79-7047 Filed 3-7-79; 8:45 am]

[3510-25-M]

UNIVERSITY OF DELAWARE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 79-00044. Applicant: University of Delaware, Newark, Delaware 19711. Article: Specific Heat Flow Calorimeter and accessories. Manufacturer: Sodev Inc., Canada. Intended use of articles: The article is intended to be used for the measurement of the specific heats of dilute solutions of various substances in aqueous solution. Solutes include alcohols, amides, acids, etc. which are needed in connection with the study of functional group interactions in dilute aqueous solutions. It will be necessary to measure specific heat differences between water and 0.1 mole kg^{-1} solutions to get apparent molal heat capacities of the solutes.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a sensitivity of 5×10^{-5} Joules/kilogram/cubic centimeter. The National Bureau of Standards advises in its memorandum dated January 19, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 79-7048 Filed 3-7-79; 8:45 am]

[3510-25-M]

U. OF ILLINOIS AT CHICAGO CIRCLE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket Number: 79-00058. Applicant: University of Illinois at Chicago Circle, P.O. Box 4348, Chicago, Illinois 60680. Article: Laser Kit, Model H-103-2 and accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used to study organic reactions initiated by infrared radiation. These reactions fall into three main categories: (i) Laser induced decomposition of molecules, (ii) Laser-induced isomerizations, and (iii) Biomolecular reactions such as the reaction of butadiene with vinyl chloride. The objective of this research is to discover if laser radiation can cause new chemical reactions or accelerate known reactions.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is capable of providing at least 8 joules per pulse. The National Bureau of Standards advises in its memorandum dated February 16, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 79-7049 Filed 3-7-79; 8:45 am]

[3510-25-M]

UNIVERSITY OF WISCONSIN

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before March 28, 1979. Regulations (15 CFR 301.9) issued under the cited act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 79-00147. Applicant: University of Wisconsin, Dept. of Physics Chamberlin Hall, 1150 University Avenue, Madison, Wisconsin 53706. Article: Two (2) Millimeter Reflex Klystrons and accessories. Manufacturer: Varian Associates, Canada. Intended use of article: The article is intended to be used for studies of magnetic confinement of the high temperature ionized gas, i.e., plasma. Experiments to be conducted include magnetic confinement characteristics in the presence of different stabilizing mechanisms, i.e., density variations caused by application of auxiliary heating and trapping schemes and with different fueling mechanisms. Application received by Commissioner of Customs: February 9, 1979. Docket Number: 79-00150. Applicant: University of Kentucky, Department of Anatomy, MN 220, Medical Science Building, Lexington, KY 40536. Article: LKB 2258 PMV Cryomicrotome type 160 for 110V, 60 Hz

and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section biological materials including long blocks of vertebrae from various species of monkeys, chiefly *Macacca mulatta and Cynomologus irus.* Investigations will be carried out on primate vertebral discs subjected to prolonged compression. The morphological correlates of compression will be studied directly from the sections. Other sections will be used for autoradiographs to assess disturbances in disc metabolism, and still others will be used to acquire samples for biochemical analysis of collagen metabolism. In addition, the article will be used to train graduate students in modern scientific research methods in the courses Anatomy 503, 529 (Independent Work). Application received by Commissioner of Customs: February 9, 1979.

Docket Number: 79-00151. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: Electron Microscope, Model EM 400 HTG and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the following multifold purposes:

1. Research into reactor fuels and cladding in both pre and post irradiated condition in support of the Fast Reaction Program of DOE,
2. Research into plutonium and uranium and the alloys in support of the laboratory's weapons program,
3. Support of the Controlled Thermonuclear Research (CTR), particularly in the area of radiation effects and damage in container materials,
4. Support of materials research and development for the Space Flight Reactor Program (SFR), and
5. General support of laboratory programs as a TEM-STEM-EDX-ELLS instrument of "last resort" where existing laboratory TEM's lack the capability of this "ultra" capability instrument.

Application received by Commissioner of Customs: February 6, 1979.

(Catalog of Federal Domestic Assstance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 79-7050 Filed 3-7-79; 8:45 am]

[3510-25-M]

MEMORY AND MEDIA SUBCOMMITTEE OF THE COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Memory and Media Subcommittee of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Wednesday, March 28, 1979, at 1:30 p.m. in Room 3817, Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Memory and Media Subcommittee of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was established on December 21, 1978, with the approval of the Assistant Secretary for Industry and Trade, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Memory and Media Subcommittee was formed to study random and sequential access computer related peripheral memory devices and to provide the Committee with information to include in reports to the Department related to the Committee's charter.

The Subcommittee meeting agenda has five parts:

GENERAL SESSION

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the Public.
3. Subcommittee reports on:
   a. Media,
   b. Memory, and
   c. Government Activity.
4. Discussion of Subcommittee activity.

EXECUTIVE SESSION

5. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on September 14, 1978 (43 FR 41071).

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: March 2, 1979.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 79-7105 Filed 3-7-79; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

POINT REYES BIRD OBSERVATORY

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361—1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
a. Name: Point Reyes Bird Observatory.
b. Address: Stinson Beach, California 94970.
2. Type of Permit: Scientific Research.
3. Name and Number of Animals: Northern elephant seals (*Mirounga angustirostris*), 3700.
4. Type of Take: Tagging and marking with roto tags and dye.
5. Location of Activity: Farallon Islands.
6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before April 9, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: March 5, 1979.

RICHARD B. ROE,
Deputy Director, Office of Marine Mammals and Endangered Species National Marine Fisheries Service.

[FR Doc. 79-7101 Filed 3-7-79; 8:45 am]

[3810-71-M]

DEPARTMENT OF DEFENSE

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on March 28-29, 1979, at the Pentagon, Washington, D.C. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:30 p.m. on both days. All sessions will be closed to the public.

The entire agenda will include discussions of Navy Program Planning, Soviet vulnerabilities, strategic defense developments, and intelligence briefings on current political-military developments. The agenda will consist of classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(i) of title 5, United States Code.

For further information concerning this meeting, contact Commander Robert B. Vosilus, United States Navy, Executive Secretary of the CNO Executive Panel Advisory Committee, 1401 Wilson Boulevard, Room 405, Arlington, VA 22209, telephone (202) 694-3191.

Dated: March 5, 1979.

P. B. WALKER,
Captain, JAGC, U.S. Navy Deputy Assistant Judge Advocate, General (Administrative Law).

[FR Doc. 79-7083 Filed 3-7-79; 8:45 am]

[3810-71-M]

NAVAL RESEARCH ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee will meet on March 26-27, 1979, at the Naval Research Laboratory and The Pentagon, Washington, D.C. The meeting will consist of five sessions. The first session will commence at 8:00 a.m. and terminate at 9:00 a.m. on March 26, 1979. The second session will commence at 9:00 a.m. and terminate at 12:15 p.m. on March 26, 1979. The third session will commence at 1:30 p.m. and terminate at 4:45 p.m. on March 26, 1979. The fourth session will commence at 8:00 a.m. and terminate at 12:00 noon on March 27, 1979. Finally, the fifth session will commence at 1:00 p.m. March 27, 1979, and continue to completion. The first, second, and third sessions of the meeting will be held in the MIC Room, Building 43, Naval Research Laboratory. The fourth and fifth sessions will be in the PEC Room 4D710 in The Pentagon, Washington, D.C. The first session in the morning of March 26, 1979, will be open to the public. The remaining four sessions will be closed to the public.

The purpose of the meeting is to discuss basic and advanced research in the Navy. The open session will generally cover the mission of the Naval Research Laboratory. The remaining sessions of the meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The Secretary of the Navy has therefore determined in writing that the public interest requires the second, third, fourth, and fifth sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b (c)(1) of title 5, United States Code.

For further information concerning this meeting contact:

Captain J. B. Morris, U.S. Navy, Office of Naval Research (Code 220), 300 North Quincy Street, Arlington, VA 22217, telephone number (202) 696-4712.

Dated: MARCH 5, 1979.

P. B. WALKER,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Administrative Law).

[FR Doc. 79-7082 Filed 3-7-79; 8:45 am]

[3810-71-M]

DEPARTMENT OF DEFENSE

Department of the Navy

ACADEMIC ADVISORY BOARD TO THE SUPERINTENDENT, UNITED STATES NAVAL ACADEMY, A SUBCOMMITTEE OF THE SECRETARY OF THE NAVY'S ADVISORY BOARD ON EDUCATION AND TRAINING

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Academic Advisory Board to the Superintendent, United States Naval Academy, a subcommittee of the Secretary of the Navy's Advisory Board on Education and Training, will meet on March 23, 1979, at conference room 4E714, The Pentagon, Washington, D.C. The meeting will commence at 10:00 a.m. and terminate at 3:00 p.m.

The purpose of the meeting is to advise and assist the Superintendent of the Naval Academy concerning the education of midshipmen. To accomplish this objective, the Board will review academic policies and practices of the Naval Academy and will submit their proposals to the Superintendent to aid him in improving educational standards and in solving academic problems.

For further information concerning this meeting contact:

Major Donald W. Nelson, USAF, Military Secretary to the Academic Advisory Board, Division of English and History, United States Naval Academy, Annapolis, MD 21402. Telephone number (301) 367-2170.

Dated: MARCH 6, 1979.

P. B. WALKER,
Captain, JAGC, U.S. Navy, Deputy Assistant, Judge Advocate General (Administrative Law).

[FR Doc. 79-7180 Filed 3-7-79; 8:45 am]

[3910-01-M]

U.S. READINESS COMMAND JOINT READINESS EXERCISE BOLD EAGLE 80

Notice of Intent

MARCH 2, 1979.

Notice is hereby given of the intent to file a draft environmental impact statement on the proposed exercise.

Bold Eagle 80 is a joint readiness exercise directed by the Joint Chiefs of Staff and sponsored by the US Readiness Command. It is scheduled to be conducted on and over the Eglin Air Force Base, Florida Test Range Complex during the period 9 October thru 9 November 1979. Alternatives to the proposal which are being examined include alternative levels of participation and/or locations.

Bold Eagle 80 is planned as the fifth in a series of exercises at Eglin Air Force Base. The scope of the exercise is similar to those conducted in the fall of 1975 and 1976, and slightly smaller than those conducted in the fall of 1977 and 1978. Approximately 20,000 personnel, 200 aircraft, 180 helicopters, 3800 wheeled vehicles and 170 tracked vehicles will be available for use during the exercise.

In accordance with paragraphs 1501.7 and 1508.22 of the Council on Environmental Quality Regulations for Implementation of the National Environmental Policy Act, federal, state and local agencies and interested persons and organizations are invited to make known issues which should be addressed and analyzed in the environmental impact statement.

Written comments should be sent to:

USREDCOM/RCJ4-L
MacDill Air Force Base, FL 33608

with information copy sent to the lead agency:

TAC/DEEV
Langley Air Force Base, VA 23665

For further information or telephonic comment, contact LTC Stanley Domal, USREDCOM, phone (813) 830-3831.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-7014 Filed 3-7-79; 8:45 am]

[3810-70-M]

Office of the Secretary

DEFENSE ADVISORY COMMITTEE ON WOMEN IN THE SERVICES (DACOWITS)

Meeting

Pursuant to Pub. L. 92-463 notice is hereby given that a meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held 1-5 April 1979 at the Hotel Washington, and The Pentagon, Washington, D.C. and the Naval Base, Norfolk, Virginia.

The purpose of the DACOWITS committee is to assist and advise the Secretary of Defense on matters relating to women in the services. The committee meets semiannually.

Sessions will be conducted daily as indicated and will be open to the public. The agenda will include the following meetings and discussions:

Sunday, 1 April 1979, Hotel Washington 10:00 a.m.-4:00 p.m.—Registration 1:00 p.m.-4:00 p.m. Orientation Briefing for New Members.

Monday, 2 April 1979, OSD Conference Room, #1E801 7—9:00 a.m.-9:45 a.m.—Offical Opening 10:00 a.m.-10:45 a.m.-General Business Session 10:50 a.m.-11:50 a.m.—OSD Briefing on Current Issues 12:15 p.m.-1:00 p.m.—Luncheon (by invitation only) 1:15 p.m.-2:45 p.m.—OSD Briefings 3:00 p.m.-4:00 p.m.—Subcommittee Meetings 7:00 p.m.-10:30 p.m.—Offical Department of Defense Formal Reception and Dinner (by invitation only). Tuesday, 3 April 1979, Hotel Washington 8:00 a.m.-9:00 a.m.—OSD Briefing 9:15 a.m.-11:45 a.m.—Subcommittee Meetings 12:15 p.m.-1:30 p.m.—Informal Luncheon (no host) 1:45 p.m.-3:15 p.m.—Subcommittee Meetings 3:30 p.m.-4:30 p.m.—Chairperson's Time (DACOWITS Members Only).

Wednesday, 4 April 1979—Naval Base, Norfolk, Virginia 8:00 a.m.-6:00 p.m.—One day field trip to fleet activities hosted by the U.S. Navy.

Thursday, 5 April 1979—Hotel Washington 8:00 a.m.-9:30 a.m.—Executive Committee and Military Representatives to DACOWITS Meeting 9:00 a.m.-11:45 a.m.—General Business Session. Presentations by members of the public. 12:00 Noon—Informal Luncheon (No Host) 1:30 p.m.-3:00 p.m.—To be Determined 1:30 p.m. or 3:00 p.m.—Adjourned.

Members of the public will not be permitted to go on the field trip or attend the social functions.

The following rules and regulations will govern the participation by members of the public at this meeting:

(1) All business sessions, to include Executive committee sessions, will be open to the public.

(2) Interested persons may submit a written statement and/or make an oral presentation for consideration by the committee during the meeting.

(3) Persons desiring to make an oral presentation or submit a written statement to the committee must notify Lt. Col. Barbara J. Roy, USMC, DACOWITS, Executive Secretary, OASD (Manpower, Reserve Affairs and Logistics), Room 3D322, the Pentagon, Washington, D.C. 20301, 202-697-5655-56 by March 19, 1979.

(4) Length and number of oral presentations to be made will depend on the number of requests received from the members of the public.

(5) Oral presentations by members of the public will be permitted only from 9:30 a.m. to 10:15 a.m. on Thursday, April 5, 1979 before the full committee.

(6) Each person desiring to make an oral presentation or submit a written statement must provide the DACOWITS Secretariat with 40 copies of the presentation/statement by March 19, 1979.

(7) Persons submitting a written statement only for inclusion in the minutes of the meeting must submit one (1) copy either before or during

the meeting or within five (5) days after the close of the meeting.

(8) Members of the public will not be permitted to enter into the oral discussion conducted by the committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by members of the committee.

(9) Members of the public will be permitted to orally question the scheduled speakers if time allows after the official participants have asked questions and/or made comments.

(10) Questions from the public will not be accepted during the subcommittee sessions, the executive committee sessions, or the final general session on Thursday, April 5, 1979.

Additional information regarding the committee and/or this meeting may be obtained by contacting the DACOWITS Executive Secretary, OASD (MRA&L), The Pentagon, Washington, D.C. 20301.

Dated: March 5, 1979.

H. E. LOFDAHL,
Deputy Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

[FR Doc. 79-7055 Filed 3-7-79; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON NAVAL SURFACE SHIP VULNERABILITY

Advisory Committee Meeting

The Defense Science Board Task Force on Naval Surface Ship Vulnerability will meet in closed session on 27 March 1979 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs to the Department of Defense.

A meeting of the Task Force on Naval Surface Ship Vulnerability has been scheduled for 27 March 1979 to review, evaluate, and summarize the vulnerability of naval surface ships with consideration of their effectiveness in carrying out future naval missions.

In accordance with 5 U.S.C. App. I § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

Dated: March 5, 1979.

H. E. LOFDAHL,
Department Director Correspondence & Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-7053 Filed 3-7-79; 8:45 am]

[3810-70-M]

ORGANIZATION OF THE JOINT CHIEFS OF STAFF; DEFENSE INTELLIGENCE SCHOOL PANEL OF THE NATIONAL DEFENSE UNIVERSITY AND THE DEFENSE INTELLIGENCE SCHOOL

Meeting

The President of the National Defense University has scheduled a meeting of the National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School on Tuesday, April 17, 1979, from 0830-1145 and 1330-1630. The meeting will be held in the Hill Conference Center, Building 61, The National War College, Fort L. J. McNair, Washington, D.C. The discussions will consider present programs and future plans for the National Defense University and its major constituent components, The National War College and the Industrial College of the Armed Forces. The meeting will be open to the public. To reserve space, interested persons should write or phone (693-1074) the Assistant to the President, National Defense University, Fort Lesley J. McNair, Washington, D.C. 20319.

Dated: March 2, 1979.

H. E. LOFDAHL,
Deputy Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-7054 Filed 3-7-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Release No. 9]

MANDATORY OIL IMPORT PROGRAM

Oil Import Allocations and Licensing February 1-28, 1979

The fee-exempt allocations and Licenses issued in accordance with Presidential Proclamation 3279, as amended, during the period February 1-28, 1979, are given in the following tables. The allocations are listed for the appropriate sections of 10 CFR 213 under which the allocations are made.

Also published is a tabulation of the fee-paid crude oil and product licenses and a listing of the sale and reassignment of fee-exempt crude oil licenses during the month of February 1979.

Previous releases covered the issuance of allocations and licenses for the period May 1, 1978, through January 31, 1979. The releases will continue to be issued on a monthly basis.

Dated: March 1, 1979.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

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Table and Title

1 Allocations of Residual Fuel Oil—District I—10 CFR 213.15
2 Fee-exempt allocation for Canadian oil imports—10 CFR 213.28 (c)
3 Sales of fee-exempt licenses—10 CFR 213.22
4 Fee-exempt allocations based on new, expanded, and reactivated refinery capacity—10 CFR 213.29
5 Fee-paid licenses issued—10 CFR 213.35

U.S. DEPARTMENT OF ENERGY OFFICE OF OIL IMPORTS ALLOCATION FEBRUARY 1-28, 1979

TABLE 1.—*Residual Fuel Oil Imports Section 213.15—District I*

Company	Address	Allocation Bbls.
New England Power Company	Westborough, Mass	186,240
Florida Power & Light Co	Miami, Florida	500,000
Petroleum Heat & Power (Phila)	Philadelphia, Pa	716,962
New England Power Company	Westborough, Mass	90,000
New England Power Company	Westborough, Mass	399,996
Ashland Oil, Inc	Ashland, Kentucky	975,536
A. Tarricone, Inc	Yonkers, New York	500,000
Northeast Petroleum Corp	Chelsea, Mass	30,038
Chevron U.S.A. Inc	San Francisco, Calif	500,000
Trammo Petroleum Corp	New York, New York	15,000
Central Petroleum Corp	Bronx, New York	500,000
Northeast Petroleum Corp	Chelsea, Mass	500,000

TABLE 2.—*Canadian Crude Oil Imports Section 213.28(c) Districts I-IV*

Company	Address	Total barrels
Ashland Oil, Inc.	Washington, D.C.	500,000
Continental Oil Co.	Houston, Texas	430,000

TABLE 2.—*Canadian Crude Oil Imports Section 213.28(c) Districts I-IV*
Continued

Company	Address	Total barrels
Clark Oil & Refining Corp.	Milwaukee, Wis.	550,000
Continental Oil Co.	Houston, Texas	500,000
District V		
Shell Oil Company	Houston, Texas	600,000

TABLE 3.—*Oil Import Licenses Sold Pursuant to Paragraph 213.22(d) District I-IV*

Seller	Buyer	Date	Commodity	Barrels sold
Continental Oil Co	Union Oil Co. Calif	2/2/79	Crude	2,000,000
Koch Industries	Amoco Oil Co	2/2/79	Crude	874,750
Koch Industries	Amoco Oil Co	2/2/79	Crude	2,798,455
Koch Industries	Amoco Oil Co	2/2/79	Crude	377,585
Koch Industries	Amoco Oil Co	2/2/79	Crude	2,100,000
Chemplex Company	Amoco Oil Co	2/2/79	Crude	4,478
Gladieux Refinery	Amoco Oil Co	2/7/79	Crude	52,915
Gladieux Refinery	Amoco Oil Co	2/7/79	Crude	500,000
Gladieux Refinery	Amoco Oil Co	2/7/79	Crude	155,125
Gladieux Refinery	Amoco Oil Co	2/7/79	Crude	119,000
Plateau, Inc	Texaco Inc	2/7/79	Crude	694,600
Ethyl Corporation	Ashland Oil, Inc	2/15/79	Crude	104,030
El Paso Products	Texaco Inc	2/22/79	Crude	45,078
Texas Asphalt	Sohio Natural	2/22/79	Crude	41,335
Texas Asphalt	Sohio Natural	2/22/79	Crude	97,000
Southern Union	Asamera Oil	2/22/79	Crude	120,000
Atlantic Richfield	American Hoechst	2/23/79	Crude	5,558
Atlantic Richfield	Denka Chemical	2/23/79	Crude	1,876
Atlantic Richfield	Hoechst Fibers	2/23/79	Crude	12,166
Atlantic Richfield	Koppers Co. Inc	2/23/79	Crude	7,094
Atlantic Richfield	Rexene Polyolefins	2/23/79	Crude	27,294
Atlantic Richfield	Stauffer Chemical	2/23/79	Crude	42,702
Atlantic Richfield	Stepan Chemical	2/23/79	Crude	5,476
Atlantic Richfield	U.S. Industrial	2/23/79	Crude	33,932
Gulf States Oil	Texaco Inc	2/23/79	Crude	15,000
Gulf States Oil	Texaco Inc	2/23/79	Crude	60,000
Gulf States Oil	Texaco Inc	2/23/79	Crude	8,725
Gulf States Oil	Texaco Inc	2/23/79	Crude	2,304,610
Gulf States Oil	Texaco Inc	2/23/79	Crude	638,020
Pester Refining	Coastal States	2/23/79	Crude	716,000
Pester Refining	Coastal States	2/23/79	Crude	314,030
Northland Oil	Texaco Inc	2/27/79	Crude	474,865
Southern Union	Texaco Inc	2/27/79	Crude	966,000
Pioneer Refining	Mobil Oil	2/27/79	Crude	545,000
Southwestern	Mobil Oil	2/27/79	Crude	2,000,000

District V

Seller	Buyer	Date	Commodity	Barrels sold
Sunland Refining Corp	Union Oil Calif	2/2/79	Crude	500,000
Atlantic Richfield	Texaco Inc.	2/15/79	Crude	900,000
Atlantic Richfield	Texaco Inc.	2/15/79	Crude	250,000
Powerine Oil Co.	Coastal States	2/22/79	Crude	500,000
Powerine Oil Co.	Coastal States	2/22/79	Crude	1,500,000
Tesoro Petroleum	Atlantic Richfield	2/23/79	Crude	279,630

TABLE 4.—*Crude and Unfinished Oils—Refinery Section 213.29*

Company	Plant location	On-stream date	1977 inputs B/CD	Allocation total bbls.
Sierra Anchor	McKittrick, Calif	2/12/78	5,428	1,485,915
Sheperd Oil, Inc	Jennings, La	12/23/77	5,824	1,594,339
Shepherd Oil, Inc	Jennings, La	7/18/78	676	185,055
Gary Western Co	Fruita, Colorado	11/27/77	2,500	684,375

TABLE 5.—*Fee-Paid Licenses Issued Pursuant to Section 213.35 Crude Oil—Prepaid*

Company	Date	Quantity total bbls.
Independent Refining Corp.	2/7/79	450,000

TABLE 5.—*Fee-Paid Licenses Issued Pursuant to Section 213.35 Crude Oil—Prepaid* Continued

Company	Date	Quantity total bbls.
Crude Oil-Bond Posted		
Crown Central Petroleum	2/7/79	5,500,000
Koch Industries, Inc.	2/12/79	2,250,000
Sohio Natural Resources	2/12/79	10,000,000
Gulf Oil Co	2/13/79	10,000,000
Sun Oil Co. of Pa	2/13/79	5,000,000
U.S. Oil & Refining Co	2/14/79	2,000,000
Continental Oil Co.	2/22/79	4,000,000
Chevron U.S.A. Inc	2/22/79	5,000,000
Champlin Petroleum Co	2/27/79	1,000,000
Ashland Oil, Inc.	2/27/79	5,000,000
Koch Industries, Inc.	2/27/79	2,000,000
Finished Products-Prepaid		
Sunchem (Div. of Sunoco)	2/6/79	22,000
Novamont Corporation	2/12/79	6,000
Sunchem (Div. of Sunoco)	2/23/79	14,000
Industrial Solvents	2/26/79	60,000
Finished Products-Bond Posted		
Western Trading Company	2/7/79	25,000
Western Trading Company	2/7/79	15,000
Chevron U.S.A. Inc.	2/7/79	1,000,000
Shell Oil Company	2/12/79	1,000,000
Consumers Power Company	2/13/79	4,750,000
Puerto Rico Sun Oil	2/16/79	1,000,000
Great Western Chemical	2/22/79	1,500
Detroit Edison Company	2/22/79	6,400,000
Sterling Oil & Chemical Co.	2/27/79	5,000

[FR Doc. 79-6902 Filed 3-7-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER79-126]

ARIZONA PUBLIC SERVICE CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Providing for Hearing, Instituting Section 206 Investigation, Granting Motion For Summary Disposition in Part, Denying Motion To Reject, Denying Request for Waiver, and Establishing Procedures

Issued February 28, 1979.

On December 29, 1978, Arizona Public Service Company (APS) submitted for filing a proposed increase in rates to its wholesale customers.[1] The filing would increase APS' revenues from its jurisdictional sales and service by $10,243,213, based on the 12 month test period ending December 31, 1979. APS requests and effective date of March 1, 1979.[2] In addition, APS requests a waiver of § 36.2 of the Regulations in the computation of its filing fee. Notice of the proposed filing was issued on January 17, 1979 with protests and petitions to intervene due on or before January 29, 1979.

I. CONTENTIONS OF THE PARTIES

On January 29, 1979, Papago Tribal Utility Authority (PTUA) filed a pleading entitled: "Protests, Petition To Intervene, Motion To Reject As To One Wholesale Customer, Motion For Partial Summary Disposition, Motion For Rejection As To All Wholesale Customers And Requests For A Hearing And Suspension For Maximum Statutory Period." In that pleading, PTUA seeks intervention and rejection or, alternatively, five months suspension of APS' filing because of APS' purported errors in determining unit demand rate, in designing rates, and in allocating demand cost, and because, allegedly, Section 3.6 of the Contract between APS and PTUA does not permit APS to unilaterally file for a rate increase under Section 205 of the Federal Power Act. Also, PTUA requests summary disposition of the following issues:

1. elimination of Federal Income Tax (FIT) allowances due to the normalization of investment tax credits;

2. use of a 46% FIT rate instead of the superseded 48% rate;

3. use of a 36 month Demand Ratchet Period instead of a 12 month period in light of Commission precedent.[3]

4. amortization of regulatory expenses over a 2 year period instead of one year; and

5. improper crediting of revenues earned from service to Navajo Tribal Utility Authority to all classes of service.

In support of its Motion for rejection PTUA states that APS' proposed 10.97% overall rate of return (including a 15% return on common equity) is excessive and was expressly rejected by the Presiding Judge and affirmed by the Commission order of August 1, 1978 in a previous docket. In addition, PTUA contends that APS has not demonstrated any change in circumstances which would warrant the approval of its requested rate of return.

Finally, PTUA argues that this filing is one of several "pancaked" rate increases which have departed from the principles of ratemaking prescribed by the Commission's August 1, 1978 order and which contravenes the Administration's anti-inflation guidelines.

On February 6, 1979, PTUA filed a document which protests APS' allegedly unauthorized unilateral revision of the definition of "Local Investments" in Section 3.4 of its FPC Rate 52.

On January 29, 1979, seven additional petitions to intervene were filed by APS' customers.[4] Those pleadings generally raise the same issues treated by PTUA.[5]

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[1] *See*, Appendix A.

[2] APS proposes to place the revised rates into effect on March 1, 1979 for all wholesale customers affected by this filing except: Electric District No. 3, Electric District No. 7, Maricopa County Municipal Water Conservation District No. 1, Roosevelt Irrigation District, Buckeye Water Conservation and Drainage District, Electrical District No. 6 (Collectively called "Districts"). Rate increases pertaining to the Districts are not allowed pending outcome of a 206(a) investigation. *See, Arizona Public Service Company*, Docket Nos. ER77-521, Initial Decision issued December 19, 1978.

[3] *Florida Power & Light Company*, Opinion No. 784, issued December 15, 1976; and *Public Service Company of Oklahoma*, Opinion No. 788, issued February 17, 1977.

[4] Arizona Power Authority (APA) and Wellington-Mohawk Irrigation and Drainage District (Wellington-Mohawk); Electrical District No. 3 (ED3), No. 6 (ED6), No. 7 (ED7), Buckeye Water Conservation District (BID), and Roosevelt Irrigation District (RID). (Collectively called "Districts"); Arizona Electric Power Cooperative, Inc. (AEPCO); Maricopa County Municipal Water Conservation District No. 1 (Maricopa); City of Wickenburg, Arizona (Wickenburg); Citizens Utilities Company (Citizens); Electrical District No. One (ED-1).

[5] ED-1 is the only petitioner to mention a price squeeze issue. However, ED-I merely states ". . . it [ED-I] is informed and therefore believes that there may be a question of price squeeze raised by this application." This certainly does not constitute an appropriate pleading within the meaning of Section 2.17 of our Regulations. Accordingly, price squeeze is not an issue in this proceeding. *See, Monongahela Power Company*, Docket No. ER78-484, Order issued August 10, 1978.

Mobile-Sierra allegations are also raised by Wickenburg and Citizens.[6] Specifically, Wickenburg states that the proposed rate increase is in "violation of an existing fixed-rate contract on file with the Commission." Citizens asserts its *Mobile-Sierra* claim in a single sentence, stating that it "does not concede that APS has the right to make a unilateral rate change filing as to Citizens."

On February 13, 1979, APS filed a response in which it challenges specific objections raised by Petitioners.

II. Discussion

A. MOTION FOR SUMMARY DISPOSITION

Concerning PTUA's Motion for partial summary disposition, we note that APS has functionalized its general plant according to plant ratios. In *Minnesota Power & Light Company*, Opinion No. 20 (August 3, 1978), we held that general plant should be allocated on the basis of labor ratios. In subsequent orders, we indicated that the use of labor ratios in functionalizing general plant was a "general rule" and held that the burden on the applicant was "to show that the labor ratios are unreasonable as applied to the company, not merely that its alternative method might be reasonable." [7] APS bears this same burden.

APS has utilized a 48% federal income tax rate rather than the current 46% rate. We shall require APS to file within 60 days revised Statements A through P and revised rate schedules to reflect the 46% federal income tax rate. As we stated in *Georgia Power Co.*, Docket No. ER79-88, order issued January 30, 1979, at pp. 3-4:

The company could and should have known prior to tender of its filing that the Federal income tax rate had been changed from 48% to 46% effective January 1, 1979 prior to the (Company's requested effective date), and the 46% figure should have been incorporated in the Company's filing in the first instance * * *"

The remaining issues raised by PTUA in its motion for summary disposition should be resolved in hearing.

B. MOBILE-SIERRA ARGUMENTS

Turning to the *Mobile-Sierra* issues raised by PTUA and Wickenburg, we find these arguments unpersuasive. Although PTUA and Wickenburg apparently dispute the FPC's prior ruling that their contracts with APS permit unilateral rate change filings, we are not aware of any factual or legal allegations which would warrant a change in that prior determination[8] As to APS' unilateral change in the definition of "Local Investment" in Section 3.4 of PTUA's FPC Rate Schedule 52, we are unable to ascertain, based on PTUA's pleading, how APS has substantially changed the definition of "Local Investment" or the effect any change might have on PTUA.[9] We will reserve this issue for hearing.

With respect to Citizens' terse argument, we believe that the FPC's prior determination is also controlling. In the earlier docket, the FPC accepted APS' unilateral rate change as it applied to Citizens.[10]

III. Conclusion

Our review indicates that the rates filed by APS have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, the Commission will accept the submittal for filing and suspend the proposed rates (as it relates to all Petitioners except the Districts) for five months, to become effective August 1, 1979, subject to refund. Further, we shall institute a 206 investigation of APS' proposed rates that are applicable to the Districts.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, particularly Sections 205, 206, 301, 307, 308 and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Arizona Public Service Company.

(B) Pending such hearing and decision thereon, APS' filing, as it applies to all Petitioners (except as denoted in ordering Paragraph (C), is accepted for filing and suspended for five months to become effective on August 1, 1979, subject to refund.

(C) Any rate increase to ED-3, ED-6, ED-7, Maricopa, RID, BID shall become effective after an investigation under Section 206 of the Act and decision by the Commission in this case establishing just and reasonable rates.

(D) Staff shall serve top sheets in this proceeding on or before May 25, 1979.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held within (10) days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate and sever, and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(F) Districts, Citizens, AEPCO, ED-1, PTUA, Maricopa, Wellton-Mohawk, and Wickenburg are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* that participation of such intervenors shall be limited to the matters affecting asserted rights and interest specifically set forth in the petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Com-

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[6] *See, F.P.C.* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956); *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956).

[7] *Pennsylvania Electric Company*, Docket No. ER78-494, Order issued September 27, 1978; *Public Service Company of Indiana*, Docket No. ER78-513, Order issued August 25, 1978; *Public Service Company of Colorado*, Docket No. ER78-50, Order issued October 4, 1978; and *Central Kansas Power Company, Inc.*, Docket No. ER79-50, Order issued January 31, 1979.

[8] *Arizona Public Service Company*, Docket No. ER76-530, Orders issued March 31, 1976. The March 31 order rejected the rate filing as to the Town of Wickenburg because APS failed to give Wickenburg adequate notice (pursuant to Section 35.15 of the Regulations) before termination of its rate schedule. However, the Commission stated that APS' ". . . filing of an increase to Wickenburg shall be rejected without prejudice to its resubmission following proper notice pursuant to Section 35.15". A subsequent order issued May 14, 1976, accepted these rates for filing, subject to suspension and a refund obligation. Wickenburg's protest was assigned Docket No. ER76-626 and the order of May 14 consolidated this docket with Docket No. ER76-530. PTUA's challenge of the Commission's March 31, 1976 order is pending before the United States Court of Appeals for the District of Columbia in Case No. 76-1937.

[9] See Appendix B.

[10] No other party has raised a *Mobile-Sierra* issue and we perceive no undue discrimination among the APS customers caused by contractual relationships. *See, Borough of Chambersburg* v. *F.E.R.C., et al.*, 580 F.2d 573 (D.C. Cir. 1978).

mission that they might be aggrieved by any orders entered in this proceeding.

(G) APS' request for waiver of Section 36.2 is denied. APS is directed to recompute its filing fee on the basis of the difference between the rates proposed in this docket and the rates presently in effect as required by Section 36 of the Regulations.

(H) Petitioners' Motions to reject are denied.

(I) PTUA's Motion for summary disposition is denied in part and granted with respect to APS' use of the 48% Federal income tax rate. APS shall refile within 60 days revised rates and revised statements A through P incorporating the 46% Federal income tax rate. All costs of this refiling should be included in Acccount No. 426.5 (18 CFR, Part 101).

(J) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ARIZONA PUBLIC SERVICE COMPANY
[Docket No. ER79-126]

Other party	Designation	Description
Electrical District No. 3	Supplement No. 22 to Rate Schedule FPC No. 12 (Supersedes Supp. No. 20).	Rates.
	Supplement No. 23 to Rate Schedule FPC No. 12 (Supersedes Supp. No. 21).	Fuel clause.
Electrical District No. 7	Supplement No. 22 to Rate Schedule FPC No. 13 (Supersedes Supp. No. 20).	Rates.
	Supplement No. 23 to Rate Schedule FPC No. 13 (Supersedes Supp. No. 21).	Fuel clause.
Maricopa County Municipal Water Conservation District	Supplement No. 22 to Rate Schedule FPC No. 14 (Supersedes Supp. No. 20).	Rates.
	Supplement No. 23 to Rate Schedule FPC No. 14 (Supersedes Supp. No. 21).	Fuel clause.
Roosevelt Irrigation District	Supplement No. 22 to Rate Schedule FPC No. 15 (Supersedes Supp. No. 20).	Rates.
	Supplement No. 23 to Rate Schedule FPC No. 15 (Supersedes Supp. No. 21).	Fuel clause.
Buckeye Water Conservation & Drainage District	Supplement No. 13 to Rate Schedule FPC No. 16 (Supersedes Supp. No. 11).	Rates.
	Supplement No. 14 to Rate Schedule FPC No. 16 (Supersedes Supp. No. 12).	Fuel clause.
Navopache Electric Coop.	Supplement No. 23 to Rate Schedule FPC No. 17 (Supersedes Supp. No. 21).	Rates.
	Supplement No. 24 to Rate Schedule FPC No. 17 (Supersedes Supp. No. 22).	Fuel clause.
Town of Wickenburg	Supplement No. 18 to Rate Schedule FPC No. 34 (Supersedes Supp. No. 16).	Rates.
	Supplement No. 19 to Rate Schedule FPC No. 34 (Supersedes Supp. No. 17).	Fuel clause.
Electrical District No. 6	Supplement No. 22 to Rate Schedule FPC No. 35 (Supersedes Supp. No. 20).	Rates.
	Supplement No. 23 to Rate Schedule FPC No. 35 (Supersedes Supp. No. 21).	Fuel clause.
Citizens Utilities Company	Supplement No. 13 to Rate Schedule FPC No. 50 (Supersedes Supp. No. 11).	Rates.
	Supplement No. 14 to Rate Schedule FPC No. 50 (Supersedes Supp. No. 12).	Fuel clause.

ARIZONA PUBLIC SERVICE COMPANY—Continued
[Docket No. ER79-126]

Other party	Designation	Description
Papago Tribal Utility Authority	Supplement No. 9 to Rate Schedule FPC No. 52 (Supersedes Supp. No. 7).	Rates.
	Supplement No. 10 to Rate Schedule FPC No. 52 (Supersedes Supp. No. 8).	Fuel clause.
Arizona Electric Cooperative, Inc.	Supplement No. 8 to Rate Schedule FPC No. 57 (Supersedes Supp. No. 5).	Rates.
	Supplement No. 9 to Rate Schedule FPC No. 57 (Supersedes Supp. No. 6).	Fuel clause.
Wellton-Mohawk Irrigation & Drainage District	Supplement No. 9 to Rate Schedule FPC No. 58 (Supersedes Supp. No. 7).	Rates.
	Supplement No. 10 to Rate Schedule FPC No. 58 (Supersedes Supp. No. 8).	Fuel clause.
Arizona Power Authority	Supplement No. 11 to Rate Schedule FPC No. 59 (Supersedes Supp. No. 7).	Rates.
	Supplement No. 12 to Rate Schedule FPC No. 59 (Supersedes Supp. No. 8).	Fuel clause.
Colorado River Indian Irrigation Project	Supplement No. 8 to Rate Schedule FPC No. 65 (Supersedes Supp. No. 3).	Rates.
	Supplement No. 9 to Rate Schedule FPC No. 65 (Supersedes Supp. No. 4).	Fuel clause.
San Carlos Indian Irrigation Project	Supplement No. 8 to Rate Schedule FPC No. 66 (Supersedes Supp. No. 3).	Rates.
	Supplement No. 9 to Rate Schedule FPC No. 66 (Supersedes Supp. No. 4).	Fuel clause.
Electrical District No. 1	Supplement No. 7 to Rate Schedule FPC No. 68 (Supersedes Supp. No. 5).	Rates.
	Supplement No. 8 to Rate Schedule FPC No. 68 (Supersedes Supp. No. 6).	Fuel clause.

APPENDIX B

Section 3.4 presently reads:

"Local Investment"—The cost to Company of the facilities and related metering equipment installed to deliver energy from the Company's integrated transmission system to the respective delivery points hereunder.

Section 3.4 as revised would read:

"Local Investment"—The cost to Company of the facilities and related metering equipment installed to deliver energy from the Company's integrated transmission system to the respective delivery points hereunder, *and not expressly denied such treatment as "Local Investment" by FERC.*

[FR Doc. 79-6970 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-200]

CENTRAL TELEPHONE & UTILITIES

Filing

FEBRUARY 27, 1979.

Take notice that Central Telephone & Utilities Corporation (Central Telephone) on February 12, 1979, tendered for filing an addendum to its Rate Schedule FPC No. 79, with Ninnescah Rural Electric Cooperative Association, Inc., providing for the addition of a point of delivery designated as North Pratt. Central Telephone states that the addendum also calls for an increase in kilowatt capacity at 2 points of delivery.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6971; Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-201]

CENTRAL TELEPHONE & UTILITIES CORP.

Filing

FEBRUARY 27, 1979.

Take notice that Central Telephone & Utilities Corporation (Central Telephone) on February 12, 1979, tendered for filing an addendum to its Rate Schedule FPC No. 77, with Jewell-Mitchell Cooperative Electric Co., Inc., providing for the addition of 2 points of delivery. Central Telephone states that these 2 points of delivery are designated as Ionia and Convert.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6972 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Project No. 400]

COLORADO-UTE ELECTRIC ASSOC., INC. ET AL.

Application for Amendment of License

FEBRUARY 27, 1979.

Take notice that Colorado-Ute Electric Association, Inc., San Miguel Power Association, Inc., and La Plata Electric Association, Inc. (Applicants), filed on December 15, 1978, an application for amendment of the license for the Tacoma-Ames Project No. 400 pursuant to the Federal Power Act, 16 U.S.C. §§ 791a-825r. The Applicants propose to replace the Terminal Dam and other related facilities which are located in La Plata County, Colorado, on Cascade Creek, Little Cascade Creek, Elbert Creek, and Animas River and affects lands of the United States

within the San Juan National Forest. Correspondence concerning the application should be sent to: Mr. John J. Bugas, President and Mr. Girts Krumins, General Counsel, Colorado-Ute Electric Assoc., Inc., P.O. Box 1149, Montrose, Colorado 81401.

Applicants propose to: (1) reconstruct Aspaas Dam in the dry immediately downstream of the existing dam to consist of a compacted earth structure about 22 feet high and 200 feet long; (2) remove the existing Aspaas Dam; (3) repair Stagecoach Dam; (4) reconstruct Terminal Dam in the dry immediately downstream of the existing dam to consist of a compacted rock fill structure about 58 feet high and 1,200 feet long with an impervious upstream membrane; (5) remove the existing Terminal Dam; (6) reconstruct Forebay Lake Surge Tank and appurtenant facilities; (7) construct approximately 9,700 feet of pipeline extending from Terminal Dam to the Forebay Lake Surge Tank on the Existing flume alignment; and (8) replace approximately 2,700 feet of penstock extending from the Forebay Lake Surge Take to the Tacoma Powerhouse.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before April 9, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6973 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. RP73-65 (PGA79-1) (AP79-1)]

COLUMBIA GAS TRANSPORTATION CORP.

Order Accepting for Filing and Suspending Proposed Tariff Sheets, Subject to Conditions

Issued February 28, 1979.

On January 29, 1979, Columbia Gas Transmission Corporation (Columbia) filed revised tariff sheets [1] to become effective March 1, 1979 reflecting: (1) a 15.85 cent per Mcf increase in current purchased gas costs of $209.5 million; (2) a surcharge reduction to reflect a negative balance of $34.8 million in the deferred account; (3) a .59 cent per Mcf Advance Payment decrease totalling $4.7 million; and (4) elimination of a .26 cent per Mcf transportation surcharge.

Public notice of the filing was issued February 13, 1979, providing for protests or petitions to intervene to be filed on or before February 27, 1979.

Based upon a review of Columbia's filing this Commission finds that the proposed rates have not been shown to be just and reasonable, and may be unjust and unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept for filing, Columbia's tariff sheets subject to conditions, grant waiver of the 30 day notice requirements and suspend the effectiveness such that they shall become effective, subject to refund, as of March 1, 1979.

Columbia's proposed current purchased gas costs reflect estimated increases pursuant to §§ 102, 103, 104, 106 and 108 of the Natural Gas Policy Act of 1978 (NGPA). Columbia estimates that 15.0 cents per Mcf of the proposed 15.85 cents per Mcf current gas cost increase is attributable to the NGPA. Columbia's proposed surcharge adjustment reflects, among other things, actual balances included in the deferred purchased gas cost account as well as estimated cost increases pursuant to the NGPA for gas delivered in January and February, 1979. This item in the deferred account in accordance with Commission Order No. 18 in Docket No. RM79-7 issued December 1, 1978 and § 154.38(d)(4)(x)(*a*) of the Commission's Regulations.

The subject filing includes costs Columbia incurred under contracts with certain Ohio Producers, for sale of natural gas in intrastate commerce. The contracts contain favored nations clauses and other indefinite pricing provisions. Costs incurred under these contracts reflect sales made both before and after the effective date of the NGPA.

The Natural Gas Policy Act of 1978 and the Regulations thereunder govern rates charged for intrastate producer sales to interstate pipelines made on or after December 1, 1978. Accordingly, Columbia may reflect in its rates costs for these intrastate purchases which are permissable under the Natural Gas Policy Act and the Regulation thereunder.

However, costs incurred prior to December 1, 1978, the effective date of the NGPA, must be scrutinized under the prudent pipeline standard. This filing includes in the proposed surcharge adjustment purchases prior to December 1, 1978, at rates in excess of the nationwide rates.[2] These excess rates apparently result in part from automatic price escalation clauses in the Ohio producer contracts. Columbia has not presented sufficient evidence for the Commission to find that the prices paid for these purchases were at rates a prudent pipeline would have paid under similar circumstances. The prudence of these purchases is at issue in Docket No. RP73-65 (PGA77-4). Accordingly, the Commission shall grant waiver of the notice requirements, suspend Columbia's PGA filing such that it shall become effective March 1, 1979, subject to refund and subject to a final Commission determination in Docket No. RP73—65 (PGA77-4), as hereinafter ordered and conditioned.

Columbia also proposes to include in its surcharge adjustment short-term storage costs associated with service rendered in Docket No. CP78-506. The total cost consists of $1,184,242 paid to Consolidated for the actual storage service and $141,419 paid to Texas Eastern Transmission Corporation for the transportation of gas to and from Consolidated. Columbia requests waiver of § 154.38(d)(4) to the extent required to permit recovery of these costs through its PGA clause.

Generally, pipelines cannot file to adjust one item of cost without submitting full cost and revenue studies pursuant to § 154.63 of the Regulation unless a rate adjustment provision for the item of cost is in a pipeline's tariff pursuant to a Commission Regulation or the pipeline has a temporary rate adjustment provision to permit adjustment of that cost item in a Commission approved settlement agreement. Since storage costs are not purchased gas costs for purposes of Columbia's PGA clause[3], Columbia may not collect such costs through its PGA clause. Furthermore, Columbia has not demonstrated good cause to grant waiver of the provision of its PGA clause to permit the storage costs to be tracked under the PGA clause. Furthermore, Columbia does not have a temporary rate adjustment provision in a Commission approved settlement agreement to permit tracking of storage costs nor has it submitted a full cost and revenue study to permit tracking of such costs. Accordingly, we shall require Columbia to eliminate the storage cost from its filing.

Columbia's filing also reflects a proposed advanced payment rate adjustment which provides for an annual reduction of $4,751,136 pursuant to a rate adjustment provision contained in

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[1] Forty-ninth Revised Sheet No. 16 and Twenty-third Revised Sheet No. 64A to FERC Gas Tariff, Original Volume No. 1.

[2] Determined pursuant to Commission Opinion No. 770-A, issued November 5, 1976, in Docket No. RM75-14.

[3] § 154.38(d)(4) of the Regulation, footnote 1.

the Stipulation and Agreement in Docket No. RP-94, *et al.*, which was approved by the Commission by order issued March 16, 1978. We shall accept this adjustment as reasonable and appropriate.

Columbia proposes to eliminate a transportation surcharge filed July 31, 1978 and approved by Commission Order issued August 31, 1978. This surcharge provided for the recovery of the Deferred Transportation Cost Balance as of May 31, 1978 of $1,653,371 over the six month period ending February 28, 1979. Columbia states that it will revise Account 191 when the final amount becomes available. Subject to this condition, we accept this adjustment.

The Commission shall also require Columbia to file revised tariff sheets (within 15 days of issuance of this order) reflecting the elimination of all costs not authorized by March 1, 1979, pursuant to the Natural Gas Act, the NGPA or the Regulations of this Commission, along with the data prescribed in Appendix A to this order.

The Commission orders:

(A) Subject to the conditions of Ordering Paragraphs (B) and (C) below, Columbia's proposed Forty-ninth Revised Sheet No. 16 and Twenty-third Revised Sheet No. 64-A to FERC Gas Tariff, Original Volume No. 1, are accepted for filing, suspended, and waiver of notice requirements is granted such that the filing shall become effective March 1, 1979, subject to refund.

(B) Columbia shall file within 15 days of issuance of this order revised tariff sheets to become effective subject to refund on March 1, 1979, reflecting (a) elimination of costs from producer and pipeline supplies which those suppliers are not authorized to charge Columbia on or before March 1, 1979 pursuant to applicable Commission orders, the Natural Gas Act and the Regulations thereunder, and the Natural Gas Policy Act and the Regulations thereunder, and (b) the elimination of all costs associated with storage service provided by Consolidated Gas Supply Corporation and the coincidental transportation provided by Texas Eastern Transmission Corporation in Docket No. CP78-506. This filing shall be accompanied by the data prescribed in Appendix A to this order.

(C) The issue of the prudency of the costs paid to Ohio intrastate producer prior to December 1, 1978, is hereby made subject to the Commission's determination of this issue in Docket No. RP73-65 (PGA77-4).

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

The revised filing should clearly indicate the adjustments to the original submittal and for those sources of supply covered by maximum lawful prices prescribed under Sections 102, 103, 107 and 108 of NGPA and included in the revised rates, the following information should be provided for both the current adjustment and for amounts to be recouped through the surcharge:

(1) identification of each source of supply, including the well identification number or other information sufficient to identify the well and the contract date or rate schedule number where the gas was committed or dedicated to interstate commerce on November 8, 1978;

(2) where multiple wells are metered through a common delivery point or where production from multiple wells is sold under single contract, identify each well where the gas is priced as new natural gas and certain OCS natural gas, natural gas from onshore production wells, high-cost natural gas or stripper well natural gas;

(3) identify each source of supply being priced under the Commission's transitional rule and include statement, under oath, that to the best of pipeline purchaser's knowledge the filing requirements for collection of the price have been met;

(4) identify each source of supply where a maximum lawful price is being paid pending determination of eligibility by the jurisdictional agency and provide date of receipt of producer filing under the interim collection procedure;

(5) identify each source of supply where a jurisdictional agency determination has been made and provide date of receipt of notice from producer of election to collect the applicable price;

(6) describe basis for payment of the above prices and show for each source of supply whether payment is in response to area rate clause, clause related to Congressional action, contract amendment or other (explain).

For those prices escalated under Sections 104 and 106(a) of NGPA and included in the revised rates, the pipeline should provide explanation for the payment of these escalated prices. Where payment is in response to area rate clauses, clauses related to Congressional action, contract amendments or other agreements the explanation should so indicate.

[FR Doc. 79-6974 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-174]

COLUMBIA GULF TRANSMISSION CO.

Application

MARCH 1, 1979.

Take notice that on February 5, 1979, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP79-174 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 4.1 miles of 30-inch pipeline onshore Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the present capacity of its West Lateral pipeline from Egan to Rayne, Louisiana, is 855,000 Mcf per day, and that the proposed 4.1 miles of 30-inch loop would add approximately 172,800 Mcf per day, which, when added to Applicant's present capacity would result in a total capacity of 1,027,800 Mcf per day.

Applicant indicates that its proposed total capacity would be utilized to (i) handle existing Blue Water capacity (ii) handle the increased volumes of natural gas after construction of the facilities in the Western Shore Line of Applicant's Blue Water System authorized in Docket No. CP78-489, (iii) handle existing volumes of gas from the West Lateral entering at Egan, Louisiana, (iv) handle volumes up to 60,000 Mcf per day to be delivered by Michigan Wisconsin Pipe Line Company in the West Lateral pipeline and (v) handle additional gas supplies from East Cameron Block 23, offshore Louisiana, which reserves an affiliate of Applicant has acquired the rights to obtain.

The application indicates that the total estimated cost of the proposed facilities is $2,300,000, which cost would be financed by current working funds available to Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protectants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the

time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6975 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. CP 77-216 et al.]

DISTRIGAS OF MASSACHUSETTS ET AL.

Order Granting Rehearing for Further Consideration

FEBRUARY 28, 1979.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

In the matter of Distrigas of Massachusetts Corp. (Docket No. CP77-216), Distrigas Corporation (Docket Nos. CP77-217 and CP 77-218).

On January 26, 1979, Distrigas Corporation (Distrigas) and Distrigas of Massachusetts Corporation (DOMAC) and on January 29, 1979, Bay State Gas Company, *et al.* (Bay State),[1] Boston Gas Company (Boston Gas), and Brooklyn Union Gas Company (Brooklyn Union), filed petitions for rehearing of the Commission's December 28, 1978 order. In the December 28 order, the Commission authorized construction and operation of certain facilities and the sale of additional amounts of liquefied natural gas (LNG).

In order to afford further time for consideration of the matters presented in these applications for rehearing, we find it appropriate and proper in the administration of the Natural Gas Act to grant rehearing for the sole purpose of further consideration.

The Commission orders:

Rehearing of the Commission's order of December 28, 1978, in Docket Nos. CP77-216, CP77-217 and CP77-218 is granted for the sole purpose of further consideration. Since this order is not a final order on rehearing, no responses will be entertained by the Commission in accordance with Section 1.34 of the Commission's Rules of Practice and Procedure.

[1]Bay State, *et al.* includes Bay State, Berkshire Gas, Boston Gas, Connecticut Gas, Fall River Gas, Haverhill Gas, New Jersey Natural Gas, Providence Gas, South Jersey Gas, and Valley Gas Companies.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6976 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Project No. 2232]

DUKE POWER CO.

Application for Change in Land Rights

FEBRUARY 28, 1979.

Public Notice is hereby given that application for approval of a change in land rights was filed on August 30, 1978, by Duke Power Company (correspondence to: John Lansche, Associate General Counsel, Dule Power Company, Box 2178, Charlotte, North Carolina 28242).

Applicant proposes to convey 10 small strips of project land (totalling 0.44 acre) to its subsidiary Crescent Land and Timber Corporation.

The lands to be conveyed are part of FERC's Project No. 2232 (Catawba-Wateree) and are located in Mecklenburg County, North Carolina on the Catawba River (Lake Norman).

The conveyance of these strips would increase the width of two causeways (Millypop Lane and Torchlight Drive) to 60 feet. The causeways are used as rights-of-way for vehicular traffic by residents in the area of Lake Norman. Increasing the width of the causeways to 60 feet will qualify them for state road maintenance under North Carolina's minimum width requirements.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before April 8, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6977 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket Nos. CP74-289, et al., CP77-298, CP78-500, and CP78-488]

EL PASO NATURAL GAS CO.

Tariff Filing

MARCH 1, 1979.

Take notice that on February 13, 1979, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Commission's Regulations under the Natural Gas Act, certain original and revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A, as more fully set forth in the tariff filing which is on file with the Commission and open to public inspection.

El Paso states that on December 22, 1978, at Docket Nos. CP74-289, *et al.*, the Commission issued an order authorizing El Paso to: (i) revise the restitution plan, approved by the Commission in its Opinion No. 800-B [1] respecting certain "advance sale arrangements" between El Paso and Pacific Gas and Electric Company, to permit certain beneficiaries of Opinion No. 800-B Payback Gas to dispose of their gas (by sale or storage) in a way not explicitly contemplated in Opinion No. 800-B; and (ii) collect a surcharge, subject to refund, from those beneficiary customers having remaining entitlements to Opinion No. 800-B Payback Gas on and after November 1, 1978. El Paso states that the order also denied El Paso's appeal of the Commission's order issued October 2, 1978, rejecting certain tariff sheets filed by El Paso on August 30, 1978, as supplemented on September 15, 1978, designed to implement a change in the surcharge rate applicable to the Clay Basin Interim Storage Arrangements ("Clay Basin Arrangements") effective October 1, 1978. The order further stated that the terms thereof left El Paso's then-pending tariff sheets respecting the above-referenced matters in a state of disarray in that certain portions of said sheets had been rejected and other portions may have been otherwise affected by the conclusions therein; therefore, the Commission required El Paso to submit tariff sheets consistent with the terms of said order.

El Paso states that the Tariff filings tendered by El Paso which are resubmitted in the instant filing in accordance with the Commission's order issued December 22, 1978, are as follows:

(i) the tariff sheets tendered for filing on August 30, 1978, at Docket

[1]*See* "Opinion and Order on Remedial Compliance Filing and Granting Condition Certificate of Public Convenience and Necessity After Statutory Hearing," issued December 30, 1977, in Docket No. CP74-289, *et al.*

No. CP78-500, which tariff sheets were designed to establish the surcharge to be applied to those of El Paso's east-of-California ("EOC") Priority 5 customers having entitlements to Opinion No. 800-B Payback Gas remaining to be delivered on and after November 1, 1978; and

(ii) the tariff sheets tendered for filing on August 30, 1978, as revised and supplemented on September 15, 1978, at Docket No. CP77-289, which: (a) reflected the tariff revision necessary to permit certain EOC Priority 5 beneficiaries to dispose of their remaining entitlements to Opinion No. 800-B Payback Gas by storage, and (b) established the surcharge applicable to the Clay Basin Arrangements, proposed to be effective October 1, 1978.[2]

El Paso further states that by order issued December 7, 1978, at Docket No. CP78-488, the Commission made effective December 7, 1978, certain tariff sheets filed by El Paso on August 18, 1978, designed to expand and modify the then-current provisions of El Paso's tariff relating to storage in order to include provision for the arrangements referred to in such filing as the "California Back-off Arrangements". Given the course of events subsequent to the tender of said proposed tariff sheets and prior to the effectiveness thereof, El Paso also retendered in the instant filing certain tariff sheets containing the provisions necessary for the implementation of the California Back-off Arrangements, reflecting all necessary revisions that have been authorized prior to December 7, 1978.

El Paso has requested that the Commission grant waiver of its Rates and Regulations, as may be deemed necessary, in order that the tariff sheets tendered herewith be permitted to become effective on the dates specified on each sheet, inasmuch as the tendered tariff sheets are submittd in compliance with the Commission's order of December 22, 1978, and in order to maintain continuity in El Paso's tariff provisions.

El Paso states that copies of the filing have been served upon all parties of record in Docket Nos. CP74-289, *et al.*, CP77-289, CP78-500 and CP78-488, and otherwise, upon all of El Paso's interstate system customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before March 12, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6978 Filed 3-7-79; 8:45 am]

[2] In compliance with said order issued October 2, 1978, rejecting certain tariff sheets, El Paso filed on November 22, 1978, certain tariff sheets to implement a notice of change in the surcharge applicable to the Clay Basin Arrangements, effective October 1, 1978. By letter order dated December 22, 1978, as amended by letter order dated January 16, 1979, at Docket Nos. CP77-289 and CP73-334, *et al.*, the Commission made such tariff filing effective October 1, 1978.

[6450-01-M]

[Docket No. CP77-415 et al.]

EL PASO NATURAL GAS CO. ET AL.

Petition to Amend

MARCH 1, 1979.

In the matter of El Paso Natural Gas Company (Docket No. CP77-415), Michigan Wisconsin Pipe Line Company (Docket No. CP77-416).

Take notice that On January 29, 1979, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, and Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, Michigan 48226 (Petitioners), filed in Docket Nos. CP77-415 and CP77-416, respectively, a joint petition to amend the Commission's orders of October 26, 1977, issued in the instant dockets pursuant to Section 7(c) of the Natural Gas Act so as to authorize the utilization of certain existing emergency interconnecting facilities on a daily operational basis, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioners indicate that pursuant to the Commission's order of October 26, 977, in the instant docket, they were authorized to retain in place an emergency interconnection between the pipeline systems of El Paso and Michigan Wisconsin in Roger Mills County, Oklahoma, which interconnection was installed pursuant to Section 157.22 of the Commission's Regulations. Petitioners indicated that such emergency interconnection was installed to permit an emergency exchange of natural gas pursuant to a letter agreement dated April 21, 1977, between Petitioners and Columbia Gas Transmission Corporation.

Petitioners indicate that they have entered into certain gas exchange agreements, referred to as the Creston Nose Gas Exchange Agreement and the Lincoln Road Gas Exchange Agreement, each of which dated December 20, 1978, providing for the free exchange of natural gas reserves underlying Block A-309 in the East Addition, High Island Area, South Extension, Federal Domain, offshore Texas, in which EL Paso owns a leasehold interest, and natural gas production owned or otherwise controlled by Michigan Wisconsin in the Creston Nose and Lincoln Road area of the State of Wyoming. Such arrangements provide, *inter alia*, for the transportation and delivery, on an exchange basis, of natural gas by El Paso to Michigan Wisconsin at the existing emergency interconnection in Roger Mills County, Oklahoma, it is said. Petitioners state that in order to effectuate such exchange arrangements, as well as any future arrangements, Petitioners request authorization to utilize the existing interconnecting facilities on a daily operation basis.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6979 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. CP78-206]

EL PASO NATURAL GAS CO.

Amendment to Application

MARCH 1, 1979.

Take notice that on January 29, 1979, El Paso Natural Gas Company (Applicant), P. O. Box 1492, El Paso, Texas 79978, filed at Docket No. CP78-206 an amendment to its application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to reflect the restructuring of the original proposed arrangements with

respect to the natural gas supplies available for transportation and delivery thereunder, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

It is stated that in Applicant's application in the instant docket, Applicant requested authorization to transport and deliver certain quantities of natural gas to or for the account of Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), which transportation and delivery proposal originated from the acquisition by Applicant of certain leasehold rights covering 15 percent of the natural gas reserves underlying High Island Block A-309 (Block A-309) in the East Addition, High Island Area, South Extension, Federal Domain, offshore Texas, and the availability to Michigan Wisconsin of certain natural gas supplies from its gas production activities in the State of Wyoming ranging from approximately 25,000 Mcf per day to a maximum of approximately 200,000 Mcf per day. Applicant states that the natural gas supplies attributable to its interest in the reserves underlying Block A-309 were not located in close proximity to its existing interstate pipeline transmission system nor were the natural gas supplies to be acquired by Michigan Wisconsin located near its existing interstate pipeline transmission system. Applicant further states that in order to make these additional natural gas supplies available to their respective systems for utilization as a part of their overall system supply, Applicant and Michigan Wisconsin executed a gas exchange agreement dated October 6, 1977. Arrangements were also made with other parties to facilitate the availability to Applicant and Michigan Wisconsin of such additional natural gas supplies, it is said.

The amendment states that Applicant and Michigan Wisconsin have subsequently entered into certain new agreements in order to avoid unnecessary and unwarranted delay, given the request for consoldation and hearing by Colorado Interstate Gas Company, in the receipt of authorizations respecting the exchange between Applicant and Michigan Wisconsin of certain natural gas supplies reflected in Applicant's original application in the instant docket, but which are not a necessary part of the WINGS Project. The amendment further states that such agreements are designed, *inter alia*, to (i) cancel and supersede the agreement dated October 6, 1977, and (ii) separate certain supply areas (Creston Nose area, the Lincoln Road area) and the production area associated with the WINGS Project, all such producing areas being located in Wyoming, and previously covered by the agreement dated October 6, 1977.

Applicant indicates that it has entered into the following six new agreements in order to facilitate the desired restructuring of the proposed arrangements between the parties, Applicant and Michigan Wisconsin: (i) a Letter Agreement dated December 20, 1978, terminating the Agreement dated October 6, 1977; (ii) the Creston Nose Gas Exchange Agreement and the Lincoln Road Gas Exchange Agreement, each datd December 20, 1978, which provide, individually, for the exchange of El Paso's natural gas reserves underlying Block A-309 and of Michigan Wisconsin's natural gas supplies attributable to the Creston Nose area and Lincoln Road areas, respectively; (iii) a Gas Transportation Agreement dated December 20, 1978, providing solely for the transportation by Applicant of natural gas supplies from Michigan Wisconsin's gas production activities associated with the WINGS Project in the State of Wyoming, excluding that production owned or otherwise controlled by Michigan Wisconsin in the Creston Nose and Lincoln Road areas of Wyoming; and (iv) two (2) Letter Agreements, each dated December 20, 1978, respecting, individually, the dedication and operation of existing compression, now utilized, to effectuate deliveries by Applicant to Natural Gas Pipeline Company of America (Natural) for Michigan Wisconsin's account and the construction of certain San Juan Triangle Facilities when required and if elected by Michigan Wisconsin to be constructed on its behalf.

Applicant states that pursuant to the terms and conditions of the subject transportation agreement dated December 20, 1978, between it and Michigan Wisconsin, which agreement forms the basis for the instant amendment, Applicant would, subject to the availability of capacity in its interstate pipeline transmission system, receive and transport for the account of Michigan Wisconsin, quantities of natural gas ranging from approximately 25,000 Mcf per day to a maximum of approximately 175,000 Mcf per day to be received from Northwest Pipeline Corporation (Northwest) at an existing point of interconnection between the pipeline systems of Northwest and Applicant (the Ignacio Receipt Point) in La Plata County, Colorado. Applicant states that it would concurrently deliver to Michigan Wisconsin or its designee quantities of natural gas equivalent to an Mcf for Mcf basis, to the quantities of natural gas received by Applicant at the Ignacio Receipt Point for transportation for Michigan Wisconsin's account. The delivery point at which Applicant would deliver or cause to be delivered natural gas to Michigan Wisconsin or its designee is at an existing point of interconnection between Applicant's 16-inch O.D. Jal Plant-to-Pecos River transmission pipeline in Lea County, New Mexico (Lea County Delivery Point), it is stated. It is indicated that Natural would accept deliveries of natural gas for Michigan Wisconsin's account at the Lea County Delivery Point and deliver such quantities of gas to Michigan Wisconsin pursuant to the provisions of the October 5, 1977, transportation service agreement between Natural and Michigan Wisconsin.

The amendment states that as compensation for the use of the mainline transmission facilities of Applicant in the backhaul transportation service to be provided by Applicant for the deliveries made to Michigan Wisconsin, Michigan Wisconsin would pay Applicant 1.0 cent for each Mcf delivered by Applicant at the Lea County Delivery Point.

Applicant asserts that the granting of the requested authorization here would assist Michigan Wisconsin in making available to its interstate system customers additional quantities of natural gas while obviating the need for Michigan Wisconsin to construct extensive and costly pipeline facilities which, absent such transportation arrangements, would be required.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6980 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-155]

EL PASO NATURAL GAS CO.

Application

MARCH 1, 1979.

Take notice that on January 23, 1979, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso,

Texas 79978, filed in Docket No. CP79-155 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and the transportation and delivery of natural gas, on an exchange basis, to Arkansas Louisiana Gas Company (Arkla) from certain extisting wells and a proposed balancing point and from future wells and balancing points which may be attached to either party's system in a specified area of interest in Texas and Oklahoma, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Applicant and Arkla have acquired through direct purchase or by dedication of interests certain natural gas production in Hemphill County, Texas, and Roger Mills County, Oklahoma. In addition, it is indicated, both Applicant and Arkla have existing gathering facilities and active acquisition programs in Roberts and Wheeler Counties, Texas, and Beckham, Caddo, Custer, Ellis and Washita Counties, Oklahoma, from which both parties expect to acquire additional natural gas production. However, in order for Applicant and Arkla to obtain natural gas production attributable to their respective interests in the area of interest from those counties which presently have natural gas production, as well as those counties from which natural gas production, is expected by Applicant and Arkla, both Applicant and Arkla would be required to construct and operate new facilities, it is asserted.

Applicant states that in order to expedite attachment of the producing wells, and of future wells, in the area of interest and to prevent duplication of expenditures and facilities, Applicant and Arkla have entered into a gas exchange agreement dated December 29, 1978, whereby the parties have agreed to the free exchange, on an Mcf for Mcf basis, of equivalent quantities of natural gas which are available or may become available to each, within the specified area of interest. The delivery and exchange authorization requested involves those quantities of natural gas which are being produced and which are anticipated by the parties to be produced from wells within the area of interest in which either or both parties own an interest, it is stated. Applicant indicates that the receipt and gathering of natural gas would be accomplished by the party designated as the gathering party with respect to each well, through utilization of existing and additional gathering system facilities as may be required to facilitate production of wells in the area of interest and subject to the exchange agreement. Applicant further indicates that in the event that volumes of natural gas received and gathered by each party are not equal, the exchange agreement provides for reasonably concurrent deliveries of balancing gas, on an Mcf for Mcf basis, at a proposed point of interconnection between the pipeline systems of Applicant and Arkla, which point of interconnection is proposed to be at or near the intersection of Applicant's existing Lateral B-2 pipeline and Arkla's existing AD-10 pipeline, in Hemphill County, Texas. Applicant states that in order to effectuate the operation of such balancing point, it requests authorization to construct and operate the following facilities:

1. *Scott #1 Well Connection.* Approximately 0.13 mile of 4½-inch O.D. pipeline, with appurtenances, including a 4½-inch O.D. standard orifice meter run and a 2.5 MMcf per day wellhead dehydration unit, commencing at the wellhead of the Scott #1 well and terminating at a point of interconnection with Arkla's 24-inch O.D. pipeline, in Roger Mills County, Oklahoma.

2. *Balancing Point Facilities.* A 4½-inch O.D. tap and valve assembly, with apppurtenances, at a point on Applicant's 8⅝-inch O.D. Lateral B-2 pipeline in Hemphill County, Texas.

It is stated that the total estimated cost of the proposed facilities, including respective overhead, contingency and required filing fee is $65,134. Applicant indicates that it and Arkla would each bear 50 percent of the total cost of the facilities to be constructed in connection with the balancing point. The total cost of those facilities to be constructed by Applicant at the subject balancing point are estimated to be $12,000, which cost Applicant proposes to finance through the use of internally generated funds.

In addition, Applicant requests blanket authorization for the deletion of wells and/or balancing points from the exchange arrangement, as may be mutually agreed to from time to time by Applicant and Arkla.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the proetestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intevene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6981 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-166]

EL PASO NATURAL GAS CO.

Application

MARCH 1, 1979.

Take notice that on January 29, 1979, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978 filed in Docket No. CP79-166 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of natural gas from the Lincoln Road area, on an exchange basis, to Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that El Paso and Michigan Wisconsin have entered into a letter agreement dated December 20, 1978, wherein the parties have agreed to terminate the exchange agreement dated October 6, 1977, between the parties, which exchange agreement provided for the transportation and delivery of natural gas to or for the account of Michigan Wisconsin from a point of receipt in La Plata County, Colorado (the Ignacio Receipt Point). El Paso filed for the authorization to transport the gas in Docket No. CP78-206, it is said.

It is stated that El Paso and Michigan Wisconsin have entered into the Lincoln Road Agreement dated December 20, 1978, which agreement provides for the exchange between the parties of natural gas supplies available to Michigan Wisconsin in the Lincoln Road area. It is further stated that pursuant to the terms of the Lincoln Road Agreement Michigan Wisconsin would accept and receive for the account of Applicant such quantity of natural gas produced from Block A-309 as El Paso may cause to be tendered on any day to Michigan Wisconsin at Michigan Wisconsin's measuring station in Cameron Parish, Louisiana, and which is in excess of the natural gas pursuant to the Creston Nose Gas Exchange agreement. In exchange therefor, Michigan Wisconsin would concurrently cause to be delivered to El Paso and El Paso would accept and receive for the account of Michigan Wisconsin, an equivalent quantity of natural gas, on a million Btu basis, from the Lincoln Road area, at the Ignacio Receipt Point, it is stated. Any imbalances in deliveries shall be carried forward to the next month and eliminated as soon as possible, it is said.

It is asserted that the granting of the requested authorization would assist both El Paso and Michigan Wisconsin in their ability to make available to their respective interstate system customers additional quantities of natural gas, which quantities of natural gas should not be a part of the overall WINGS Project, while obviating the need for the construction of extensive and costly pipeline facilities which, absent such authorization, would be required to connect producing sources directly to either party's existing pipeline system and which, in part, would duplicate existing facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for El Paso to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6982 Filed 3-7-79; 8:45]

[6450-01-M]

[Docket No. E-8911]

GULF POWER CO.

Filing of Settlement Agreement

FEBRUARY 27, 1979.

Take notice that on January 29, 1979, Gulf Power Company filed a settlement agreement with intervening parties to the above-captioned proceeding. An accompanying motion for approval of the settlement indicates that this case is being settled in conjunction with the settlement concurrently filed in *Gulf Power Company*, Docket No. ER77-532.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 6, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6983 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER-76-816]

GULF STATES UTILITIES CO.

Compliance Filing

FEBRUARY 28, 1979.

Take notice that Gulf States Utilities Company on December 4, 1978, tendered for filing in compliance with the Commission's order of October 20, 1978 revised Rate Schedules WSC and WSM.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before March 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6984 Filed 3-7-79; 8:45 am]

[6450-01-M]

IMC EXPLORATION CO., ET AL.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

FEBRUARY 28, 1979.

On February 22, 1979, the Federal Energy Regulation Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

LOUISIANA, DEPARTMENT OF NATURAL RESOURCES OFFICE OF CONSERVATION

FERC Control Number: JD79-256
API Well Number: 1711102190
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Trans. Corp. #3
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 4.7 MMcf.

FERC Control Number: JD79-257
API Well Number: 1711102191
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Trans. Corp. #5
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 1.1 MMcf.

FERC Control Number: JD79-258
API Well Number: 1711102192
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Trans. Corp. #6
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-259
API Well Number: 1711102193
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Trans. Corp. #7
Field: Monroe
County: Union

Purchaser: Mid Louisiana Gas Company
Volume: 4.4 MMcf.

FERC Control Number: JD79-260
API Well Number: 1711102194
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Transmission Corp. #8
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 2.2 MMcf.

FERC Control Number: JD79-261
API Well Number: 1711102195
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Transmission Corp. #9
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 2.2 MMcf.

FERC Control Number: JD79-262
API Well Number: 1711102196
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Trans. Corp. #10
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-263
API Well Number: 1711102281
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Trans. Corp. #12
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.1 MMcf.

FERC Control Number: JD79-264
API Well Number: 1710700668
Section of NGPA: 108
Operator: Chas. F. Hayes & Associates, Inc.
Well Name: M.D. Adams No. 1 Well #84357
Field: Locust Ridge
County: Tensas Parish
Purchaser: Mid Louisiana Gas Company
Volume: 14.705 MMcf.

FERC Control Number: JD79-265
API Well Number: 1711121268
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #48
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 16.0 MMcf.

FERC Control Number: JD79-266
API Well Number: 1711121266
Section of NGPA: 103
Operator: IMC Exploration Co.
Well Name: Frost #47
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 17.5 MMcf.

FERC Control Number: JD79-267
API Well Number: 1711121298
Section of NGPA: 103
Operator: IMC Exploration Co.
Well Name: Frost #61
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 17.5 MMcf.

FERC Control Number: JD79-268
API Well Number: 1711102282
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Trans. Corp. #13
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 11.3 MMcf.

FERC Control Number: JD79-269
API Well Number: 1711102249
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Trans. Corp. #16-A
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.1 MMcf.

FERC Control Number: JD79-270
API Well Number: 1711102243
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Trans. Corp. #17
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 8.0 MMcf.

FERC Control Number: JD79-271
API Well Number: 1711102250
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Trans. Corp. #17-A
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 8.8 MMcf.

FERC Control Number: JD79-272
API Well Number: 1711102244
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Trans. Corp. #18
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 4.7 MMcf.

FERC Control Number: JD79-273
API Well Number: 1711102251
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Trans. Corp. #18-A
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 10.2 MMcf.

FERC Control Number: JD79-274
API Well Number: 1711102245
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Okin Gas Trans. Corp. #19—A
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 12.8 MMcf.

FERC Control Number: JD79-275
API Well Number: 1711102252
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Gas Trans. Corp. #19-A
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 17.5 MMcf.

FERC Control Number: JD79-277
API Well Number: 1710921913
Section of NGPA: 107
Operator: Pennzoil Producing Company
Well Name: LaTerre State A No. 1
Field: Lirette
County: Terrebonne
Purchaser: United Gas Pipe Line Company
Volume: 145 MMcf.

FERC Control Number: JD79-278
API Well Number: 1710921875
Section of NGPA: 107
Operator: Pennzoil Producing Co.
Well Name: Kelly No. 2
Field: Bayou Rambio
County: Terrebonne
Purchaser: United Gas Pipe Line Company
Volume: 4,300 MMcf.

FERC Control Number: JD79-279
API Well Number: None
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Ford #5
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 6.9 MMcf.

FERC Control Number: JD79-280
API Well Number: 1711101392
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Ford #8
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 9.5 MMcf.

FERC Control Number: JD79-281
API Well Number: 1711101393
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Ford #9
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 9.1 MMcf.

FERC Control Number: JD79-282
API Well Number: 1711101382
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Ben Ford et al. #1
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 8.8 MMcf.

FERC Control Number: JD79-283
API Well Number: 1711100371
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Ellis #1
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 3.7 MMcf.

FERC Control Number: JD79-284
API Well Number: 1711100449
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Edwards #1
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 3.3 MMcf.

FERC Control Number: JD79-285
API Well Number: 1711100455
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Edwards #2
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 4.4 MMcf.

FERC Control Number: JD79-286
API Well Number: 1711121294
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #59
Field: Monroe
County: Union

Purchaser: Mid Louisiana Gas Co.
Volume: 12.4 MMcf.

FERC Control Number: JD79-287
API Well Number: 1711121289
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #60
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 10.2 MMcf.

FERC Control Number: JD79-288
API Well Number: 1711121247
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #44
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 11.3 MMcf.

FERC Control Number: JD79-289
API Well Number: 1711121251
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #45
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 12.4 MMcf.

FERC Control Number: JD79-290
API Well Number: 1711121259
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #46
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 9.5 MMcf.

FERC Control Number: JD79-291
API Well Number: 1711121267
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #49
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 8.0 MMcf.

FERC Control Number: JD79-292
API Well Number: 1711121270
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #50
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 12.4 MMcf.

FERC Control Number: JD79-293
API Well Number: 1711121271
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #51
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 15.3 MMcf.

FERC Control Number: JD79-294
API Well Number: 1711101003
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Lankford #2
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 5.5 MMcf.

FERC Control Number: JD79-295
API Well Number: 1711121269
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #52
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 12.0 MMcf.

FERC Control Number: JD79-296
API Well Number: 1711121296
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #56
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 12.0 MMcf.

FERC Control Number: JD79-297
API Well Number: 1711121290
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #57
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 13.5 MMcf.

FERC Control Number: JD79-298
API Well Number: 1711102518
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Antley #1
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 13.1 MMcf.

FERC Control Number: JD79-299
API Well Number: 1711102515
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Antley #4
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 2.6 MMcf.

FERC Control Number: JD79-300
API Well Number: 1711101071
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #12
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 11.3 MMcf.

FERC Control Number: JD79-301
API Well Number: None
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #15
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 8.4 MMcf.

FERC Control Number: JD79-302
API Well Number: None
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #16
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 11.3 MMcf.

FERC Control Number: JD79-303
API Well Number: None
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #17
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 1.1 MMcf.

FERC Control Number: JD79-304
API Well Number: None
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #18
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 12.0 MMcf.

FERC Control Number: JD79-305
API Well Number: None
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #20
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 5.8 MMcf.

FERC Control Number: JD79-306
API Well Number: 1711101338
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Louisiana Gas Lands #11
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 16.0 MMcf.

FERC Control Number: JD79-307
API Well Number: 1711100246
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: K. D. Lankford #3
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 1.8 MMcf.

FERC Control Number: JD79-308
API Well Number: None
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Laster #1
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 1.8 MMcf.

FERC Control Number: JD79-309
API Well Number: 1711102293
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Laster #2
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 5.8 MMcf.

FERC Control Number: JD79-310
API Well Number: 1711102096
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Louisiana Gas Lands #1
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 1.8 MMcf.

FERC Control Number: JD79-311
API Well Number: 1711102097
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Louisiana Gas Lands #2
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 13.5 MMcf.

FERC Control Number: JD79-312
API Well Number: 1711102098
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Louisiana Gas Lands #3
Field: Monroe
County: Union

Purchaser: Mid Louisiana Gas Co.
Volume: 15.7 MMcf.

FERC Control Number: JD79-313
API Well Number: 1711100595
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Louisiana Gas Lands #4
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 15.3 MMcf.

FERC Control Number: JD79-314
API Well Number: 1711102176
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Cummings #2
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 1.8 MMcf.

FERC Control Number: JD79-315
API Well Number: 1711102175
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Cummings #3
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 9.1 MMcf.

FERC Control Number: JD79-316
API Well Number: 1711100579
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Carter #1
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 4.4 MMcf.

FERC Control Number: JD79-31317
API Well Number: 1711102136
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Bryan #1
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 12.4 MMcf.

FERC Control Number: JD79-318
API Well Number: 1711102137
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Bryan #2
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 8.4 MMcf.

FERC Control Number: JD79-319
API Well Number: 1711102134
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Bryan #3
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 15.3 MMcf.

FERC Control Number: JD79-320
API Well Number: 1711100458
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: J. T. Bird #1
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 4.7 MMcf.

FERC Control Number: JD79-321
API Well Number: 1711100571
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #8
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 13.9 MMcf.

FERC Control Number: JD79-322
API Well Number: 1711100570
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #9
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 4.7 MMcf.

FERC Control Number: JD79-323
API Well Number: 1711100569
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #10
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 6.2 MMcf.

FERC Control Number: JD79-324
API Well Number: None
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #11
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 11.7 MMcf.

FERC Control Number: JD79-325
API Well Number: 1711100440
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #13
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 4.7 MMcf.

FERC Control Number: JD79-326
API Well Number: 1711100343
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #14
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 6.9 MMcf.

FERC Control Number: JD79-327
API Well Number: 1711100342
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #15
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 4.4 MMcf.

FERC Control Number: JD79-328
API Well Number: 1706120160
Section of NGPA: 103
Operator: Henry Goodrich d/b/a Goodrich Oil
Well Name: 6000' RA SUA-McCain et al #1-D
Field: Choudrant
County: Lincoln Parish
Purchaser: Texas Eastern Transmission
Volume: 438 MMcf.

FERC Control Number: JD79-329
API Well Number: 1703100581
Section of NGPA: 108
Operator: Jones-O'Brien, Inc.
Well Name: Crane SU 10; R. L. Holmes #1-Serial No. 68647
Field: Bethany-Longstreet
County: DeSoto
Purchaser: Texas Eastern Transmission Corp.
Volume: 1276 MMcf.

FERC Control Number: JD79-330
API Well Number: 1701702592
Section of NGPA: 108
Operator: Jones-O'Brien, Inc.
Well Name: Crane SU 24; Pace Fee #1-Serial No. 51791
Field: Bethany-Longstreet
County: Caddo
Purchaser: Texas Eastern Transmission Corp.
Volume: 1276 MMcf.

FERC Control Number: JD79-331
API Well Number: 1711121288
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #58
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 12.0 MMcf.

FERC Control Number: JD79-332
API Well Number: None
Section of NGPA: 108
Operator: Jones-O'Brien, Inc.
Well Name: Crane SU 26; Talbert Heirs #1-Serial #55569
Field: Bethany-Longstreet
County: Caddo
Purchaser: Texas Eastern Transmission Corp.
Volume: 1276 MMcf.

FERC Control Number: JD79-333
API Well Number: 1703100594
Section of NGPA: 108
Operator: Ross & Glenn Petroleum, Inc.
Well Name: Hoss SU "A"; Blaine Crawford #1 S/n 72033
Field: Bethany-Longstreet
County: DeSoto
Purchaser: Arkansas-Louisiana Gas Co.
Volume: 1.5 MMcf.

FERC Control Number: JD79-334
API Well Number: 1711901383
Section of NGPA: 108
Operator: Ralph L. Leaderbrand
Well Name: Bodcaw #B-1
Field: Sibley
County: Webster
Purchaser: United Gas Pipeline Co.
Volume: 6,481 MMcf.

FERC Control Number: JD79-335
API Well Number: 1703120824
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: T. Powell #1
Field: Bethany-Longstreet
County: DeSoto
Purchaser: Arkansas-Louisiana Gas Co.
Volume: 13 MMcf.

FERC Control Number: JD79-336
API Well Number: 1703120771
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Burford #1
Field: Bethany-Longstreet
County: DeSoto
Purchaser: Arkansas-Louisiana Gas Co.
Volume: 169,000 MMcf.

FERC Control Number: JD79-337
API Well Number: 1711100578
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Louisiana Gas Lands #5
Field: Monore
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 3.7 MMcf.

FERC Control Number: JD79-338
API Well Number: 1711102425
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: E. Gates et al. #1
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 1.8 MMcf

FERC Control Number: JD79-339
API Well Number: 1711101006
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Grafton #1
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 5.1 MMcf.

FERC Control Number: JD79-340
API Well Number: 1711121245
Section of NGPA: 103
Operator: IMC Exploration Co.
Well Name: Frost #37
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 19.5 MMcf.

FERC Control Number: JD79-341
API Well Number: 1711121235
Section of NGPA: 103
Operator: IMC Exploration Co.
Well Name: Frost #38
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 18.0 MMcf.

FERC Control Number: JD79-342
API Well Number: 1711121275
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #41
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 15.5 MMcf.

FERC Control Number: JD79-343
API Well Number: 1711100385
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Graves #1
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 4.4 MMcf.

FERC Control Number: JD79-344
API Well Number: 1711102531
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Hay #1
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 4.0 MMcf.

FERC Control Number: JD79-345
API Well Number: 1711102525
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Hay et al. #2
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 6.2 MMcf.

FERC Control Number: JD79-346
API Well Number: 1711101069
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #36
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 7.3 MMcf.

FERC Control Number: JD79-347
API Well Number: 1711121272
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #40
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 9.9 MMcf.

FERC Control Number: JD79-348
API Well Number: 1711121246
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #42
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 9.9 MMcf.

FERC Control Number: JD79-349
API Well Number: 1711121250
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #43
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 10.2 MMcf.

FERC Control Number: JD79-350
API Well Number: 1707320926
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Grant #1
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.47 MMcf.

FERC Control Number: JD79-351
API Well Number: 1707320929
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #1
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.47 MMcf.

FERC Control Number: JD79-352
API Well Number: 1707320930
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #2
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.47 MMcf.

FERC Control Number: JD79-353
API Well Number: 1707320932
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #3
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.47 MMcf.

FERC Control Number: JD79-354
API Well Number: 1707320964
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #4
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.47 MMcf.

FERC Control Number: JD79-355
API Well Number: 1707320965
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Corp. Cole Heirs Corp. #5
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.47 MMcf.

FERC Control Number: JD79-356
API Well Number: 1711100457
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: J. T. Bird #2
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 3.7 MMcf.

FERC Control Number: JD79-357
API Well Number: 1711102395
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost Lumber Co. #2
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 2.9 MMcf.

FERC Control Number: JD79-358
API Well Number: None
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #8
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 9.1 MMcf.

FERC Control Number: JD79-359
API Well Number: 1711101077
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #9
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 11.3 MMcf.

FERC Control Number: JD79-360
API Well Number: 1711101072
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #10
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 16.4 MMcf.

FERC Control Number: JD79-361
API Well Number: 1711102174
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Freeman #1
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 6.9 MMcf.

FERC Control Number: JD79-362
API Well Number: 1711121284
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Ford #12
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co

Volume: 5.5 MMcf.

FERC Control Number: JD79-363
API Well Number: 1711100575
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: J.T. Bird #3
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 4.0 MMcf.

FERC Control Number: JD79-365
API Well Number: 1711101134
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #23
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 2.6 MMcf.

FERC Control Number: JD79-366
API Well Number: 1711101074
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #24
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 6.6 MMcf.

FERC Control Number: JD79-367
API Well Number: 1711101100
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #25
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 6.2 MMcf.

FERC Control Number: JD79-368
API Well Number: 1711101101
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #26
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 8.8 MMcf.

FERC Control Number: JD79-369
API Well Number: 1711101070
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #29
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 11.3 MMcf.

FERC Control Number: JD79-370
API Well Number: 1711101135
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #30
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 4.0 MMcf.

FERC Control Number: JD79-371
API Well Number: 1711101136
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #31
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 8.0 MMcf.

FERC Control Number: JD79-372
API Well Number: 1711120014
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #32
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 5.1 MMcf.

FERC Control Number: JD79-373
API Well Number: 1705520150
Section of NGPA: 103
Operator: Edwin L. Cox
Well Name: Elvina Trahan 158009
Field: North Maurice
County: Lafayette
Purchaser: Texas Gas Transmission Corp.
Volume: 1,000 MMcf.

FERC Control Number: JD79-374
API Well Number: 1711100341
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #16
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co
Volume: 7.3 MMcf.

FERC Control Number: JD79-375
API Well Number: 1711100357
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #17
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.5 MMcf.

FERC Control Number: JD79-376
API Well Number: 1711102131
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #19
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 5.5 MMcf.

FERC Control Number: JD79-377
API Well Number: 1711102115
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #20
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 5.5 MMcf.

FERC Control Number: JD79-378
API Well Number: 1711102116
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #21
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 9.9 MMcf.

FERC Control Number: JD79-379
API Well Number: 1711100568
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #22
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 4.4 MMcf.

FERC Control Number: JD79-380
API Well Number: 1711101960
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #23
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 13.9 MMcf.

FERC Control Number: JD79-381
API Well Number: 1711101961
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Olin Matheson Chemical Corp. #25
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 8.4 MMcf.

FERC Control Number: JD79-382
API Well Number: 1707320969
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #36
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 8.56 MMcf.

FERC Control Number: JD79-383
API Well Number: 1707320972
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #37
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 8.56 MMcf.

FERC Control Number: JD79-384
API Well Number: 1707320978
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #38
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 8.56 MMcf.

FERC Control Number: JD79-385
API Well Number: 1707320979
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #39
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 8.56 MMcf.

FERC Control Number: JD79-386
API Well Number: 1707320934
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #40
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 8.56 MMcf.

FERC Control Number: JD79-387
API Well Number: 1707320968
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #42
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 8.56 MMcf.

FERC Control Number: JD79-388
API Well Number: 1707320971
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #41
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.

Volume: 8.56 MMcf.

FERC Control Number: JD79-389
API Well Number: 1707320995
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #43
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 8.56 MMcf.

FERC Control Number: JD79-390
API Well Number: 1707320959
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #23
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.466 MMcf.

FERC Control Number: JD79-391
API Well Number: 1707320961
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #25
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.466 MMcf.

FERC Control Number: JD79-392
API Well Number: 1707320950
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #26
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.466 MMcf.

FERC Control Number: JD79-393
API Well Number: 1707320956
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #27
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.466 MMcf.

FERC Control Number: JD79-394
API Well Number: 1707320993
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #31
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.47 MMcf.

FERC Control Number: JD79-395
API Well Number: 17073200994
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #32
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.48 MMcf.

FERC Control Number: JD79-396
API Well Number: 1707320973
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #34
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 8.56 MMcf.

FERC Control Number: JD79-397
API Well Number: 1707320933
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #35
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 8.56 MMcf.

FERC Control Number: JD79-398
API Well Number: 1707320980
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #44
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 8.56 MMcf.

FERC Control Number: JD79-399
API Well Number: 1707320970
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #45
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 8.56 MMcf.

FERC Control Number: JD79-400
API Well Number: 1701320329
Section of NGPA: 103
Operator: Harvey Broyles
Well Name: CV RA SUA; Continental Can Co. B#1
Field: Bear Creek
County: Bienville
Purchaser: United Gas Pipe Line Co.
Volume: 365 MMcf.

FERC Control Number: JD79-401
API Well Number: 1702702353
Section of NGPA: 108
Operator: Sugar Creek Producing Co.
Well Name: Durrett #4
Field: Sugar Creek
County: Claiborne
Purchaser: United Gas Pipe Line Co.
Volume: 10.95 MMcf.

FERC Control Number: JD79-402
API Well Number: 1711100577
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Louisiana Gas Lands #6
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 1.1 MMcf.

FERC Control Number: JD79-403
API Well Number: 1711100594
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Louisiana Gas Lands #7
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 17.0 MMcf.

FERC Control Number: JD79-404
API Well Number: 1711100576
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Louisiana Gas Lands #8
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 6.2 MMcf.

FERC Control Number: JD79-405
API Well Number: 1711100593
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Louisiana Gas Lands #9
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 8.4 MMcf.

FERC Control Number: JD79-406
API Well Number: 1711100574
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Louisiana Gas Lands #10
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 2.2 MMcf.

FERC Control Number: JD79-407
API Well Number: 1707320966
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #6
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.47 MMcf.

FERC Control Number: JD79-408
API Well Number: 1707320988
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #18
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.466 MMcf.

FERC Control Number: JD79-409
API Well Number: 1707320989
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #19
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.466 MMcf.

FERC Control Number: JD79-410
API Well Number: 1707320991
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #20
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.466 MMcf.

FERC Control Number: JD79-411
API Well Number: 1707320992
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #21
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.466 MMcf.

FERC Control Number: JD79-412
API Well Number: 1707320955
Section of NGPA: 108
Operator: Primos Production Co.
Well Name: Cole Heirs Corp. #22
Field: Monroe
County: Ouachita
Purchaser: United Gas Pipe Line Co.
Volume: 7.466 MMcf.

FERC Control Number: JD79-413
API Well Number: 1710922082
Section of NGPA: 103
Operator: Daniel Oil Company
Well Name: C. L. & F. #1, Serial #161242
Field: Bayou Penchant
County: Terrebonne
Purchaser: Tennessee Gas Pipeline Co.
Volume: 750 MMcf.

FERC Control Number: JD79-414
API Well Number: 1711320783
Section of NGPA: 103
Operator: Hawthrone Oil & Gas Corporation
Well Name: H. V. Scanlan No. 1
Field: Southwest Gueydan

County: Vermilion
Purchaser: Continental Oil Company
Volume: 1300 MMcf.

FERC Control Number: JD79-415
API Well Number: 1702720478
Section of NGPA: 103
Operator: Sugar Creek Producing Co.
Well Name: Hoss Fort RA SUA; Fortson #2
Field: Sugar Creek Claiborne
County:
Purchaser: United Gas Pipe Line Co.
Volume: 365 MMcf.

FERC Control Number: JD79-416
API Well Number: 1701520360
Section of NGPA: 108
Operator: PAR Oil Corporation
Well Name: Skannal No. 4
Field: Sligo
County: Bossier
Purchaser: United Gas Pipeline Co.
Volume: 8,775 MCF

FERC Control Number: JD79-417
API Well Number: 1701520368
Section of NGPA: 108
Operator: PAR Oil Corporation
Well Name: Muiff No. 1
Field: Sligo
County: Bossier
Purchaser: United Gas Pipe Line Co.
Volume: 6,000 MCF

FERC Control Number: JD79-418
API Well Number: 1701520320
Section of NGPA: 108
Operator: PAR Oil Corporation
Well Name: Hunter No. 1
Field: Sligo
County: Bossier
Purchaser: United Gas Pipe Line Co.
Volume: 7,000 MCF

FERC Control Number: JD79-419
API Well Number: 1703120657
Section of NGPA: 103
Operator: Pelto Oil Company
Well Name: Hoss RA SU 14; Barnette et al. #1
Field: Holly
County: DeSoto
Purchaser: Mississippi River Transmission Corp.
Volume: 70 MMcf.

FERC Control Number: JD79-420
API Well Number: 1706120144
Section of NGPA: 103
Operator: Wheless Drilling Company
Well Name: Hoss RA SU; Palmer #1
Field: Simsboro
County: Lincoln
Purchaser: Arkansas Louisiana Gas Company
Volume: 200 MMcf.

FERC Control Number: JD79-421
API Well Number: 1702720446
Section of NGPA: 103
Operator: Sutton-Gerard-Sawyer
Well Name: HOSS SUX; Volentine #1
Field: Athens
County: Claiborne
Purchaser: Arkansas Louisiana Gas Co.
Volume: 145 MMcf.

FERC Control Number: JD79-422
API Well Number: 1702720493
Section of NGPA: 103
Operator: Sutton-Gerard-Sawyer
Well Name: HOSS SUG; H.B. Gandy #1
Field: Athens
County: Claiborne
Purchaser: Arkansas Louisiana Gas Company
Volume: 200 MMcf.

FERC Control Number: JD79-364
API Well Number: 1711101114
Section of NGPA: 108
Operator: IMC Exploration Co.
Well Name: Frost #22
Field: Monroe
County: Union
Purchaser: Mid Louisiana Gas Co.
Volume: 7.3 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this Notice in the FEDERAL REGISTER.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6965 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-180]

MICHIGAN WISCONSIN PIPE LINE CO.

Application

MARCH 1, 1979.

Take notice that on February 8, 1979, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79-180 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities necessary to connect to its existing Woodward area gathering system, gas reserves located generally adjacent to the common boundary of Roger Mills, Beckham, Custer, and Washita Counties in western Oklahoma (Area of Interest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate 30.3 miles of 16-inch pipeline, together with appurtenances, extending in a southwesterly direction from a point of interconnection of its existing 16-inch Valentine pipeline, Custer County, to a point in the Area of Interest in Beckham County. Additionally, Applicant proposes to construct and operate a new compressor station at the point where the proposed line and the existing Valentine line interconnect. The new compressor station will include three 750 horsepower class reciprocating compressor units, it is said.

The application indicates that total recoverable proved and potential Upper Morrow-Cherokee reserves dedicated to Applicant underlying currently held acreage within the Area of Interest are estimated to be approximately 107,000,000 Mcf. It is further indicated that Applicant now has presently acquired the right to future gas production from over 21,000 net call acres within the Area of Interest and is actively negotiating to obtain additional gas call in other acreage.

Applicant estimates the total cost of constructing the proposed facilities to be $8,140,220, which cost Applicant would finance internally with treasury funds, retained earnings and other funds generated internally, together with borrowings from banks under short-term lines of credit as required.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to

appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6985 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. RP78-50]

NORTHWEST PIPELINE CORP.

Certification of Stipulation and Settlement Proposal

FEBRUARY 28, 1979.

Take notice that on February 13, 1979, that Presiding Administrative Law Judge certified to the Commission a stipulation and settlement proposal submitted by Northwest Pipeline Company (Northwest) in the above-referenced proceeding. Northwest states that the proposed settlement, if approved by the Commission, would resolve all issues in this proceeding.

Any person desiring to be heard or to protest the certified Stipulation and Agreement in Settlement of Rate Proceeding should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on or before March 13, 1979. Any reply comments should be filed on or before March 23, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6986 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-202]

OHIO POWER CO.

Proposed Changes in Rates and Charges

FEBRUARY 28, 1979.

Take notice that American Electric Power Service Corporation (AEP) on February 15, 1979, tendered for filing on behalf of its affiliates, Indiana & Michigan Electric Company (Indiana) and Ohio Power Company (Ohio), Modification No. 6 dated January 1, 1979 to the Interconnection Agreement dated December 12, 1949 among Indiana, Ohio and Cincinnati Gas & Electric Company (Cincinnati), designated Ohio Power Rate Schedule FERC No. 21.

Section 1 of Modification No. 6 provides for an increase in the demand charge of Short Term Power from $0.60 to $0.70 per kilowatt per week and Section 2 in the transmission charge for third party Short Term transaction from $0.15 to $0.175/kw-week. Section 3 provides for an increase in the demand charge for Limited Term Power from $3.25 to $3.75 per kilowatt per month and Section 4 of the Modification No. 6 provides for an increase in the transmission charge for third party Limited Term transactions from $0.65 per kilowatt per month to $0.75 per kilowatt per month, both schedules proposed to become effective April 15, 1979.

Applicant states that since the use of Short Term Power and Limited Term Power Service cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from the Modification.

Copies of the filing were served upon the Cincinnati Gas and Electric Company, the Public Utilities Commission of Ohio, the Public Service Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6987 Filed 3-7-79; 8:45 am]

[6450-01-M]

O.H. BERRY ET AL.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

FEBRUARY 28, 1979.

On February 22, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

NEW MEXICO ENERGY AND MINERALS DEPARTMENT OIL CONSERVATION DIVISION

FERC Control Number: JD79-432
API Well Number: None
Section of NGPA: 103
Operator: O. H. Berry
Well Name: J. L. Isbell No. 5-Y
Field: Jal-Mat Santa Rosa
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 36 MMcf.

FERC Control Number: JD79-433
API Well Number: None
Section of NGPA: 103
Operator: Harvey E. Yates Company
Well Name: Loco Hills Welch #1
Field: None
County: Eddy
Purchaser: Not contracted
Volume: 180 MMcf.

FERC Control Number: JD79-434
API Well Number: 30-045-22439
Section of NGPA: 103
Operator: Southland Royalty Co.
Well Name: Maddox Waller 1A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: El Paso Natural Gas Co.
Volume: 180 MMcf.

FERC Control Number: JD79-435
API Well Number: 30-045-2259
Section of NGPA: 103
Operator: Southland Royalty Co.
Well Name: State Com. 1A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: El Paso Natural Gas Co.
Volume: 180 MMcf.

FERC Control Number: JD79-436
API Well Number: 30-045-21787
Section of NGPA: 103
Operator: Southland Royalty Co.
Well Name: Koch State Com. #1A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: El Paso Natural Gas Co.
Volume: 180MMcf.

FERC Control Number: JD79-437
API Well Number: 30-045-22436
Section of NGPA: 103
Operator: Southland Royalty Co.
Well Name: Calloway #1A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering
Volume: 180 MMcf.

FERC Control Number: JD79-438
API Well Number: None
Section of NGPA: 103
Operator: Southland Royalty Co.
Well Name: Mark Maddox #1A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: El Paso Natural Gas Co.
Volume: 180 MMcf.

FERC Control Number: JD79-439
API Well Number: 30-045-23068
Section of NGPA: 103
Operator: Southland Royalty Co.
Well Name: Mark Maddox #1-A
Field: Blanco Pictured Cliffs
County: San Juan
Purchaser: El Paso Natural Gas Co.
Volume: 50 MMcf.

FERC Control Number: JD79-440
API Well Number: 30-015-22469
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Eddy "GN" State Com. Well No. 1
Field: Carlsbad South Morrow
County: Eddy
Purchaser: El Paso Natural Gas Co.
Volume: 61 MMcf.

FERC Control Number: JD79-441
API Well Number: 30-015-22412
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Eddy "GL" State Com. Well No. 1
Field: Angell Ranch Morrow
County: Eddy
Purchaser: El Paso Natural Gas Co.
Volume: 49 MMcf.

FERC Control Number: JD79-442
API Well Number: 30-015-22366

Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Eddy "GM" State Com. Well No. 1
Field: Angell Ranch Morrow
County: Eddy
Purchaser: El Paso Natural Gas Co.
Volume: 127 MMcf.

FERC Control Number: JD79-443
API Well Number: 30-015-22164
Section of NGPA: 103
Operator: Gulf Oil corporation
Well Name: Eddy "FT" State Com. Well No. 2
Field: Burton Flat Morrow
County: Eddy
Purchaser: El Paso Natural Gas. Co.
Volume: 248 MMcf.

FERC Control Number: JD79-444
API Well Number: 30-015-22438
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Eddy "GX" State Com. Well No. 1
Field: Undesignated Cisco
County: Eddy
Purchaser: El Paso Natural Gas Company
Volume: 56 MMcf.

FERC Control Number: JD79-445
API Well Number: 30-015-22461
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Eddy "GE" State Com. Well No. 2
Field: Burton Flat Morrow
County: Eddy
Purchaser: El Paso Natural Gas Co.
Volume: 62 MMcf.

FERC Control Number: JD79-446
API Well Number: 30-015-22115
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Eddy "GE" State Well No. 1
Field: Burton Flat Morrow
County: Eddy
Purchaser: El Paso Natural Gas Co.
Volume: 239 MMcf.

FERC Control Number: JD79-447
API Well Number: None
Section of NGPA: 108
Operator: J. Gregory Merrion and Robert L. Bayless
Well Name: Brown #1
Field: Blanco Pictured Cliffs South
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 7.1 MMcf.

FERC Control Number: JD79-448
API Well Number: 30-025-03508
Section of NGPA: 108
Operator: ZIA Energy, Inc.
Well Name: Atlantic State No. 3
Field: Eumont-Yates-Seven Rivers-Queen
County: Lea
Purchaser: Phillips Petroleum Co.
Volume: 10.9 MMcf.

FERC Control Number: JD79-449
API Well Number: None
Section of NGPA: 108
Operator: Robert L. Bayless
Well Name: Empire #1
Field: Fulcher Kutz Pictured Cliffs
County: San Juan
Purchaser: El Paso Natural Gas Co.
Volume: 8.0 MMcf.

FERC Control Number: JD79-450
API Well Number: 30-045-011044
Section of NGPA: 108
Operator: Consolidated Oil & Gas, Inc.
Well Name: Jaquez No. 1
Field: Blanco Mesaverde
County: San Juan
Purchaser: El Paso Natural Gas Co.
Volume: 16.43

FERC Control Number: JD79-451
API Well Number: 30-025-09655
Section of NGPA: 103
Operator: Burleson & Huff
Well Name: Harrison #3
Field: Langlie-Mattix
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 38 MMcf.

FERC Control Number: JD79-452
API Well Number: None
Section of NGPA: 108
Operator: W.K. Byrom
Well Name: Williams #2
Field: Langlie-Mattix
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: .6 MMcf.

FERC Control Number: JD79-453
API Well Number: None
Section of NGPA: 108
Operator: W.K. Byrom
Well Name: Cooper F #2
Field: Eumont Queens
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 12.0 MMcf.

FERC Control Number: JD79-454
API Well Number: None
Section of NGPA: 108
Operator: W.K. Byrom
Well Name: Cooper #3
Field: Eument Queens
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 4.6 MMcf.

FERC Control Number: JD79-455
API Well Number: None
Section of NGPA: 108
Operator: W.K. Byrom
Well Name: M C Buffington #2
Field: Langlie-Mattix
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 1.5 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may in accordance with 18 CFR 275.203 and 18 CFR 275.204, file protest with the commission within fifteen (15) days of the date of publication of this Notice in the FEDERAL REGISTER.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6969 filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-194]

PUBLIC SERVICE COMPANY OF INDIANA, INC.

Proposed Tariff Change

FEBRUARY 27, 1979.

Take notice that Public Service Company of Indiana, Inc., on February 9, 1979, tendered for filing pursuant to the Service Agreement between Boone County Rural Electric Membership Corporation and Public Service Company of Indiana, Inc. a first Supplemental Agreement.

Said Supplemental Agreement provides for a new delivery point designated as the Gem Creek-69 delivery point. Service will commence at the delivery point sometime in the future, according to the Applicant.

A copy of the filing was served upon Boone County Rural Electric Membership Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before March 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Regulatory Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6988 Filed 3-7-79; 8:45 am]

[6450-01-M]

SOUTHLAND ROYALTY CO., ET AL.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

FEBRUARY 28, 1979.

On February 23, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

NEW MEXICO ENERGY AND MINERALS DEPARTMENT OIL CONSERVATION DIVISION

FERC Control Number: JD79-456
API Well Number: None
Section of NGPA: 103

Operator: Southland Royalty Company
Well Name: Sadie West No. 1-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-457
API Well Number: 30-045-22329
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Hillstrom No. 1-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-458
API Well Number: 30-045-22846
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Hubbard No. 3-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-459
API Well Number: None
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Lawson Federal No. 1-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 182 MMcf.

FERC Control Number: JD79-460
API Well Number: 30-045-22321
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Culpepper Martin No. 4-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-461
API Well Number: 30-045-22317
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Culpepper Martin No. 1-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-462
API Well Number: 30-045-22845
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Decker No. 1-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-463
API Well Number: 30-045-23067
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Page 2-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-464
API Well Number: 30-045-22840
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Decker A No. 1-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-465
API Well Number: 30-045-22849
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Moore No. 1-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-466
API Well Number: 30-045-22858
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Hubbard No. 4-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-467
API Well Number: 30-045-22315
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Vasaly Federal No. 1-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-468
API Well Number: 30-045-22328
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Culpepper Martin No. 6-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-469
API Well Number: 30-045-22838
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Patterson "B" Com. No. 1-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-470
API Well Number: 30-045-22313
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Patterson "A" Com. No. 1-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-471
API Well Number: 30-045-22437
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Bruington No. 1-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-472
API Well Number: 30-045-22844
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Chamberlain No. 1-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 182 MMcf.

FERC Control Number: JD79-473
API Well Number: 30-045-22847
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Dalsant No. 1-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-474
API Well Number: 30-045-22847
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Dalsant No. 1-A
Field: Blanco Pictured Cliffs
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 182 MMcf.

FERC Control Number: JD79-475
API Well Number: None
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Day State No. 1-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-476
API Well Number: 30-045-22325
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Day State No. 1-A
Field: Blanco Pictured Cliffs
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 55

FERC Control Number: JD79-477
API Well Number: 30-045-22848
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Culpepper Martin No. 9-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-478
API Well Number: 30-045-22326
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Culpepper Martin No. 10-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-479
API Well Number: 30-045-22324
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Culpepper Martin No. 11-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company

Volume: 180 MMcf.

FERC Control Number: JD79-480
API Well Number: 30-045-22316
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Culpepper Martin No. 12-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 182 MMcf.

FERC Control Number: JD79-481
API Well Number: 30-045-22323
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Culpepper Martin No. 13-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 180 MMcf.

FERC Control Number: JD79-482
API Well Number: 30-045-22327
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Culpepper Martin No. 14-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 182 MMcf.

FERC Control Number: JD79-483
API Well Number: 30-045-22318
Section of NGPA: 103
Operator: Southland Royalty Company
Well Name: Culpepper Martin No. 15-A
Field: Blanco Mesa Verde
County: San Juan
Purchaser: Southern Union Gathering Company
Volume: 182 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this Notice in the FEDERAL REGISTER.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6968 Filed 3-7-79; 8:45 am]

[6450-01-M]

SOUTHLAND ROYALTY CO., ET AL.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

FEBRUARY 28, 1979.

On February 21, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

NEW MEXICO ENERGY AND MINERALS DEPARTMENT OIL CONSERVATION DIVISION

FERC Control Number: JD79-430
API Well Number: None
Section of NGPA: 108
Operator: Southland Royalty Co.
Well Name: State 575 #1
Field: Ballard Pictured Cliffs
County: San Juan
Purchaser: El Paso Natural Gas Co.
Volume: 18 MMcf.

FERC Control Number: JD79-431
API Well Number: None
Section of NGPA: 103
Operator: Champlin Petroleum Company
Well Name: State "5" #11
Field: Chaveroo (SA)
County: Chaves
Purchaser: Cities Service Oil Company
Volume: 2 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.W., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this Notice in the FEDERAL REGISTER.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6967 Filed 3-7-79; 8:45 am]

[6450-01-M]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

[Docket No. CP79-177]

Application

MARCH 1, 1979.

Take notice that on February 7, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), No. CP79-177 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 4.2 miles of 10-¾-inch pipeline and metering facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the proposed pipeline would extend from an existing platform in the Lac Blanc South Field, Vermilion Parish, Louisiana, to a point on the west leg of the existing Blue Water System at Mile Post 38.8. The estimated cost of the proposed pipeline facilities is $1,542,000 which cost Applicant proposes to finance from internally generated funds, it is stated.

Applicant asserts that the proposed facilities would enable it to receive additional deliverability from previously committed reserves.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion beleives that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6989 Filed 3-7-79; 8:45 am]

[6450-01-M]

TEXAS OIL & GAS CORP.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

FEBRUARY 26, 1979.

On February 12, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil

Conservation Division of a determination pursuant to 18 CFR 274.104 and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

FERC Control Number: JD79-276
API Well Number: 30-015-22448
Operator: Texas Oil & Gas Corporation
Well Name: Indian Hills State Com. #1
Field: Cemetary, Morrow
County: Eddy
Purchaser: Natural Gas Pipeline Company of America
Volume: 350 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this Notice.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6966 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. CP75-149]

TRUNKLINE GAS CO.

Amendment to Application

MARCH 1, 1979.

Take notice that on January 26, 1979, Trunkline Gas Company, (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP75-149 an amendment to its application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of up to 85,000 Mcf of natural gas per day on a firm basis for Southern Natural Gas Company (Southern), all as more fully set forth in the amendment on file with the Commission and open to public inspection.

Applicant states that its original application in the instant docket, seeking authority to transport gas for Southern, together with other certificate applications involved in the South Marsh Island Project, was consolidated, heard, and considered by the Commission in the proceedings entitled Tenneco Oil Company, *et al.*, Docket No. CI75-45, *et al.* It is indicated that on March 20, 1978, the Commission issued Opinion No. 10 which granted the producer reservations, and severed this docket and other applications involved in the South Marsh Island Project from the consolidated proceedings. Applicant indicates that it thereafter amended its application in Docket No. CP75-19 to reflect the changed circumstances, and that pursuant to the Commission's order of August 22, 1978, in Docket No. CP75-19, Applicant's remaining elements of South Marsh Island Project were authorized except for the instant docket.

By this amendment, Applicant requests authorization to transport up to 85,000 Mcf of gas per day on a firm basis for Southern from South Marsh Island Blocks 268 and 281, offshore Louisiana (the Shadyside delivery point) where the gas would be redelivered to Southern, pursuant to an agreement dated September 11, 1974, as amended by instruments dated November 12, 1974, and September 27, 1978. The gas to be transported would be received in a common stream with other gas purchased by Applicant, and transported to Applicant's onshore facilities through the facilities authorized in Docket No. CP75-19. Thus, Applicant hereby withdraws its request for the facilities necessary to make deliveries to Southern at the Shadyside delivery point, inasmuch as such facilities were certificated by the Commission's order of August 22, 1978 in Docket No. CP75-19.

Applicant states that it would charge Southern for the proposed transportation service $384,200.00 per month, which charge has been derived from the cost of service for the facilities involved in rendering the service. Such charge is subject to adjustment upwards and downwards by 14.86 cents per Mcf of gas which Applicant takes in excess of the transportation quantity or fails or is unable to take up to the transportation quantity on any day or days, respectively.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 1.8 or 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6990 Filed 3-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-97]

TUCSON GAS & ELECTRIC CO.

Order Accepting in Part and Rejecting in Part Rate Filing, and Granting Waiver of Notice Requirement

Issued February 28, 1979.

On December 5, 1978, Tucson Gas & Electric Company (Tucson) submitted for filing the Tucson-San Diego Ten Year Power Sale and Interconnection Agreement (Agreement) and various schedules of rates for the sale of power and energy to San Diego Gas & Electric Company (San Diego) from existing and future generating units owned by Tucson. The Agreement was executed by the parties on November 29, 1978. Tucson has requested that the Agreement be accepted for filing, effective March 1, 1979.

Notice of the filing was issued December 15, 1978, with comments, protests, or petitions to intervene due on or before December 29, 1978. On January 2, 1979, the Arizona Corporation Commission filed a Notice of Intervention. On January 22, the Corporation Commission filed a clarification stating that it did not request a formal hearing or enlargement of issues in this proceeding.

The proposed sale is divided into five "phases" described in the Agreement. The rates which are proposed to be applicable to each phase are specified in corresponding Exhibits One through Five to the Agreement.

The proposed term of Phase One is March 1, 1979, through June 30, 1979. Billing and contract demand is specified as 100 MW of firm power from Tucson's system. Demand will be billed at the rate of $6.90 per kW per month and energy at the rate of 0.991 cents per kWh, subject to a fuel adjustment clause.

Phase Two will extend from July 1, 1979, through April 30, 1982, with firm power and energy to be supplied from Tucson's San Juan Generating Station Unit No. 3. Contract and billing demand for Phase Two is specified at 100 MW, except from November 1, 1979, through April 30, 1980, when contract and billing demand shall be 150 MW. Phase Two rates are specified at $13.60 per Kw per month with energy billed at the net average cost per kWh generally described by the expense recorded in "FPC Account 501-Fuel" for the San Juan Generating Station No. 3 divided by the net generation for the month.

Phase Three is proposed to begin on May 1, 1982, and continue until the day prior to the commercial operation date of Tucson's proposed Springerville Unit No. 1 or May 31, 1985, whichever occurs first. During Phase Three contract and billing demand

will be 100 MW of firm power and energy from Tucson's system resources. Further, by the exercise of an option retained under the Agreement, Tucson may extend Phase Three until May 31, 1987, during which time it will make available to San Diego a certain amount of power and energy, up to 100 MW, from its system resources. This amount of power is to be regarded as contract and billing demand.

The Agreement also provides that Phase Four shall begin on the commercial operation date of the Springerville Unit No. 1 and continue through the earlier of December 31, 1988, or the commencement of Phase Five, the in-service date of Springerville Unit No. 2. During Phases Four and Five, power and energy are to be supplied to San Diego from Tucson's Springerville Unit Nos. 1 and 2, with provision for back-up from Tucson's system resources. Proposed charges for service during these two phases are to be determined by cost of service formulae set forth in Exhibits Four and Five to the Agreement.

Upon our review of Tucson's submittal, we shall accept for filing the Tucson-San Diego Agreement and the Phase One rate schedule (Exhibit One to the Agreement) to be effective March 1, 1979. We shall also accept for filing the rate schedule for Phase Two (Exhibit Two of the Agreement) to be effective July 1, 1979. Although rate schedules must be filed not less than sixty days or more than 120 days before they are to become effective,[1] the Phase Two rate schedule was filed more than 120 days prior to its proposed effective date. We thus infer from Tucson's proposed Phase Two effective date an implied request for waiver of our 120 day notice requirement and hereby grant that request.[2]

We shall reject Tucson's filing of the rate schedules for Phases Three, Four and Five (Exhibits Three, Four and Five of the Agreement) because they are proposed to become effective no sooner than May 1, 1982. Waiver of our regulations is not appropriate for these proposed rate increases. Our rejection, however, is without prejudice to the timely filing of the rate schedules in Exhibits Three, Four and Five at such time as Tucson proposes to supersede the then-effective rate pursuant to Section 205 of the Federal Power Act. *See, Indiana and Michigan Electric Co.*, Docket No. ER78-353, Order issued July 21, 1978. Appropriate supporting data should be submitted by Tucson with these filings.[3]

The Commission orders:

(A) The Tucson-San Diego Ten Year Power Sale and Interconnection Agreement, is accepted for filing effective March 1, 1979.

(B) The Phase One rate schedule (Exhibit One to the Agreement) is accepted for filing effective March 1, 1979.

(C) Waiver of the 120 day notice requirement of Section 35.3 of our Regulations is granted with regard to the Phase Two rate schedule (Exhibit Two to the Agreement).

(D) The Phase Two rate schedule is accepted for filing effective July 1, 1979.

(E) The rate schedules for Phases Three, Four and Five (Exhibits Three, Four and Five to the Agreement) are rejected without prejudice to timely refiling under Section 205 with appropriate supporting data.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A

Designation and Description

Tucson Gas & Electric Company Rate Schedule FERC No. 26. Ten Year Power Sale and Interconnection agreement.
Supplement No. 1. Schedule of Rates for Wholesale Service (3/1/79-6/30/79.
Supplement No. 2. Schedule of Rates for Wholesale Service (7/1/79-4/30/82).

[FR Doc. 79-6991 Filed 3-7-79; 8:45 am]

[1]See, Changes in Notice Requirements, Part 35—Filing of Rate Schedules, January 2, 1979.

[2]See Attachment A for rate schedule designations.

[3]Tucson's justification for the rate of return or common equity during Phases Three, Four and Five is simply a citation to a decision of the Arizona Corporation Commission in a Tucson retail rate case. This would not be regarded as adequate cost support that the proposed return is proper.

[1]The proceeding was commenced before the Federal Power Commission (FPC). By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Federal Energy Regulatory commission (FERC). The term "Commission" when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[6450-01-M]

[Docket No. CP76-118]

U-T OFFSHORE SYSTEM

Petition To Amend

MARCH 1, 1979.

Take notice that on February 5, 1979, U-T Offshore System (Petitioner), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP76-118 a petition to amend further the Commission's order, issued January 13, 1977, as amended, in said docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction and operation of additional onshore facilities which would increase the capacity of its system to approximately 1,200,000 Mcf of gas per day, all as more fully set forth in the petition to amend further which is on file with the Commission and open to public inspection.[1]

Petitioner proposes to construct, install and operate additonal separation, dehydration and metering facilities at the site of its existing similar facilities at Johnson's Bayou, Cameron Parish, Louisiana. Petitioner alleges that such additional capacity is required to enable it to transport the additional volumes of natural gas that its shippers anticipate making available to it from the High Island Offshore System commencing November 1979. Petitioner states that its shippers have indicated a desire for firm transportation service, in the aggregate, of 1,154,720 Mcf per day. The estimated cost of the proposed facilities is indicated to be $6,600,000 which would be financed through short-term loans and available cash.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-6992 Filed 3-7-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Docket No. 79-10]

RATES OF FAR EASTERN SHIPPING CO.

Order of Suspension and To Show Cause

The Far Eastern Shipping Company (FESCO), a state corporation of the U.S.S.R., is a common carrier in the foreign commerce of the United States providing liner service between United States ports and ports in the Far East, Australia, New Zealand, and the Philippines. FESCO is, or its operating assets are, directly or indirectly owned or controlled by the government of the U.S.S.R., under whose registry its vessels operate. Therefore, FESCO is a "controlled carrier" as defined in section 1 of the Shipping Act, 1916, as

amended by the Ocean Shipping Act of 1978, Pub. L. No. 95-483, section 2, 92 stat. 1607.[1]

In response to a Commission Order requesting information regarding its status under this section, FESCO indicated that it operates vessels of U.S.S.R. registry in the United States/Far East Trades. FESCO did not, however, answer questions about government ownership and control and instead directed the Commission to the Ministry of Merchant Marine of the Soviet Union.

Notwithstanding FESCO's failure to respond directly to these questions, a publication of the Soviet state controlled Novosti Press Agency, *The Soviet Merchant Marine*, lists FESCO as controlled by the Soviet Ministry of Merchant Marine. Additionally, FESCO's application for Certificate of Financial Responsibility (oil pollution) FMC 24, submitted during 1971, stated that the vessels it operated were the property of the U.S.S.R. This information is consistent with the U.S.S.R.'s Constitution, Article II of which states that the state owns the basic means of transport, and with Article 4 of the Merchant Shipping Code of the U.S.S.R. which states that Soviet maritime steamship authorities are subordinate to the Ministry of Merchant Marine. Based upon this information, the Commission has concluded that FESCO is a "controlled carrier" as defined in section 1 of the Shipping Act, 1916.

Section 3 of the Ocean Shipping Act of 1978 amends section 18 of the Shipping Act, 1916 by adding new subsection (c)(1) which prohibits controlled carriers from maintaining rates or charges in their tariffs filed with this Commission that are below a level which is just and reasonable. Section 18(c)(1) also prohibits controlled carriers from establishing or maintaining unjust or unreasonable classifications, rules or regulations in their tariffs.

Pursuant to new section 18(c)(3) of the Shipping Act, 1916, the Commission's Managing Director, using delegated authority from the Commission, requested FESCO to file a statement of justification with respect to certain of its rates, charges, classifications, rules, or regulations. In its justification, FESCO compared the level of some of its rates with independent carriers' or conference rates; it stated that other rates were filed at shippers' requests to open new markets; and for other rates, it stated there were no comparable independent carrier or conference rates.

Merely stating that FESCO commodity rate 1 is similar to independent carrier A's rate, FESCO commodity rate 2 is similar to independent carrier B's rate, FESCO's commodity rate C is only 15 percent lower than the relevant conference's rate, and so on down the list of challenged rates, is not the type of justification upon which the Congress intended the Commission to base a finding of just and reasonable. In fact, an amendment to section 18(c) was proposed defining a zone of reasonableness where the Commission could not disapprove, reject, or suspend a controlled carrier's rates, fares, charges, or classifications if: (1) The controlled carrier's rates were not below those charged by an independent, noncontrolled carrier offering similar transportation services, under similar transportation conditions of carriage, and under similar tariff description between the same points or ports over the same route or, (2) the controlled carrier's rates were not below 85 percent of the rates charged by any conference operating in the same trade. This amendment was specifically rejected however, by the House Committee on Merchant Marine and Fisheries. H.R. Rep. No. 1381, 95th Cong., 2d Sess. 7 (1978).

The Merchant Marine and Fisheries Committee concluded that:

> guaranteeing a controlled carrier a 15 percent differential below conference rates could vitiate the bill. Conferences would have difficulty competing with a strong controlled carrier able to offer across-the-board rates 15 percent below the conference. Specifically, the 15 percent guaranteed differential could effectively prevent the conference from reducing its rates to meet those of the controlled carrier, since every time the conference lowered its rates, the controlled carrier would be able to lower its rates even further and still be within 15 percent. The committee also decided to reject the qualification that the controlled carriers rates must be lower than those of any other independent before they could be deemed unlawful. This was done because the controlled carrier, backed by the full resources of its government is able to reduce rates on a broad scale and for long periods of time. Private independent carriers may be able to do this for only a few selected commodities and for shorter periods of time. Thus, if a controlled carrier were guaranteed the right to charge the lowest rates of any of the independents, its economies of scale and market staying power could be used on a broad scale to undermine both independent and conference carriers. H.R. Rep. No. 1381, 95th Cong., 2d Sess. 7, 8 (1978).

Thus, based on FESCO's selective rate comparisons and in consideration of the intent of Congress expressed above, the Commission cannot conclude that FESCO commodity rates published in freight tariffs as shown in Appendix A of this Order are just and reasonable. Consequently, the Commission is of the opinion that FESCO's rates listed in Appendix A may be unjust and unreasonable, and is therefore, pursuant to section 18(c) of the Shipping Act, 1916, ordering FESCO to Show Cause why such rates should not be disapproved.

FESCO should take particular note of section 18(c)(1) which provides that in any proceeding under this subsection, the burden of proof shall on the controlled carrier to demonstrate that its rates, charges, classifications, rules, or regulations are just and reasonable; also, section 18(c)(2) which sets forth appropriate, but not limiting, factors that the Commission may consider in determining whether rates, charges, classifications, rules, or regulations of a controlled carrier are just and reasonable.

The Commission is of the further opinion that the subject tariff matter (identified in Appendix A) should be suspended pursuant to authority granted the Commission by section 18(c)(4) of the Shipping Act, 1916, which in the case of any rates, charges, classifications, rules, or regulations already effective, provides that the Commission may, upon the issuance of an order to show cause, suspend such rates, charges, classifications, rules, or regulations on not less than sixty days notice for a period up to one hundred and eighty days.

Now, therefore, *it is ordered*, That pursuant to sections 18 and 22 of the Shipping Act, 1916, the Far Eastern Shipping Company be named respondent in this proceeding and be ordered to show cause why the commodity rates published in its freight tariffs as shown in Appendix A should not be disapproved by the Commission;

It is further ordered, That pursuant to section 18(c) of the Shipping Act, 1916, respondent demonstrate that the commodity rates published in its freight tariffs as shown in Appendix A are just and reasonable;

It is further ordered, That pursuant to section 18(c) of the Shipping Act, 1916, the tariff matter set forth in Appendix A is hereby suspended, effective May 7, 1979, and the use thereof deferred to and including November 3, 1979, unless otherwise ordered by the Commission;

It is further ordered, That any changes or amendments in the commodity rates as shown in Appendix A filed during the sixty days' notice period will be included in this proceeding and subject to the foregoing. Respondent may file new rates during the suspension period, effective immediately: *Provided*, That the Commission may reject such new rates if it is of the opinion that the new rates are unjust and unreasonable.

It is further ordered, That this proceeding be limited to submission of memoranda of law, affidavits of fact and supporting documentary material, and replies thereto. Affidavits of fact,

[1] Section 1 of the Shipping Act, 1916 as amended, 46 U.S.C. 801, defines a "controlled carrier" to be: "A common carrier by water operating, offering, or proposing to offer service in the foreign commerce of the United States which carrier is or whose operating assets are directly or indirectly owned or controlled by the government under whose registry the vessels of the controlled carrier operate. Ownership or control by such government shall be deemed to exist if a majority portion of the interest in the carrier is owned or controlled in any manner by such government, by any agency of the government, or by any person, corporation, or entity controlled by such government. Ownership or control shall also be deemed to exist if the government has the right to appoint or disapprove the appointment of a majority of the directors or the chief operating or executive officer of the carrier."

supporting documentary material, and memorandum of law shall be filed by respondent and served upon all parties no later than the close of business April 3, 1979. Reply affidavits, supporting documentary material and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than the close of business May 3, 1979. Rebuttal affidavits, supporting documentary material and memorandum shall be filed by respondent no later than close of business May 21, 1979.

It is further ordered, That use of the Commission's discovery procedures pursuant to Subpart L of the Commission's rules of practice and procedure, 46 CFR 502.201 et seq., is hereby waived except upon specific permission of the Commission. Requests for discovery, hearing and/or oral argument shall be filed no later than the close of business June 4, 1979. Any request for an evidentiary hearing must be accompanied by a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such material could not be submitted through affidavit;

It is further ordered, That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof be served upon the respondent;

It is further ordered, That persons other than those already party to this proceeding who desire to become parties and participate herein shall file a petition to intervene pursuant to Rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72) no later than the close of business April 3, 1979.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

It is further ordered, That concurrently with publication, a copy of this order be transmitted to the President of the United States in accordance with section 18(c)(5) of the Shipping Act, 1916.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

APPENDIX A

The rates shown in Appendix A are identified by the specific tariff item numbers, but the commodities listed do not include the complete tariff nomenclature. While this was done for brevity, the application of the order to show cause and notice of suspension applies to all applications of the commodity rates specified.

APPENDIX A

FAR EASTERN SHIPPING COMPANY TARIFF FMC-20

From: Pacific Coast Ports in the United States and Ports in Hawaii
To: Ports in Australia and New England

Tariff item No.	Commodity	Rate basis	Local	OCP
70	Agricultural Implements, machinery & Parts.	W/M	111.00	107.00
190	Automobiles, Passenger	W/M	128.00	109.00
195	Automobiles	W/M	38.00	
215	Automobile Cushions-In 20 foot CY/CY containers.	PC/20	2200.00	
	In 40 ft. CY/CY containers.	PC/40	8800.00	
		W/M	101.00	
220	Automobiles Truck and Trailer Parts:			
	N.O.S	W/M	101.00	
	Special Rate; In 20 ft. CY/CY containers only incl. Terminal Receiving Charges.	PC/20	1800.00	1800.00
320	Batteries and Parts, N.O.S	W/M	166.00	
	In CY/CY containers only	PC/20	2400.00	
		PC/40	5500.00	
360	Boxboard, Cardboard, Chipboard, Paperboard, Woodpulp Board.	W/M	130.00	
372	Tabulating Machines Card Stock.	LT	99.00	
390	Boats, Yachts, Air Cushioned Vehicles & Jet Skis.	W/M	75.00	

APPENDIX A—Continued

FAR EASTERN SHIPPING COMPANY TARIFF FMC-20

From: Pacific Coast Ports in the United States and Ports in Hawaii
To: Ports in Australia and New England

Tariff item No.	Commodity	Rate basis	Local	OCP
400	Books & Pamphlets	W/M	143.00	124.00
	Books & Pamphlets, Religious. In 40 ft. CY/CY containers.	PC/40	4000.00	
		PC/20	2150.00	
482	Camping Equipment	W/M	102.00	
488	Canned Apricots			
	Special Rate: In 20 Ft. CY/CY containers.	PC/20	2140.00	
655	Charcoal Briquettes	W/M	101.00	
660	Chemicals, N.O.S. Value exceeding $750.00 per 2000 #.	W/M	172.00	
	Chemicals, N.O.S., Non-Hazardous value does not exceed $750.00 per 2000 #.	W/M	164.00	
680	Clay, Common	W/M	85.00	
740	Compound, Cleaning	W/M	152.00	
831	Raw Materials, Specifically Designed or Manufactured for the Manufacture of Disposable Diapers.	W/M	114.00	
832-A	Dispensers, Metal Towel, In CY/CY containers.	W/M	119.00	
		PC/40	4000.00	
890	Engines, Internal Combustion.	W/M	108.00	95.00
900	Engines, Marine			
In CY/CY containers		PC/20		1800.00
	only (Overland). (Overland)	PC/40		3600.00
1072	Freon Gas, in shipper owned tank trailers.	#W	132.00	
1075	Freight All Kinds, in twenty foot and forty foot containers.	PT 20	1850.00	
		PT 40	3600.00	
	In Shipper owned 20 ft. CY/CY cntrs.	PT 20	1500.00	
1090	Fruit, Dried	W/M	114.00	
1115	Garage Door opening equipment/systems.	W/M	135.00	
	In CY/CY 20 ft. containers.	PC/20	2800.00	
1170	Glass Fibre	W/M	129.00	
1232	Helium, Liquid in shipper provided containers or shipper provided tank trailers. Not subject to heavy lift or long length charges.	W/M	115.00	
		PC/40	5700.00	
1237	Herbicides	W	144.00	
1241	House Knocked Down*	W/M	126.00	
1260	Insecticides, Fungicides, Herbicides, Pesticides and Rodenticides.	W/M	152.00	145.00
1270	Insulation, Fibre Glass: Plastic Sheets and Boards.	W/M	120.00	
1610	Machinery and Machines	W/M	117.00	109.00
1624	Machinery: Portable Aluminum Lifting Equipment CY/CY only.	PC/20	2600.00	
		PC/40	4000.00	
1629	Machinery & Machine Parts.	W/M	136.00	124.00
	Machines, Coin operated, CY/CY.	W/M	114.00	114.00
1642	Automatic Car Washers	W/M	111.00	
	In 40 Ft. CY/CY containers.	PC/40	4500.00	

APPENDIX A—Continued

FAR EASTERN SHIPPING COMPANY TARIFF FMC-20

From: Pacific Coast Ports in the United States and Ports in Hawaii
To: Ports in Australia and New England

Tariff item No.	Commodity	Rate basis	Local	OCP
1790	Motorcycles and side cars (Overland) only.	W/M		126.00
	Children's motorized Vehicles			
	Motor Scooters (Overland).	W/M		147.00
1800	Mowers, Grass, Gang	W/M		91.00
1820	Non Dairy Cream, Milk Substitutes.	W/M	130.00	
	In 20 ft. CY/CY containers.	PC/20	2300.00	
	In 40 ft. CY/CY containers.	PC/40	4500.00	
1838	Nuts, Almond Shelled	W	160.00	
	Nuts, Shelled			
	In packages not less than 1 cu. ft. ea..	W/M	125.00	
	In packages not less than 1 cu. ft. ea..	W/M	135.00	
1842	Nuts, in shell	W	160.00	
		PC/20	2289.00	
		PC/40	4578.00	
1915	Organs and Pianos, Electronic			
	Per 40 ft. container	PT 40	4400.00	
Per 20 ft. container		PT 20	2200.00	
1970.55	Paints, Artists'	W/M	140.00	
2110	Paper, Printing	LT	173.00	165.00
2510	Recreational Vehicle Parts & Accessories.	W/M	94.00	
2540	Drugs and Medicines, Harmless.	W/M	229.00	
2700	Resins, Synthetic, Dry			
	Value up to and including $650.00 per 2000 #.	W	109.00	
	Value over $650.00 up to and including $1000.00 per 2000 #.	W	115.00	
	Value over $1000.00 up to and including $1700.00 per 2000 #.	W	129.00	
	Value over $1700.00 per 2000 #.	W/M	101.00	
2714	Rice, in bags	W	96.00	
2770	Rubber Tires	W/M	68.00	
	In 20 ft. CY/CY cntrs.	PT 20	1400.00	
	In 40 ft. cntr. min. 20 L.T. per 40 ft. CY/CY.	LT	140.00	
2814	Scales, Bathroom	W/M	133.00	
2995	Sprinklers and Irrigation Equipment, N.O.S. Containers include terminal receiving charge.	PC/20	2100.00	
		PC/40	4200.00	
3001	Stairs, Folding-Includes terminal receiving charge.	PC/40	4000.00	
3008	Stereo Hi-Fidelity Assembled Units, Components or Parts.	W/M	96.00	
	In 40 ft. CY/CY containers, not subject to terminal receiving charge.	PC/40	5200.00	
3035	Swimming Pool Toys, Games and Furniture.	W/M	85.00	
3150	Toys and Parts, Hobby Kits and Skate Boards, Toy Books.	W/M	97.00	
	In 20 ft. CY/CY containers.	PC/20	2200.00	
3248	Water Mattresses, Water Beds.	W/M	132.00	

APPENDIX A—Continued

From: Pacific Coast Ports in the United States and Ports in Hawaii
To: Ports in Australia and New England

Tariff item No.	Commodity	Rate basis	Local	OCP
3280	Wine	W/M	150.00	
3310	Woodpulp			
	Measurement not over 45 Cu. Ft. per 2240#.	LT	74.00	
	In Bales, in Bundles of 6 or more bales per unit.	LT	72.00	
	Over 45 cu. ft. to and including 50 cu. ft. per 2240 #.	LT	79.00	
	Over 50 cu. ft. to and including 55 cu. ft. per 2240 #.	LT	84.00	
	Over 55 cu. ft. to and including 60 cu. ft. per 2240 #.	LT	90.00	
	In CY/CY 20 ft. container	PC/20	1400.00	

* 1241.

FAR EASTERN SHIPPING COMPANY TARIFF FMC-23

From: Ports in the Philippines
To: United States Ports

Tariff item No.	Commodity	Rate basis	Rate Atlantic Ports	Overland common point	Pacific
100	Beer, Mineral Waters, Soft Drinks, and Spirits.	M	61.00		52.00
200	Charcoal	M	48.00	48.00	46.00
		P/C 20	1400.00	1150.00	1250.00
220	Cigars and Cigarettes	M	93.00	78.00	84.00
	Including Refrigeration	M	127.00	113.00	119.00
270	Coconut Desiccated	W [1]	115.00	98.00	106.00
	Unitized (Palletized) Shipments.	W [1]	112.00	95.25	102.85
425	Fiberglass Sheets, in CY/CY containers.	PT 20			1200.00
		PT 40			2000.00
450	Fish-Dried, Salted, Smoked.	M	79.00		74.00
460	Food Stuffs-Bottled, Canned or Preserved.	M	62.00	53.00	57.00
		W	69.00	58.00	64.00
470	Footwear	M	57.00	50.00	53.00
480	Furniture Made of Bamboo, Buri, Rattan.	M	55.00	39.00	1550.00
		P/C 20			2500.00
		P/C 40			
510	Glass				
	Manufacturers, N.O.S.	M	63.00		58.00
			70.00		64.00
	Sheet and Window Glass.	W	55.00		52.00
		M	61.00		58.00
570	Handicrafts	W	72.00	62.00	72.00
580	Hemp				
	In standard bales	Bale	17.50	15.00	16.00
	In high density bales	Bale	16.50	13.50	15.00
850	Pineapple & Pineapple Products Canned or Preserved.	W	63.00	52.00	58.00
870	Plywood	40 CFT.	45.80		
	To Long Beach & Los Angeles.	40 CFT.		37.65	35.50
	To San Francisco Bay Area Ports.	40 CFT.		38.70	37.40
	To Ports North of San Francisco.	40 CFT.		39.90	38.40
	To East Coast & Gulf Coast Ports.	40 CFT.	45.80		
	To Long Beach & Los Angeles.	40 CFT.			36.10
890	Reefer Cargo				
	Crustaceans	W	207.00		191.00
	Fish, Packed	W	134.00		127.00
910	Rope Cordage, Binder Twine.	W	136.00	119.00	127.00
920	Rope, Synthetic	W	151.00		147.00
930	Rope Yarn	W	119.00		116.00
960	Sea Corals, Shell, and Shell Waste.	W	60.00	50.00	55.00
		M	67.00	55.00	61.00

APPENDIX A—Continued

FAR EASTERN SHIPPING COMPANY TARIFF FMC-23

From: Ports in the Philippines
To: United States Ports

Tariff item No.	Commodity	Rate basis	Rate Atlantic Ports	Overland common point	Pacific
990	Textiles-Natural & Synthetic alone or in combination.	M	77.00		74.00
1020	Tobacco	M	62.00	51.00	57.00
1050	Wood Products				
	Finished	M	78.00	67.00	71.00
	Knocked-Down, Semi-Finished.	M	64.00	54.00	58.00
1070	Woven Articles	M	65.00	54.00	59.00
1080	Yarn-Natural & Synthetic alone or in combination.	M	74.000		70.00

[1]Net weight.

FAR EASTERN SHIPPING COMPANY TARIFF FMC-24

From: United States Pacific Coast Ports
To: Ports in the Far East

Tariff item No.	Commodity	Rate basis	Japan	Manila
3055	Diapers, Disposable	W/M	63.00	
	In 40 Ft CY/CY Containers not subject to terminal receiving charge as published in Rule 14.	PC/40		
4600	Hides, Wet Salted, Green and Hides Splits.	W	43.00	
	In 40 Ft. CY/CY Container-loads (LOC).	Each	1190.00	1615.00
	(OCP)	Each	960.00	1270.00
4870	Iron and Steel Articles Pipe and Fittings, N.O.S.	W/M	90.00	99.00
4880	Steel Billets	W/M	62.00	
8310	Soap, Bar or Toiler	W/M	92.00	
8315	Soap, Cleaning Compound, Detergents and Household Cleaners (LOC).	W/M		56.00
	(OCP)	W/M	50.00	55.00
8525	Sodium Hexametaphosphate (Non-hazardous), (LOC).	W	82.00	
9550	Trucks, Fork Lift	W/M	97.00	95.00
10320	Zinc	W		69.00
10330	Ingots In 20 Ft. CY/CY Containers.	PC/20	1040.00	
10340	Skimming	PC/20	975.00	
5980	Molybdenum Oxide and Trioxides.	W	61.00	
6027	Motorcycles, New or Used Motorscooters, Motorbikes.	W/M	94.00	99.00
	Onions and Garlic	M	63.00	
6610	Paints, Water based interior.	W/M	88.00	
5255	Lumber Cedar, Rough, in 20 ft. CY/CY Container-loads.	PC/20	1010.00	

FAR EASTERN SHIPPING COMPANY INTERMODAL FREIGHT TARIFF NO. 7, FMC-28

From: Rail Terminals at U.S. Atlantic and Gulf Port Cities
To: Ports in Australia

Tariff item No.	Commodity	Rate basis	Australia
982	Abrasive Pads		
	To All Ports	PT 40	4600.00
	To All Ports except Adelaide	PT 20	2500.00
	To Adelaide only	PT	2850

APPENDIX A—Continued

FAR EASTERN SHIPPING COMPANY INTERMODAL FREIGHT TARIFF NO. 7, FMC-28

From: Rail Terminals at U.S. Atlantic and Gulf Port Cities
To: Ports in Australia

Tariff item No.	Commodity	Rate basis	Australia
987	Acetaminophen, CY/CY,		
	To All Ports except		
	Adelaide	PT 20	2500.00
	To All Ports	PT 40	4800.00
	To Adelaide From:		
	East Coast Ports	PT 20	2850.00
	Gulf Coast Ports	PT 20	2550.00
1120	Additives for Petroleum Lubricant or Fuel, other than Gasoline Petroleum Lubricating Grease Petroleum Lubricating Oil, including White Industrial.	W/M	115.00
1150	Agricultural Machinery, Implements, Parts and Accessories, N.O.S..	W/M	124.00
1200	Air-Conditioners, Air-Conditioning Machinery and Parts, N.O.S..	W/M	110.00
1205	Air-Conditioners	W/M	102.00
1210	Air Conditioners for Recreational Vehicles	PT 20	2800.00
1330	Automobiles	W/M	135.00
1350	Auto, Truck, Trailer, Parts, N.O.S.	W/M	89.00
1390	Board, Not Coated, Impregnated or Laminated	W/M	134.00
1400	Books, N.O.S.	W/M	140.00
1423	Bowling Equipment, Parts & Accessories	W/M	178.00
1427	Breakfast Cereals & Bars	W/M	125.00
1490	Camping Equipment	W/M	107.00
	Special Rate		
	To All Ports (Except Adelaide)	PT 20	2500.00
	To All Ports	PT 40	4600.00
1600	Carpets, Rug, Carpet Backing	W/M	95.00
	Special Rate—From Philadelphia Only CY/CY	PT 20	2205.00
1850	Chemicals, Non-Hazardous Mixed shipments of 5 or more Chemicals.	W/M	154.00
1900	Chemicals, N.O.S.		
	Value up to and including $225.00 per 2240 lbs	W/M	109.00
	Value over $225.00 up to and including $750.00 per 2240 lbs.	W/M	120.00
	Value over $750.00 up to and including $1000.00 per 2240 lbs.	W/M	154.00
	Value over $1000.00 up to and including $1250.00 per 2240 lbs.	W/M	163.00
	Value over $1250.00 up to and including $1500.00 per 2240 lbs.	W/M	170.00
	Value over $1500.00 per 2240 lbs	W/M	180.00
1930	Cigarette Tow		
	Not exceeding 80 cu. ft. per 2000 lbs	LT	160.00
	Exceeding 80 cu. ft. but not exceeding 100 cu. ft. per 2000 lbs.	W/M	75.00
	Measurement exceeding 100 cu. ft. per 2000 lbs	W/M	115.00
2200	Cotton and/or Synthetic Piece Goods	W/M	142.00
	From Gulf Coast Ports Only	PT 20	2650.00
	From East Coast Ports Only	PT 20	3000.00
	Corduroy Piece Goods	PT 40	4500.00
2345	Ethafoam Sheets & Planks	PT 20	3000.00
		PT 40	6000.00
2520	Filter Paper, Resin Impregnated	W/M	90.00
	In 40 ft. CY/CY Containers	PT 40	3800.00
2600	Floor Covering	W/M	115.00
2800	Freight, All Kinds		
	Per 20 Foot Container	PT 20	3000.00
	Per 40 Foot Container	PT 40	5000.00
3100	Glassware, Machine Made	W/M	95.00
	Special Rates—Minimum twenty 40 foot Containers per vessel—CY/CY		
	To Melbourne, Sydney & Brisbane Only	PT 40	4000.00
	To Adelaide Only	PT 40	4475.00
3200	Herbicides, Fungicides, Insecticides	W	140.00
3700	Nylon Hosiery Yarn, CY/CY	PT 20	2500.00
		PT 40	3800.00
3900	Nylon Yarn (Carpet Yarn)	PT 40	3800.00
4000	Organs, Electronic		
	Pianos & Parts including Stools	W/M	92.00

APPENDIX A—Continued

FAR EASTERN SHIPPING COMPANY INTERMODAL FREIGHT TARIFF NO. 7, FMC-28

From: Rail Terminals at U.S. Atlantic and Gulf Port Cities
To: Ports in Australia

Tariff item No.	Commodity	Rate basis	Australia
4062-1	Paper Cups	W/M	118.00
4063	Paper, Latex Impregnated	W/M	116.00
4077	Paratertiary Butylphenol	LT/M	161.00
		PT 20	3000.00
4100	Perambulators, CY/CY	PT 20	3200.00
		PT 40	4500.00
4365	Printed Matter, N.O.S.	W/M	178.00
4370	Refrigerators & Refrigerating Equipment & Parts	W/M	109.00
	CY/CY—Except Adelaide	PT 20	2800.00
	CY/CY—Except Adelaide	PT 40	3800.00
4440	Rubber Goods, N.O.S.	W/M	170.00
	Special Rate—In straight or mixed shipments—CY/CY.	PT 40	4800.00
4470	Rubber, Synthetic, Not Liquid		
	Measurement not exceeding 65 cu. ft. per 2240 lbs.	W	123.00
	Measurement exceeding 65 cu. ft. per 2240 lbs	W/M	115.00
5600	Spirits, including whiskey, Bourbon & Tequila	W/M	132.00
5700	Stereo, Equipment Components & Parts, Radio Sets (including Automobile Radios) Radio Parts and Equipment.	W/M	130.00
5800	Synthetic Resin, N.O.S.	W/M	130.00
	Value up to and including $650.00 per 2240 lbs.	LT	130.00
	Special Rate—Minimum of 35-20 ft. containers per vessel. From Houston & New Orleans only to Sydney or Mebourne only, CY/CY—One shipper to one Consignee.	PT 20	2100.00
5850	Synthetic Rubber Based Tubing used in the maintenance of Refrigeration and Air Conditioning Equipment.	PT 20	2200.00
	From Houston or New Orleans Only to Sydney or Melbourne Only.	PT 40	3500.00
6070	Tabacco, Leaf	W/M	101.00
6254	Veneer	W/M	122.00
6341	Yarn, Acrylic	W/M	148.00
6345	Yarn, Fiberglass	W/M	102.00

[FR Doc. 79-6944 Filed 3-7-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

ARLEN REALTY & DEVELOPMENT CORP.

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Arlen Realty & Development Corp. is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities and assets of Korvettes, Inc. by Societe Fonciere et Financiere Agache-Willot. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Arlen Realty & Development Corp. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: March 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202-523-3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers of acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-7109 Filed 3-7-79; 8:45 am]

[6750-01-M]

ROBERT CAMPEAU

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day wait-

ing period of the premerger notification rules.

SUMMARY: Mr. Robert Campeau is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to the formation of a joint venture by Campeau Corporation and John Wertin Development Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Mr. Campeau. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: February 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202-523-3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers of acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-7108 Filed 3-7-79; 8:45 am]

[4110-88-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

EMPLOYEES OF THE DEPARTMENT OF COMMUNITY AND FAMILY MEDICINE GEORGETOWN UNIVERSITY SCHOOL OF MEDICINE, ET AL.

Research on Drug Abuse; Authorization of Confidentiality

Under the authority vested in the Secretary of Health, Education, and Welfare by section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)), all persons who—

1. Are employed by the Department of Community and Family Medicine, Georgetown University School of Medicine, Washington, D.C., or the Department of Family Practice, Medical University of South Carolina, Charleston, S.C.; and

2. Have, in the course of that employment, access to information which would identify inidividuals who are the subjects of the research on drug abuse which is assisted by the Department of Health, Education, and Welfare contract numbered 271-77-4524, pertaining to the study referred to as Study Four—Patterns of Sedative and Hypnotic Drug Consumption;

are hereby authorized to protect the privacy of the individuals who are the subjects of that research by withholding their names and other identifying characteristics from all persons not connected with the conduct of that research.

As provided in section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)):

"Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals."

This authorization does not authorize employees of the Department of Community and Family Medicine, Georgetown University School of Medicine, or employees of the Department of Family Practice, Medical University of South Carolina, to refuse to reveal to qualified personnel of the Department of Health, Education, and Welfare, for the purpose of management or financial audits or program evaluation, the names or other identifying characteristics of individuals who are the subjects of the research Study Four conducted under Department of Health, Education, and Welfare contract numbered 271-77-4524. Such personnel will hold any identifying information so obtained strictly confidential in accordance with 45 CFR 5.71.

This authorization is applicable to all information obtained pursuant to Department of Health, Education, and Welfare contract numbered 271-77-4524 which would identify the individuals who are the subjects of the research Study Four conducted under that contract.

Dated: February 21, 1979.

KARST J. BESTEMAN,
Acting Director, National Institute on Drug Abuse.

Dated: February 26, 1979.

GERALD L. KLERMAN, M.D.,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-6947 Filed 3-7-79 8:45 am]

[4110-88-M]

EMPLOYEES OF MACRO SYSTEMS, INC. AND OTHER PARTICIPANTS IN THE STUDY OF PRESCRIPTION EXPERIENCE OF CLIENTS AT DRUG PROGRAMS

Research on Drug Abuse: Authorization of Confidentiality

Under the authority vested in the Secretary of Health, Education, and Welfare by section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)), all persons who—

1. Are employed by Macro Systems, Inc., Silver Spring, Maryland, or drug treatment programs participating in the study referred to as Study Three—Prescription Experience of Clients at Drug Programs; and

2. Have, in the course of that employment, access to information which would identify individuals who are the subjects of that research Study Three on drug abuse which is assisted by the Department of Health, Education, and Welfare contract numbered 271-77-4524;

are hereby authorized to protect the privacy of the individuals who are the subjects of that research by withholding their names and other identifying characteristics from all persons not connected with the conduct of that research.

As provided in section 303(a) of the Public Health service act (42 U.S.C. 242a(a)):

"Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals."

This authorization does not authorize employees of Macro Systems, Inc. or employees of participating drug treatment programs to refuse to reveal to qualified personnel of the Department of Health, Education, and Welfare, for the purpose of management or financial audits or program evaluation, the names or other identifying characteristics of individuals who are the subjects of the research Study Three conducted under Department of Health, Education, and Welfare contract numbered 271-77-4524. Such personnel will hold any identifying infor-

mation so obtained strictly confidential in accordance with 45 CFR 5.71.

This authorization is applicable to all information obtained pursuant to Department of Health, Education, and Welfare contract numbered 271-77-4524 which would identify the individuals who are the subjects of the research Study Three conducted under that contract.

Dated: February 21, 1979.

KARST J. BESTEMAN,
Acting Director National Institute on Drug Abuse.

Dated: February 26, 1979.

GERALD L. KLERMAN, M.D.,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-6946 Filed 3-7-79; 8:45 am]

[4110-88-M]

EMPLOYEES OF MACRO SYSTEMS, INC. AND OTHER PARTICIPANTS IN THE STUDY OF SEDATIVE-HYPNOTIC OVERDOSAGE AND DEATH

Research on Drug Abuse; Authorization of Confidentiality

Under the authority vested in the Secretary of Health, Education, and Welfare by section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)), all persons who—

1. Are employed by Macro Systems, Inc., Silver Spring, Maryland, or its subcontractors; and

2. Have, in the course of that employment, access to information which would identify individuals who are the subjects of the research on drug abuse which is assisted by the Department of Health, Education, and Welfare under contract numbered 271-77-4524, pertaining to the study referred to as Study One—Sedative-Hypnotic Overdosage and Death;

are hereby authorized to protect the privacy of the individuals who are the subjects of that research by withholding their names and other identifying characteristics from all persons not connected with the conduct of that research.

As provided in section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)):

"Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals."

This authorization does not authorize employees of Macro Systems, Inc. or employees of its subcontractors to refuse to reveal to qualified personnel of the Department of Health, Education, and Welfare, for the purpose of management or financial audits or program evaluation, the names or other identifying characteristics of individuals who are the subjects of the research Study One conducted under Department of Health, Education, and Welfare contract numbered 271-77-4524. Such personnel will hold any identifying information so obtained strictly confidential in accordance with 45 CFR 5.71.

This authorization is applicable to all information obtained pursuant to Department of Health, Education, and Welfare contract numbered 271-77-4524 which would identify the individuals who are the subjects of the research Study One conducted under that contract.

Dated: February 21, 1979.

KARST J. BESTEMAN,
Acting Director, National Institute on Drug Abuse.

Dated: February 26, 1979.

GERALD L. KLERMAN, M.D.,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-6945 Filed 3-7-79; 8:45 am]

[4110-87-M]

Center for Disease Control

LABORATORY INVESTIGATIONS OF EFFECTS OF SPRAY PAINT AGENTS AND OF WHOLE-BODY VIBRATION EFFECTS

Open Meetings

The following meetings will be convened by the National Institute for Occupational Safety and Health of the Center for Disease Control and will be open to the public for observation and participation, limited only by the space available:

LABORATORY INVESTIGATIONS OF EFFECTS OF SPRAY PAINT AGENTS

Date: March 23, 1979.

Time: 9:00 a.m. to 3:00 p.m.

Place: Room 160, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Purpose: To discuss the details of research protocols concerning laboratory investigations of the effects of spray paint agents on neurological functions and behavior.

Additional information may be obtained from: Dr. Vernon R. Putz, Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health Center for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: 513/684-8383.

LABORATORY INVESTIGATIONS OF WHOLE-BODY VIBRATION EFFECTS

Date: April 5, 1979.

Time: 10:00 a.m. to 3:00 p.m.

Place: Room 160, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Purpose: To discuss the details of research protocols concerning laboratory investigations of whole-body vibration.

Additional information may be obtained from: Dr. Donald W. Badger, Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health Center for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: 513/684-8286.

Dated: February 22, 1979.

WILLIAM C. WATSON, Jr.,
Acting Director, Center for Disease Control.

[FR Doc. 79-7056 Filed 3-7-79; 8:45 am]

[4110-08-M]

National Institutes of Health

CARDIOLOGY ADVISORY COMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, April 23 and 24, 1979, in the Landow Building, Conference Room A, 7910 Woodmont Avenue, Bethesda, Maryland 20014.

The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. each day. Attendance by the public will be limited to space available. Topics for discussion will include a review of the programs in the Cardiology area and consideration of reports.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Barbara L. Krames, M.D., Ph. D., Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Federal Building, Room 320, Bethesda, Maryland 20014, phone (301) 496-5421, will furnish substantive program information upon request.

Dated: March 1, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 79-6961 Filed 3-7-79; 8:45 am]

[4110-08-M]

NATIONAL ARTHRITIS ADVISORY BOARD, COMMUNITY PROGRAMS AND REHABILITATION WORK GROUP

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Community Programs and Rehabilitation Work Group of the National Arthritis Advisory Board on March 26, 27, 1979, in Bethesda, Maryland. The time and meeting location may be obtained by contacting Mr. William Plunkett, Executive Director of the Board, P. O. Box 30286, Bethesda, Maryland 20014, telephone (301) 496-1991.

The meeting, which will be open to the public, is being held to continue review of the status and implementation of national arthritis programs.

Attendance by the public will be limited to space available.

Mr. William Plunkett, address above, will provide summaries of the meeting and a roster of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health)

Dated: March 1, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 79-6960 Filed 3-7-79; 8:45 am]

[4110-08-M]

NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE SCIENCE INFORMATION PROGRAM ADVISORY COMMITTEE

Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee, National Institutes of Health, on March 15 and 16, 1979, in Conference Room 4, Landow Bldg., 7910 Woodmont Avenue, Bethesda, MD 20014, which was published in the FEDERAL REGISTER on January 24, 1979 (44 FR 5003).

The meeting site has been changed to Conference Room 8A-28, Bldg. 31, NIH, Bethesda, MD 20014. The dates and times remain the same.

Dated: March 1, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 79-6959 Filed 3-7-79; 8:45 am]

[4110-08-M]

PULMONARY DISEASES ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on May 12, 1979, at the Las Vegas Hilton Hotel, Las Vegas, Nevada.

The entire meeting, from 8:30 a.m. to 5:00 p.m., will be open to the public. The Committee will review initiatives proposed by the Division of Lung Diseases for Fiscal 1980, and will plan Committee activities for the coming year. Attendance by the public will be limited to the space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Malvina Schweizer, Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496-7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.838, National Institutes of Health)

Dated: March 1, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 79-6962 Filed 3-7-79; 8:45 am]

[4110-12-M]

Office of the Secretary

FEDERAL ADVISORY COMMITTEES

Announcement of Annual Comprehensive Review

ACTION: Notice.

SUMMARY: This announces a review of Federal Advisory Committees in the Department of Health, Education, and Welfare and invites the public to comment on individual committees in terms of need for each committee, the balance of its membership, and the openness of each committee's proceedings.

DATES: Comments due by March 31, 1979.

SUPPLEMENTARY INFORMATION: The Department of Health, Education, and Welfare is now conducting its annual comprehensive review of advisory committees in connection with advising the Administrator of the General Services Administration, under the Federal Advisory Committee Act (Pub. L. 92-463, as amended), whether each committee is carrying out its purpose; whether, consistent with the provisions of applicable statutes, the responsibilities assigned to the committee should be revised; whether the committee should be merged with other advisory committees; or whether the committee should be abolished.

Pursuant to previous Presidential directive, this year's review will again involve a zero-base analysis of all committees, conducted with the presumption that all committees should be abolished except those (1) for which there is a compelling need; (2) which have truly balanced membership; and (3) which conduct their business as openly as possible. The Department intends to make appropriate recommendations with respect to administrative committees and to confer with Congress about abolishing statutory committees which do not meet these standards.

The public is invited to comment on the need for each committee listed below, how the committee's goals can best be achieved, whether the committee's membership represents a balance in points of view, and to recommend changes in membership, if needed. In addition, comment is welcome on the committee's record of encouraging public participation and on any other changes needed.

The General Services Administration has requested the Department to submit its recommendation by April 16, 1979. This date requires that public comments be received by March 31, 1979 to be included in the Department's review. Comments received after that date will be incorporated in the Department's continuing review of the utility and operaton of its Federal advisory committees.

Comments should be directed to the persons listed under the respective headings below.

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration.

ADDRESS: Mrs. Elizabeth A. Connolly, Committee Management Officer, 5600 Fishers Lane, Room 13-103, Rockville, Maryland 20852, 301/443-4335.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Alcohol Research Review Committee
Alcohol Training Review Committee
Biological Science Training Review Committee
Board of Scientific Counselors, NIMH
Clinical Program-Projects Research Review Committee
Clinical Projects Research Review Committee
Clinical Psychopharmacology Research Review Committee
Community Alcoholism Services Review Committee
Continuing Education Review Committee
Crime and Delinquency Review Committee
Developmental Problems Research Review Committee
Drug Abuse Research Review Committee
Drug Abuse Training Review Committee
Epidemiology Studies Review Committee
Experimental Psychology Research Review Committee
Experimental and Special Training Review Committee
Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism
Mental Health Services Research Review Committee
Mental Health Small Grant Committee
Metropolitan Mental Health Problems Review Committee
Minority Advisory Committee
Minority Group Mental Health Programs Review Committee
National Advisory Council on Alcohol Abuse and Alcoholism
National Advisory Council on Drug Abuse
National Advisory Mental Health Council
National Panel on Alcohol, Drug Abuse, and Mental Health
Neuropsychology Research Review Committee
Paraprofessional Manpower Development Review Committee
Personality and Cognition Research Review Committee
Preclinical Psychopharmacology Research Review Committee
Psychiatric Nursing Education Review Committee
Psychiatry Education Review Committee
Psychological Sciences Fellowship Review Committee
Psychology Education Review Committee
Rape Prevention and Control Advisory Committee
Research Scientist Development Review Committee
Social Problems Research Review Committee
Social Sciences Research Review Committee
Social Sciences Training Review Committee
Social Work Education Review Committee

AGENCY: Center for Disease Control.

ADDRESS: Mrs. Martha S. Brocato, Committee Management Officer, 1600 Clifton Road NE., Room 111, Atlanta, Georgia 30333, 404/262-6513.

FEDERAL ADVISORY COMMITTEES ON THE HEW/PHS/CENTER FOR DISEASE CONTROL

Immunization Practices Advisory Committee
Mine Health Research Advisory Committee
Safety and Occupational Health Study Section

AGENCY: Education Division.

ADDRESS: Dr. Leslie R. Wolfe, Committee Management Officer, Office of the Assistant Secretary for Education, 200 Independence Avenue SW., Room 314-H, Washington, D.C. 20201, 202/245-8430.

FEDERAL ADVISORY COMMITTEES OF THE HEW/EDUCATION DIVISION

OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION

Advisory Council on Education Statistics
Board of Advisors to the Fund for the Improvement of Postsecondary Education

NATIONAL INSTITUTE OF EDUCATION

ADDRESS: Mr. Richard S. Werksman, Committee Management Officer, National Institute of Education, 1200 19th St. NW., Room 639B, Washington, D.C. 20208, 202/254-7924.

Panel for the Review of Laboratory and Center Operations

OFFICE OF EDUCATION

ADDRESS: Ms. Ann V. Bailey, Committee Management Officer, Office of Education, 400 Maryland Avenue, S.W., Room 2135, Washington, D.C. 20202, 202/245-7960.

Advisory Committee on Accreditation and Institutional Eligibility
Advisory Council on Developing Institutions
Advisory Council on Financial Aid to Students
Community Education Advisory Council
National Advisory Committee on Black Higher Education and Black Colleges and Universities
National Advisory Council on Adult Education
National Advisory Council on Bilingual Education
National Advisory Council for Career Education
National Advisory Council on the Education of Disadvantaged Children
National Advisory Council on Equality of Educational Opportunity
National Advisory Council on Ethnic Heritage Studies
National Advisory Council on Extension and Continuing Education
National Advisory Council on Indian Education
National Advisory Council on Vocational Education
National Advisory Council on Women's Educational Programs
National Center for Research in Vocational Education Advisory Council (OE)
President's Commission on Foreign Language and International Studies

AGENCY: Food and Drug Administration.

ADDRESS: Mr. Richard L. Schmidt, Committee Management Officer, 5600 Fishers Lane, Room 7-87, Rockville, Maryland 20852, 301/443-2765.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/FOOD AND DRUG ADMINISTRATION

Anesthetic and Life Support Drugs Advisory Committee
Anti-Infective and Topical Drugs Advisory Committee
Arthritis Advisory Committee
Board of Tea Experts
Cardiovascular and Renal Drugs Advisory Committee
Circulatory Systems Devices Panel
Clinical Chemistry and Hematology Devices Panel
Device Good Manufacturing Practices Advisory Committee
Drug Abuse Advisory Committee
Endocrinologic and Metabolic Drugs Advisory Committee
Fertility and Maternal Health Drugs Advisory Committee
Gastrointestinal Drugs Advisory Committee
General Medical Devices Panel
Immunology and Microbiology Devices Panel
Medical Radiation Advisory Committee
Obstetrics-Gynecology and Radiologic Devices Panel
Oncologic Drugs Advisory Committee
Ophthalmic; Ear, Nose, Throat; and Dental Devices Panel
Panel on Review of Allergenic Extracts
Panel on Review of Antimicrobial Agents
Panel on Review of Bacterial Vaccines and Toxoids
Panel on Review of Blood and Blood Derivatives
Panel on Review of Miscellaneous External Drug Products
Panel on Review of Miscellaneous Internal Drug Products
Panel on Review of Ophthalmic Drugs
Panel on Review of Oral Cavity Drug Products
Panel on Review of Viral Vaccines and Rickettsial Vaccines
Peripheral and Central Nervous System Drugs Advisory Committee
Psychopharmacologic Drugs Advisory Committee
Pulmonary-Allergy and Drugs Advisory Committee
Radiopharmaceutical Drugs Advisory Committee
Respiratory and Nervous System Devices Panel
Science Advisory Board to the National Center for Toxicological Research
Surgical and Rehabilitation Devices Panel
Technical Electronic Product Radiation Safety Standards Committee

AGENCY: Health care Financing Administration.

ADDRESS: Mr. Richard J. Rohde, Committee Management Officer, G-M-1 East Low Rise, 6401 Security Boulevard, Baltimore, Maryland 21235, 301/934-8094.

National Professional Standards Review Council

AGENCY: Health Resources Administration.

ADDRESS: Mrs. Irene D. Skinner, Committee Management Officer, 3700 East-West Highway, Room 9-50, Center Building, Hyattsville, Maryland 20782, 301/436-7183.

Federal Advisory Committees of the HEW/PHS/Health Resources Administration
Federal Hospital Council
Graduate Medical Education National Advisory Committee
National Advisory Council on Health Professions Education
National Advisory Council on Nurse Training

National Council on Health Planning and Development

AGENCY: Health Services Administration.

ADDRESS: Mrs. Irene D. Skinner, Committee Management Officer, 3700 East-West Highway, Room 9-50 Center Building, Hyattsville, Maryland 20782, 301/436-7183.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/HEALTH RESOURCES ADMINISTRATION

Interagency Committee on Emergency Medical Services
Maternal and Child Health Research Grants Review Committee
National Advisory Council on Migrant Health
National Advisory Council on the National Health Service Corps

AGENCY: National Institutes of Health.

ADDRESS: Mrs. Suzanne L. Fremeau, Committee Management Officer, National Institutes of Health, Building 01, Room 303, Bethesda, Maryland 20014 301/496-2123.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/NATIONAL INSTITUTES OF HEALTH

Advisory Committee to the Director, NIH
Aging Review Committee
Allergy and Clinical Immunology Research Committee
Allergy and Immunology Study Section
Animal Resources Review Committee
Applied Physiology and Orthopedics Study Section
Arteriosclerosis and Hypertension Advisory Committee
Artificial Kidney-Chronic Uremia Advisory Committee
Bacteriology and Mycology Study Section
Bioanalytical and Metallobiochemistry Study Section
Biochemistry Study Section
Biomedical Library Review Committee
Biometry and Epidemiology Contract Review Committee
Biophysics and Biophysical Chemistry A Study Section
Biophysics and Biophysical Chemistry B Study Section
Biopsychology Study Section
Biotechnology Resources Review Committee
Bladder and Prostatic Cancer Review Committee
Blood Diseases and Resources Advisory Committee
Board of Regents of the National Library of Medicine
Board of Scientific Counselors, Division of Cancer Biology and Diagnosis
Board of Scientific Counselors, Division of Cancer Cause and Prevention
Board of Scientific Counselors, Division of Cancer Treatment
Board of Scientific Counselors, NEI
Board of Scientific Counselors, NHLBI
Board of Scientific Counselors, NIA
Board of Scientific Counselors, NIAID
Board of Scientific Counselors, NIAMDD
Board of Scientific Counselors, NICHD
Board of Scientific Counselors, NIDR
Board of Scientific Counselors, NIEHS
Board of Scientific Counselors, NINCDS
Breast Cancer Task Force Committee
Cancer Clinical Investigation Review Committee
Cancer Control Grant Review Committee
Cancer Control Intervention Programs Review Committee
Cancer Control Merit Review Committee
Cancer Control and Rehabilitation Advisory Committee
Cancer and Nutrition Scientific Review Committee
Cancer Research Manpower Review Committee
Cancer Special Program Advisory Committee
Cardiology Advisory Committee
Cardiovascular and Pulmonary Study Section
Cardiovascular and Renal Study Section
Cause and Prevention Scientific Review Committee
Cell Biology Study Section
Cellular and Molecular Basis of Disease Review Committee
Clearinghouse on Environmental Carcinogens
Clinical Applications and Prevention Advisory Committee
Clinical Cancer Education Committee
Clinical Cancer Program Project and Cancer Center Support Review Committee
Clinical Trials Committee
Clinical Trials Review Committee
Committee on Cytology Automation
Communicative Disorders Review Committee
Communicative Sciences Study Section
Dental Caries Program Advisory Committee
Developmental Therapeutics Committee
Diagnostic Research Advisory Group
Endocrinology Study Section
Epidemiology and Disease Control Study Section
Epilepsy Advisory Committee
Ethical Advisory Board
Experimental Therapeutics Study Section
Experimental Virology Study Section
General Clinical Research Centers Committee
General Medicine A Study Section
General Medicine B Study Section
General Research Support Review Committee
Genetics Basis of Disease Review Committee
Genetics Study Section
Heart, Lung, and Blood Research Review Committee A
Heart, Lung, and Blood Research Review Committee B
Hematology Study Section
Human Development Study Section
Human Embryology and Development Study Section
Immunobiology Study Section
Immunological Sciences Study Section
Large Bowel and Pancreatic Cancer Review Committee
Lipid Metabolism Advisory Committee
Maternal and Child Health Research Committee
Medicinal Chemistry A Study Section
Mental Retardation Research Committee
Metabolism Study Section
Microbial Chemistry Study Section
Microbiology and Infectious Diseases Advisory Committee
Minority Access to Research Careers (MARC) Review Committee
Molecular Biology Study Section
Molecular Cytology Study Section
National Advisory Allergy and Infectious Diseases Council
National Advisory Child Health and Human Development Council
National Advisory Council on Aging
National Advisory Dental Research Council
National Advisory Environmental Health Sciences Council
National Advisory Eye Council
National Advisory General Medical Sciences Council
National Advisory Neurological and Communicative Disorders and Stroke Council
National Advisory Research Resources Council
National Arthritis Advisory Board
National Arthritis, Metabolism, and Digestive Diseases Advisory Council
National Cancer Advisory Board
National Commission on Digestive Diseases
National Diabetes Advisory Board
National Heart, Lung and Blood Advisory Council
Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee
Neurological disorders Program-Project Review A Committee
Neurological Disorders Program-Project Review B Committee
Neurological Sciences Study Section
Neurology A Study Section
Neurology B Study Section
NIDR Special Grants Review Committee
Nutrition Study Section
Oral Biology and Medicine Study Section
Pathobiological Chemistry Study Section
Pathology A Study Section
Pathology B Study Section
Peridontal Diseases Advisory Committee
Pharmacology Study Section
Pharmacology-Toxicology Review Committee
Physiological Chemistry Study Section
Physiology Study Section
Population Research Committee
President's Cancer Panel
Pulmonary Diseases Advisory Committee
Radiation Study Section
Recombinant DNA Advisory Committee
Reproductive Biology Study Section
Research Manpower Review Committee
Sickle Cell Disease Advisory Committee
Social Sciences and Population Study Section
Surgery, Anesthesiology and Trauma Study Section
Surgery and Bioengineering Study Section
Toxicology Study Section
Transplantation, Biology and Immunology Committee
Tropical Medicine and Parasitology Study Section
Tumor Immunology Committee
Virology Study Section
Vision Research Program Committee
Visual Sciences A Study Section
Visual Sciences B Study Section

AGENCY: Office of the Assistant Secretary for Health.

ADDRESS: Mrs. Elena Giallo, Committee Management Officer, 5600 Fishers Lane, Room 17B-20, Rockville, Maryland 20852, 301/443-6339.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

Health Insurance Benefits Advisory Council
National Advisory Health Council

President's Council on Physical Fitness and Sports
United States National Committee on Vital and Health Statistics

AGENCY: Office of the Assistant Secretary for Planning and Evaluation.

ADDRESS: Ms. Susan Dweck, Committee Management Officer, Office of the Assistant Secretary for Planning and Evaluation, 200 Independence Avenue, S.W., Room 405F, Washington, D.C. 20201, 202/245-7148.

FEDERAL ADVISORY COMMITTEES OF THE HEW/OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

Secretary's Advisory Committee on the Rights and Responsibilities of Women

AGENCY: Office of Human Development Services.

ADDRESS: Mr. Arnold H. Sampson, Committee Management Officer, Office of Human Development Services, Room 308E, 200 Independence Avenue, S.W., Washington, D.C. 20201, 201/245-6028.

FEDERAL ADVISORY COMMITTEES OF THE HEW/OFFICE OF HUMAN DEVELOPMENT SERVICES

Federal Council on the Aging
Model Adoption Legislation and Procedures Advisory Panel
President's Committee on Mental Retardation

AGENCY: Social Security Administration.

ADDRESS: Mr. Nicholas Stratton, Committee Management Officer, Social Security Administration, Room 4-R-22, Operations, 6401 Security Boulevard, Woodlawn, Maryland 21235, 301/594-3196.

FEDERAL ADVISORY COMMITTEES OF THE HEW/SOCIAL SECURITY ADMINISTRATION

1978 Advisory Committee on Social Security

Dated: March 2, 1979.

SHEILA PIRES,
Special Assistant to the Secretary.

[FR Doc. 79-7059 Filed 3-7-79; 8:45 am]

[4110-35-M]

HEALTH CARE FINANCING ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Health Care Financing Administration (HCFA), (43 FR 5574-5590), February 9, 1978, is amended to revise that part of the division level statement for headquarters and regional offices regarding the Medicare Bureau, Medicaid Bureau, Health Standards and Quality Bureau, Office of the Regional Administrator, Medicare Regional Office, Medicaid Regional Office, Health Standards and Quality Regional Office as follows:

Revise the functional statements of the Office of Program Operations under the Medicare Bureau and the Division of Contract Administration under the Office of Program Operations; the Division of Financial Operations under the Office of Financial Management, Medicaid Bureau; the Division of Field Operations under the Office of Standards and Certification, Health Standards and Quality Bureau; the Office of the Regional Administrator under the Office of the Deputy Administrator for Operations; the Medicare Regional Office under the Medicare Bureau; the Medicaid Regional Office under the Medicaid Bureau; and the Health Standards and Quality Regional Office under the Health Standards and Quality Bureau to reflect the distribution of responsibilities for regional program operations.

The revised functional statements cited above are as follows:

OFFICE OF PROGRAM OPERATIONS (OPO) (FPH 2)

Provides national leadership and executive direction for Medicare operating systems and program operations involving contractual relations with intermediaries and carriers, develops and evaluates the terms of intermediary and carrier contracts, policies and procedures regarding contract renewals, and criteria for the approval of subcontracts, develops regulations, policies, and procedures for the selection, termination and replacement of intermediaries and carriers, develops, evaluates and maintains fiscal and operating policies, standards, and instructions for contractor operations and guidelines for regional office administrative and financial management relationships with contractors, develops appropriate guidelines and instructions, presents the national budget for Medicare contractor operations, and maintains relations with national Medicare contractors. Develops a program for evaluation of contractor performance and analyzes the effectiveness of contractor operations on a national basis. In coordination with the Office of Policy, Planning, and Research, the Office of Program Operations administers the fixed price or performance incentive contracts experimentation as directed by Section 402(a)(1)(F) of the Social Security Amendments of 1967, Pub. L. 90-248, as amended by Section 222(b) of the Social Security Amendments of 1972, Pub. L. 92-603, develops and maintains quality control programs for Part A intermediaries and Part B carriers, directs the development and issuances of specifications, procedures and other instructional material to implement and maintain operational systems for the Social Security Administration with respect to the enrollment and eligibility of beneficiaries, their notification as to the utilization of services, and the collection of premiums. Develops procedures and systems requirements for claims by providers, provides model systems maintenance support to Part B carriers, plans, conducts, and evaluates studies aimed at operational improvements in systems, methods, and procedures, develops the amount of overpayments to providers, physicians and suppliers of services in unusually sensitive or complex cases, negotiates with providers, physicians, and suppliers as to the acceptability of the statistical and sampling techniques used to determine the overpayment and negotiates the method of repayment and provides technical assistance to other Government components is connection with efforts to recover Medicare overpayments. Provides Bureau leadership in considering and making recommendations to the Bureau Director on issues concerning National Health Care administration and financing and develops and recommends legislative proposals for the improvement of the Medicare program.

DIVSION OF CONTRACT ADMINISTRATION (DCA) (FPH 21)

Develops regulations, policies, and procedures for the negotiations, selection, renewals, and legal issues surrounding the contracts with intermediaries and carriers; develops and evaluates the terms of intermediary and carrier contracts, policies and procedures regarding contract renewals, and criteria for the approval of subcontracts. Develops, evaluates, and maintains fiscal and operating policies, standards, and instructions for contractor operations and guidelines for regional office administrative and financial management relationships with contractors; maintains relations with national Medicare contractors; as well as serves as liaison and coordinates with the Inspector General and General Accounting Office (OIG, GAO) on audits and financial reviews of contractors. Develops and presents the national budget for contractor operations and conducts operations analysis of Medicare program operations. Reviews and assesses impact of policy changes on contractor operations, reviews contractor standards to assess their propriety from a cost-benefit viewpoint; serves as liaison and coordinates with contractor representative groups; it provides program guidance of HCFA Regional Offices in furtherance of these functions; and administers the fixed price or performance in-

centive contracts experimentation as directed by Section 402(a)(1)(F) of the Social Security Amendments of 1967, Pub. L. 90-248, as amended by Section 222(b) of the Social Security Amendments of 1972, Pub. L. 92-603.

DIVISION OF FINANCIAL SERVICES (DFS) (FPM 31)

Maintains financial control over grants to States issued under Title XIX of the Social Security Act. Administers the cost allocation and formula grants administration policy under 45 CFR Part 74 and the Department instructions for the Medicaid program. Reviews proposed and existing legislation and Federal regulations, provides comments on the financial implications of proposals and develops implementing instructions to exercise the financial controls necessary for the effective administration of the Medicaid law and regulations. In conjunction with the Office of State Operations, provides technical assistance to Regional staff in the financial review of the Medicaid program to determine the allowability of costs in accordance with Federal law and regulations and approved State plans. Determines the amount to be paid to each State or jurisdiction for each quarter in accordance with Section 1903(d) of the Social Security Act based on review and approval of Regional recommendations. Identifies evidence of inappropriate claims or payments under the Medicaid program and initiates action to correct reported deficiencies and to investigate the applicability of the specific findings, including those in GAO and HEW Audit Agency reports, to the Medicaid program in all States. Reviews Regional recommendations to disallow State claims made under the Medicaid program or to take any other actions that may result in a disallowance and prepares recommendations on the action to be taken. Provides continuous evaluation and follow-up on Medicaid financial reviews to ensure that corrective actions are taken and recommends priority areas for future action. Provides technical assistance to the Office of the General Counsel and the Departmental Grants Appeals Board in the reconsideration of the disallowances made under the Medicaid program.

DIVISION OF FIELD OPERATIONS (DFO) (FPSS5)

Develops and coordinates policies, procedures, and guidelines of the administrative and fiscal involvement of State Agencies (SA) in Medicare and Medicaid standards and certification activities; initiates SA and Regional Office (RO) budget instructions and provides direction for budget allocations and monthly estimate of SA expenditures; reviews and monitors with ROs the reprogramming of SA funds, SA spending patterns, SA quarterly expenditure reports, SA budget requests and maintains records of SA fiscal management, maintains the Comprehensive Program Review of State Agencies activities by monitoring the regional office activities involving continuous surveillance of SA operations and certification functions and through periodic onsite visits, direct survey of providers, and participation in program and administrative reviews; develops policies, procedures and guidelines for the various providership issues, develops policies, procedures, and guidelines for the proficiency testing program for licensed practical nurses, clinical laboratory technologists, cytotechnologists and other health care personnel participating in HCFA programs; directs and coordinates activities concerned with the Medicare/Medicaid Automated Certification System (MMACS) including developing data input and output requirements, specifications for modification to adapt to new forms, and guidelines and technical assistance for regional office input processing; develops and maintains the MMACS and utilization of the data output; is responsible for coordination and dissemination of provider/supplier participation materials and instructions developed by other divisions as Operations Manual, etc.

OFFICE OF THE REGIONAL ADMINISTRATOR (ORA) FD(I-X)

Represents the Health Care Financing Administration at the regional level. As the principal line official for regional operations, provides executive leadership and guidance on behalf of the Administrator and the Deputy Administrator for Operations, HCFA, to all components at the regional level, except program integrity. Responsible for implementation of national policy at the regional level. Assures the effective administration of all HCFA programs (except program integrity), including Medicare, Medicaid, PSROs, and certification of providers in a major geographical area. Coordinates the activities of OPI with the other HCFA components and resolves disputes within a major geographical area. Takes necessary action to implement decisions in areas of regional authority, participates in the formulation of new policy and recommends changes in existing national policy for all HCFA programs. Develops and implements a professional relations program within the region for all HCFA programs and serves as the principal HCFA contact with all professional organizations such as hospital and medical associations.

At the regional level, takes action to implement HCFA national initiatives undertaken to integrate HCFA program operations and is responsible for coordination of HCFA program with other HEW and Federal agencies. Is responsible for executive direction of all regional bureaus within his delegated authority. Works with the HEW Principal Regional Official to assure effective relationships with State and local governments. Initiates and directs the implementation of special regional and headquarters projects affecting all HCFA prgrams. Directs regional responsibilities relating to experimental demonstration projects. Provides administrative support for all HCFA regional activities including the Office of Program Integrity. Provides current feedback to HCFA central office on operations, activities and problems. Provides regional perspective to the Deputy Administrator for Operations, the bureau directors, and the Director of OPI in the development of HCFA policies, objectives, and work plans.

MEDICARE REGIONAL OFFICE (MARO) FD1(I-X)

Under the direction of the HCFA Regional Administrator, represents the Medicare Bureau, HCFA, on a regional level. Assures the effective administration of the Medicare program in the region through the day-to-day working relationship with Medicare contractors, providers, physicians, SSA Regional Office and district office personnel, and other organizations and individuals concerned with the program operations. Assures continuing surveillance and appraisal of Medicare contractors in the administration of certain health insurance provisions. Identifies problems and initiates action to ensure contractor adherence to national Medicare policy and procedures. Di- rects Medicare regional financial management activities. Directs a program of indepth surveys to evaluate the effectiveness of the Medicare program. Conducts quality assurance programs and onsite performance appraisals and analyzes statistical performance reports. Negotiates and approves contractor budgets, modifications to budget allotments and final cost settlements. Coordinates day-to-day contractor financial management activities; reviews and approves certain subcontracts and leases, and monitors banking activities and evaluates the cost allocation procedures of contractors. Conducts contractor appraisals and comprehensive reviews of SSA district office Medicare operations. Provides direction to Medicare contractors in carrying out their responsibilities for interfacing with and monitoring Professional Standards Review Organizations. Oversees the operation of

End-Stage Renal Disease (ESRD) Networks and Medical Review Boards. Establishes and maintains liaison with organizations representing health care professionals, providers of health care services, and program beneficiaries; takes necessary action on matters relating to the Freedom of Information Act and the Privacy Act; perfoms regional responsiblities relating to experimental and demonstration projects; assumes responsibility for program training; and assures timely responses to Congressional and public inquiries. Provides current feedback to central Office counterpart on operations, activities, and problems. Provides regional perspective in the development of counterpart central policies, objectives, and work plans.

DIVISION OF PROGRAM OPERATIONS (DPO) FD11(I-X)

Plans, directs, and coordinates regional office activities in assuring the effectiveness of Medicare contractor operations in the region through a regular program of surveillance and appraisal, and day-to-day working relationships with contractor personnel, including: a regular contractor visit program, onsite performance appraisals, evaluation of contractor operating systems, formal quality assurance programs under both Part A and B, and preparation of periodic formal contractor evaluation reports. Reviews, negotiates, and recommends contract renewal, nonrenewal, or termination. Provides direction and guidance to Medicare contractors for the implementation of program policies, standards, and directives, including: substantive policies relating to services provided by hospitals, skilled nursing facilities, home health agencies, physicians (including provider-based and teaching physicians), and other suppliers of services; provider reimbursement and accounting policies and procedures; medical necessity and utilization safeguards; nonmedical coverage exclusions, deductibles, and coinsurance. Coordinates the dissemination of regional Medicare instructional issuances.

identifies problems and initiates action to ensure contractor adherence to national HCFA policy and procedures. Assures coordination of all matters within area of responsibility with appropriate components in HCFA Central Office and provides technical support to HCFA program integrity efforts.

DIVISION OF PROGRAM MANAGEMENT (DPM) FD12(I-X)

Provides direction for Medicare regional fiscal and administrative relationships with carriers, intermediaries, SSA district offices, State agencies, providers and suppliers of services, and other individuals and groups concerned with health care administration and financing. Directs all regional financial management activities involving Medicare contractors including reviewing, negotiating, and approving Part A and Part B contractor budgets; negotiating and approving final cost settlements based on HEW Audit Agency audits; analyzing monthly financial reports; approving bank agreements and monitoring contractors' banking activities; and evaluating contractors' cost allocation procedures. Reviews and approves contractors' leases and subcontracts, reviews and makes recommendations concerning approval of EDP subcontracts, directs regional activities concerning special fixed price and incentive contract procurements with Medicare contractors. Monitors contractor overpayment identification and collection activities; prepares overpayment cases for submission to GAO for collection, and/or to the Department of Justice for possible prosecution. Coordinates with the SSA Office of the Regional Commissioner and provides program direction and technical assistance to the Social Security District Offices concerning the Medicare entitlement, postentitlement and beneficiary education functions they perform under agreement with HCFA, monitors the performance of these functions and recommends changes in the policies and training needed by district office personnel to enhance performance; coordinates with the SSA Office of the Regional Commissioner. Acts to resolve Medicare entitlement problems not covered by regular procedures. Develops and oversees regional procedures for coordinating between district offices and contractors. Negotiates and approves State buy-in agreements and provides direction and assistance to State buy-in agencies in carrying out their responsibilities. Plans, directs, and coordinates activities to assure that Medicare beneficiaries, particpating providers, physicians, and other suppliers are informed of program benefits, their rights and responsibilities, including: maintaining ongoing relationships with provider and beneficiary groups; preparing regional informational issuances; and providing direction to and monitoring the performance of Medicare contractors in carrying out their responsibilities for verifying beneficiary overpayment and refund collection, and professional and provider relations activities. Provides Medicare orientation, training, and day-to-day liaison with direct dealing providers, Rural Health Clinics, End Stage Renal Disease facilities, Comprehensive Health Centers (CHCs), Group Practice Prepayment Plans (GPPP), and Health Maintenance Organizations (HMOs). Acts as a resource to these organizations for policy and procedural questions; conducts continuing appraisals of the Medicare procedures of direct-dealing providers; and analyzes CHC budgets and recommends approval of interim rates. Responsible for preparation of responses to requests for disclosure of information under the Freedom of Information and Privacy Acts, coordinates with the Office of the Regional Attorney, and the HEW Principal Regional Official at the regional level. Develops, coordinates, and prepares responses to Congressional and beneficiary correspondence. Reviews, analyzes, and takes necessary action for the authorization or disallowance of emergency foreign service claims.

MEDICAID REGIONAL OFFICE(MMRO) FD2 (I-X)

Under the direction of the HCFA Regional Administrator, represents the Medicaid Bureau, HCFA, on a regional level. Plans, manages, and provides Federal leadership and assistance to State agencies in program implementation, maintenance, and the regulatory review of State Medicaid program management activities under Title XIX of the Social Security Act. Provides technical assistance and guidance to States to determine the feasibility of implementing new or optional programs or redesigns current programs to meet the changing needs of the State. Interprets Medicaid program and financial regulation of policy. Interprets Departmental cost allocation and grants administration policy for the Medicaid program. Maintains day-to-day liaison with State agencies and monitors their Medicaid program activities and practices by conducting periodic comprehensive onsite program management and financial reviews to assure State adherence to Federal law and regulations; reviews, approves, and maintains official State plans and plan amendments for medical assistance. Provides technical assistance to States in the administration of and the amount, duration, scope, and reimbursement of health services available under the State program. Reviews, approves, and monitors State reimbursement systems. Reviews cost allocation plans, determines whether such plans are approvable from Medicaid standpoint, and provides positions to Regional Administrative Support Center. Reviews, analyzes, and approves State expenditures for State Medicaid contracts. Stimulates State action toward achievement of selected program objectives; assists States in the maintenance of ongoing program objectives; and resolves audits with States. Reviews States' quarterly estimates of expenditures under the Medicaid program and recommends the amount to

be estimated in the quarterly grants. Reviews States' quarterly statements of expenditures and recommends appropriate action on amounts claimed. Defers reimbursement action on questionable State claims, reviews the claims for allowability and recommends appropriate action. Issues orders suspending Federal financial participation (FFP) on behalf of State payments to Title XIX provider institutions and revocation of such suspension orders. Advises, provides technical assistance, supports, and evaluates State Management Information (MI) and claims payment systems. Implements Title XIX special initiatives such as Prepaid Health Plans, Health Maintenance Organizations (HMOs) and other special or experimental programs, and operation of major management initiatives such as quality control. Provides for State and regional input to operational plans, policy, regulations, legislation, and budget formulation. Develops and implements a program of liaison with organizations representing health care professionals, providers of health care services, and program beneficiaries; takes necessary action on matters relating to the Freedom of Information Act and the Privacy Act; assumes regional responsibility for program training; and assures timely responses to Congressional and public inquiries. Provides current feedback to Central Office counterpart on operations, activities, and problems. Provides regional perspective in the development of counterpart Central Office policies, objectives and work plans. Performs regional responsibilities relating to exerimental and demonstration projects.

DIVISION OF PROGRAM OPERATIONS (DPO) FD21(I-X)

Plans, directs, and coordinates Federal regional office activities related to Medicaid State program operations. Maintains continuous liaison with State agencies and surveillance over their respective programs with reference to providing technical program assistance on overall management implementation and the correction of deficiencies. Serves as central review and resource point providing States with interpretation of Federal regulations, program objectives and policies and provides technical assistance on programmatic and administrative requirements to assure effective and economical operational control. Reviews and recommends approval/disapproval of State Plans and amendments thereto and assures currency, accuracy and maintenance of official State Plan files. Reviews and recommends approval/disapproval of project grants with responsibility for overall administration. In conjunction with the Division of Management, reviews State reimbursement systems, and cost allocation plans. Serves as principal regional resource for the development, planning, and conduct of State assessment reviews. Provides testimony and technical assistance to State legislative committees and various State governing boards. Responsible for program audit follow-up and for clearing all program audit findings providing advice and consultation on audit dollar findings to the Division of Management and on State financial issues related to retroactive or undocumented claims. Monitors and coordinates State activities regarding Health Maintenance Organizations (HMOs), and other special or experimental health delivery programs. Provides technical program support to State long-term care, utilization review and Professional Standards Review Organizations (PSROs) activities in coordination with other HCFA components. Advises and provides hardware/software technical assistance to States on management information systems; coordinates and collaborates with the Office of State Operations, Division of Information Systems, in the review and certification of Medicaid Management Information Systems in the various States. Provides technical support to HCFA program integrity efforts. Carries primary responsibility for long-range planning necessary to assure the effectiveness of overall State operations, developing methodologies and establishing priorities related to the accomplishment of mission goals. Collaborates with the Institute for Medicaid management in the arranging and conduct of workshops and staff training seminars for State staff in order to improve State Medicaid Program operations.

DIVISION OF MANAGEMENT (DM) FD22(I-X)

Manages, plans, coordinates, and directs the analysis and monitoring of State Medicaid financial management, assessment, and control activities. Controls, coordinates, and resolves HEW Audit Agency, General Accounting Office and HCFA findings with respect to program management and recommends action to be taken on findings with respect to recovery of Federal funds; reviews and analyzes State contracts and State quarterly estimates of expenditure statements, and cost allocation plans, and makes recommendation for approval/disapproval. Recommends deferring payment when State's Claim for reimbursement is questionable, performs necessary review and recommends appropriate action. Reviews, approves, and monitors State institutional reimbursement procedures and practices for adherence to Federal requirements. Negotiates with respective States to resolve Federal financial participation (FFP), issues and provides technical assistance in the areas of financial management. Recommends issuance of orders to State suspending FFP with respect to Title XIX provider institutions and revocation of such orders. Monitors State buy-in programs and gives technical assistance designed to improved procedures. Develops regional input to Medicaid budget formulation and development: coordinates day-to-day financial management activities with HEW components (OHDS, SSA). Provides technical assistance during State planning and implementation of Medicaid Eligibility Quality Control (MEQC) programs; conducts periodic (Medicaid Quality Control) reviews and assists in the resolution of discrepancies. Conducts review of the State for purposes of specific Federal penalty provisions to determine if regulatory requirements have been met. Provides State assistance in developing, implementing, and operating a third-party identification and recovery system. Reviews and analyzes State reports and statistics to determine State trends, and to detect program deficiencies. Provides assistance to the central office in support of disallowances made under the Medicaid Program which are under reconsideration by the Departmental Grant Appeals Board.

HEALTH STANDARDS AND QUALITY REGIONAL OFFICE (HSQRO) FD3(I-X)

Under the direction of the HCFA Regional Administrator, represents the Health Standards and Quality Bureau, HCFA, at the regional level and provides leadership and program direction to assure that health care services provided under Medicare and Medicaid are furnished in the most economical manner consistent with recognized professional standards of care, and serves as the regional focus for assuring accountability to health care consumers for the quality of health care services. Participates in the formulation and development of health standards and quality policies and programs, interprets and implements health safety standards and evaluates their impact on the utilization and quality of health care services. Ensures appropriate review and application of conditions of participation for providers and suppliers of health services under the Social Security Act and other related Federal programs. Exercises final authority for approval/denial/termination of all provider/supplier certification actions under the Medicare programs. Administers the provisions and exercises final authority on all fiscal matters relating to section 1864 agreements. Directs, monitors and evaluates the State Medicaid agency health stand-

ards and certification program and determines necessity for and initiates corrective actions.

Interprets and implements policies and procedures for review and utilization control programs under the Social Security Act and other Federal programs. Oversees the operation of Professional Standards Review Organizations (PSROs) and Professional Standards Review (PSR) State Councils. Identifies and explores alternative methods of reimbursement and health delivery systems. Performs regional responsibilities relating to experimental and demonstration projects. Develops and implements a program of liaison with organizations representing health care professionals, providers of health care services, and program beneficiaries, takes necessary action on matters relating to experimental and demonstration projects; assumes responsibility for program training and assures timely responses to congressional and public inquiries. Provides current feedback to central office counterpart on operations, activities, and problems. Provides regional perspective in the development of counterpart central office policies, objectives and work plans. Takes necessary action on matters relating to the Freedom of Information Act and the Privacy Act.

DIVISION OF PROFESSIONAL STANDARDS REVIEW (DPSR) FD31(I-X)

Assesses the performance of the State agency in interpreting and applying quality health standards and procedures in their survey and certification review process under appropriate Federal programs and in their assessment of providers for compliance with performance standards. Assures that the Professional Standards Review Organizations (PSRO) program and Utilization Review (UR) and Utilization Control (UC) requirements under the Social Security Act and related regulations are implemented and effectively maintained to provide accountability for quality care and promote, develop, and expand to quality review process to all types of levels of health care covered under Federal programs. Conducts Federal survey of providers and suppliers and health services to ensure that the standards and procedures are being applied in a uniform and consistent manner. Assesses State agency performance in applying appropriate requirements through a variety of evaluative techniques. Assures that providers' performance meets quality standards. Provides professional consultation to State agencies and where appropriate, to providers and suppliers of health care services. Performs program assessments through a review of State agency survey documents, visits to State agencies, analysis of Medicare/Medicaid Automated Certification Systems (MMACS) output data and other selective indications. Assists the State agencies in developing the capabilities to provide direct assistance to providers and suppliers of health services in improving their performance and/or to take necessary corrective action to remove deficiencies. Assists the Division of Survey and Certification Operations in making professional judgments involving selective certification actions such as terminations and reconsiderations. Provides expert witnesses in cases of litigation related to providers and suppliers. Determines the need for and coordinates with other HSQ components in conducting or assisting State agencies and providers with appropriate training programs. Serves as the focal point for analysis of MMACS data and other data sources for identification of problem areas, policy and operational inconsistencies, development of work plans, establishment of program priorities and reorientation of program emphasis. Conducts studies, pilot projects, experimental programs and assists in implementing innovative techniques designed to improve survey certification process and peer review systems in a cost effective manner. Administers the proficiency testing program for health professionals. Manages the PSRO contracts/agreements and interprets applicable policies, procedures and regulations. Makes budget evaluations and assures that PSRO and State PSR Council proposals effectively and economically meet program objectives. Monitors and assesses the performance of contractors to assure fulfillment of provisions of these contracts. Coordinates inter-program activities between PSROs and Medicare fiscal agents, Medicaid State agencies and other participating organizations. Promotes and assists in the integration of all UC activities into effective PSRO operations. Assesses the Medical Review (MR) and Independent Professional Review (IPR) systems of the State Medicaid programs and provides consultation and assistance. In coordination with the other Health Standards and Quality components and the health care industry, develops and assesses alternative peer review systems which more accurately measure the quality of direct patient care.

Dated: March 2, 1979.

L. D. TAYLOR,
Acting Assistant Secretary for Management and Budget.

[FR Doc. 79-7058 Filed 3-7-79; 8:45 am]

[4110-84-M]

Public Health Service

ASSISTANT SECRETARY FOR HEALTH ET AL.

Delegations of Authority

Notice is hereby given that there have been made within the Public Health Service the following delegations of authority for (1) health and nutrition demonstration projects under Section 516 of the Public Works and Economic Development Act of 1965 (42 USC 3195), as amended by Public Law 94-188; (2) health services programs for blind and disabled children under age 16 under Section 1615(b) and (e) of the Social Security Act (42 USC 1382d), as amended by Public Law 94-566; (3) emergency medical services systems program under Title XII of the Public Health Service Act (42 USC 300 *et seq.*), as amended by Public Law 94-573, and Sections 13, 15, and 16 of Public Law 94-573 (90 Stat. 2718-2719); and (4) comprehensive health services program under Section 401 of the Economic Opportunity Act of 1964 (42 USC 2901), as amended by Public Law 93-644.

I. Health and Nutrition Demonstration Projects under Section 516 of the Public Works and Economic Development Act of 1965.

A. Delegation by the Assistant Secretary for Health to the Administrator, Health Services Administration, with authority to redelegate, of authorities vested in the Secretary of Health, Education, and Welfare under Section 516 of the Public Works and Economic Development Act of 1965, excluding the authority to promulgate regulations.

B. Delegation by the Administrator, Health Services Administration, to the Regional Health Administrators, with authority to redelegate, of authorities under Section 516 of the Public Works and Economic Development Act of 1965 for grants within their respective regions other than for grants that are national or multi-regional in scope.

C. Delegation by the Administrator, Health Services Administration, to the Director, Bureau of Community Health Services, Health Services Administration, with authority to redelegate, of authorities delegated to the Administrator, Health Services Administration, under Section 516 of the Public Works and Economic Development Act of 1965 except those specifically delegated to the Regional Health Administrators.

Previous delegations of authority under Section 516 of the Public Works and Economic Development Act of 1965 to the Administrator, Health Services Administration, (43 FR 29034) and the Regional Health Administrators (41 FR 24928) have been superseded.

II. Health Services Programs for Blind and Disabled Children under Age 16 under Section 1615(b) and (e) of the social Security Act.

A. Delegation by the Assistant Secretary for Health to the Administrator, Health Services Administration, with authority to

redelegate, of authorities vested in the Secretary of Health, Education, and Welfare under Section 1615(b) and (e) of the Social Security Act, including the authority to develop regulations but excluding the authority to issue them. This authority is also exclusive of the financial management authorities delegated to the commissioner of Social Security for the implementation and maintenance of the Supplemental Security Income Program as amended by Public Law 94-566 (42 FR 30433).

B. Delegation by the Administrator, Health Services Administration, to the Regional Health Administrators, with authority to redelegate, of authorities under Section 1615(b) and (e) of the Social Security Act for payments to States within their respective regions and for approval of State plans based upon guidelines established by the Administrator, Health Services Administration.

C. Delegation by the Administrator, Health Services Administration, to the Director, Bureau of Community Health Services, Health Services Administration, with authority to redelegate, of authorities delegated to the Administrator, Health Services Administration, under Section 1615(b) and (e) of the Social Security Act except those specifically delegated to the Regional Health Administrators.

Previous delegations of authority under Section 1615(b) and (e) of the Social Security Act to the Administrator, Health Services Administration (43 FR 29034) and the Regional Health Administrators (42 FR 30433) have been superseded.

III. Emergency Medical Services Systems under Title XII of the Public Health Service Act and Sections 13, 15, and 16 of Public Law 94-573.

A. Delegation by the Assistant Secretary for Health to the Administrator, Health Services Administration, with authority to redelegate, of authorities vested in the Secretary of Health, Education, and Welfare under Title XII of the Public Health Service Act and Sections 13, 15, and 16 of Public Law 94-573. Excluded from this delegation are the authorities under Section 1205 of the Public Health Service Act and Section 1206 of the Public Health Service Act as it pertains to Section 1205. Also excluded from this delegation are the authorities to promulgate regulations and submit reports to congress or to a congressional committee.

B. Delegation by the Administrator, Health Services Administration, to the Regional Health Administrators, with authority to redelegate, of authorities under:

1. Section 1202 of the Public Health Service Act providing for grants and contracts for feasibility studies and planning of emergency medical services systems;

2. Section 1203 of the Public Health Service Act providing for grants and contracts for establishing and initial operations of emergency medical services systems;

3. Section 1204 of the Public Health Service Act providing for grants and contracts for expansion and improvement of emergency medical services systems; and

4. Section 1206 of the Public Health Service Act providing for general provisions respecting grants and contracts awarded under Sections 1202, 1203, and 1204 of the Public Health Service Act.

C. Delegation by the Administrator, Health Services Administration, to the Director, Bureau of Medical Services, Health Services Administration, with authority to redelegate, of authorities delegated to the Administrator, Health Services Administration, under:

1. Section 1208 of the Public Health Service Act providing for the administration of the program of grants and contracts (except for grants and contracts under Section 1205) authorized by Part A, Title XII of the Public Health Service Act. Included in this authority are the functions under Section 1208(c) which are to be performed by the administrative unit through the Interagency Committee on Emergency Medical Services;

2. Section 1210 of the Public Health Service Act providing for the preparation of the annual report;

3. Section 1221 of the Public Health Service Act providing for the programs relating to burn injuries;

4. Section 13 of Public Law 94-573 providing for the expenses of administration and the preparation of the required report, excluding the submission of the required report to the appropriate congressional committee; and

5. Section 16 of Public Law 94-573 providing for a uniform patient reporting system.

D. Delegation by the Administrator, Health Services Administration, to the Director, Office of Contracts and Grants, Office of Management, Health Services Administration, with authority to redelegate, of authorities delegated to the Administrator, Health Services Administration, under Section 15 of Public Law 94-573 providing for the transfer of the Emergency Medical Services' equipment. Previous delegations of authority under Title XII of the Public Health Service Act and Sections 13, 15, and 16 of Public Law 94-573 to the Administrator, Health Services Administration, (43 FR 29034) and the Regional Health Administrators (43 FR 16423-16424) have been superseded.

IV. Comprehensive Health Services under Section 401 of the Economic Opportunity Act of 1964.

A. Delegation by the Assistant Secretary for Health to the Administrator, Health Services Administration, with authority to redelegate, of authorities vested in the Secretary of Health, Education, and Welfare under Section 401 of the Economic Opportunity Act of 1964, excluding the authority to promulgate regulations.

B. Delegation by the Administrator, Health Services Administration, to the Regional Health Administrators, with authority to redelegate, of authorities under Section 401 of the Economic Opportunity Act of 1964 for grants within their respective regions, other than for grants that are national or multi-regional in scope.

C. Delegation by the Administrator, Health Services Administration, to the Director, Bureau of Community Health Services, Health Services Administration, with authority to redelegate, of authorities delegated to the Administrator, Health Services Administration, under Section 401 of the Economic Opportunity Act of 1964, except those specifically delegated to the Regional Health Administrators.

Previous delegations of authority under Section 401 of the Economic Opportunity Act of 1964 to the Administrator, Health Services Administration, (43 FR 29034) and the Regional Health Administrators (42 FR 3714) have been superseded.

The above delegations were effective on February 13, 1979.

Dated: February 13, 1979.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 79-7057 Filed 3-7-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-666; FDAA-572-DR]

MARSHALL ISLANDS DISTRICT, (TRUST TERRITORY OF THE PACIFIC ISLANDS)

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Marshall Islands District (Trust Territory of the Pacific Islands) (FDAA-572-DR), dated February 12, 1979, and related determinations.

DATED: February 12, 1979.

FOR FURTHER INFORMATION CONTACT: John Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on February 12, 1979, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the Marshall Islands District (Trust Territory of the Pacific Islands) resulting from Typhoon Alice, beginning about January 3, 1979, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the Marshall Islands District.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795,

and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Norman Steinlauf of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the Marshall Islands District (Trust Territory of the Pacific Islands) to have been adversely affected by this declared major disaster.

Nomorik Atoll, Jaluit Atoll, Ujae Atoll, Santo Island, North Loi, Little Buster, Ebon Atoll, Ailinglapalap Atoll, Ebeye Island, Biji Island, Carlson Island, Gugeegue Islands, Kili Island, Namu Atoll, Carlos Island, Shell Island, Big Buster.

WILLIAM H. WILCOX,
Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance, No. 14.701, Disaster Asst.)

[FR Doc. 79-7015 Filed 3-7-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

WINNEMUCCA DISTRICT GRAZING ADVISORY BOARD

Meeting

FEBRUARY 26, 1979.

Notice is herby given, in accordance with Public Law 94-579 that a meeting of the Winnemucca District Grazing Advisory Board will be held on March 27, 1979.

The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada.

The agenda for the meeting will include: (1) Briefing on land planning process and Environmental Statement schedules; (2) Discussion of projects approved in Annual Work Plan; (3) Reading of letters and public comment period; (4) Update on wild horse/burro program; (5) Arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 1:00 p.m. and 2:00 p.m. on March 27, 1979, or file written statements for board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 705 East Fourth Street, Winnemucca, Nevada 89445, by March 19, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

ROBERT J. CARROLL,
Acting District Manager.

[FR. Doc. 79-6948 Filed 3-7-79; 8:45 am]

[4310-84-M]

ALASKA OUTER CONTINENTAL SHELF OFFICE, BEAUFORT SEA JOINT FEDERAL/STATE OIL AND GAS LEASE SALE

Availability of Leasing and Nomination Map

Notice is hereby given that, effective with this publication, the Leasing and Nomination Map, Federal/State Beaufort Sea Oil and Gas Lease Sale (State of Alaska 30th Competitive Oil and Gas Lease Sale), map date January 30, 1979, is available from the Alaska Outer Continental Shelf Office, Bureau of Land Management, Anchorage, Alaska, and from the State of Alaska Department of Natural Resources, Anchorage, Alaska. This map was prepared in accordance with 43 CFR 3301.1 and AS 38.05.180, and is the basic record for establishment of leasing units for the proposed joint Federal/State Beaufort Sea sale.

Copies of this map may be purchased for $2.50 each from the manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, 800 A Street, Anchorage, Alaska 99510 and from the State of Alaska, Department of Natural Resources, Division of Lands, Southcentral District Office, 3327 Fairbanks Street, Anchorage, Alaska 99503. Checks or Money Orders should be made payable to the Bureau of Land Management or the State of Alaska, Department of Revenue.

ROBERT J. BROCK,
Acting Manager, Alaska Outer Continental Shelf Office.

[FR Doc. 79-7061 Filed 3-7-79; 8:45 am]

[4310-84-M]

[S 2745]

CALIFORNIA

Partial Termination of Proposed Withdrawal and Reservation of Land

FEBRUARY 27, 1979.

Notice of a Bureau of Reclamation, U.S. Department of the Interior, application S2745 for withdrawal and reservation of land for the planned facilities of the Allen Camp Unit, Pit River Division, Central Valley Project, California, was published as FR Doc 69-10587 on pages 14083 and 14084 of the issue of September 5, 1969, and republished as FR Doc. 77-22293 on page 39279 of the issue of August 3, 1977. The applicant agency has cancelled its application as to the following described lands:

MOUNT DIABLO MERIDIAN

T. 37 N., R. 7 E.,
Sec. 4, SW¼SE¼;
Sec. 10, NW¼SW¼ AND S½SW¼;
Sec. 11, NW¼NW¼.
T. 38 N., R. 7 E.,
Sec. 4, Lots 2, 3, and 4.
T. 39 N., R. 7 E.,
Sec. 3, NW¼SW¼ and S½SW¼;
Sec. 10, NE¼, E½NW¼, NE¼SW¼, E½SE¼, and NW¼SE¼;
Sec. 11, NW¼ and W½SW¼;
Sec. 24, E½NE¼ and NE¼SE¼;
Sec. 33, E½NE¼, SW¼NE¼, and SE¼;
Sec. 34, NE¼SW¼.
T. 40 N., R. 7 E.,
Sec. 26, N½NW¼.
T. 37 N., R. 8 E.,
Sec. 5, SE¼NW¼ and E½SW¼;
Sec. 8, NE¼NW¼.
T. 38 N., R. 8 E.,
Sec. 32, E½SW¼.
T. 39 N., R. 8 E.,
Sec. 8, E½SW¼;
Sec. 19, Lot 3 and NE¼SW¼;
Sec.25, SW¼SE¼.
T. 39 N., R. 9 E.,
Sec. 19, NW¼NE¼.

The above described lands aggregate appoximately 2,111.97 acres.

The Bureau of Reclamation also relinquishes its application to withdraw the reserved mineral estate in the following lands patented under the Stockraising Homestead Act of December 29, 1916 (39 Stat. 862), as amended:

MOUNT DIABLO MERIDIAN

T. 39 N., R. 7 E.,
Sec. 2, Lot 4 and SW¼NW¼;
Sec. 3, Lots 1, 2, and 3, S½NE¼, SE¼NW¼, NE¼SW¼, and SE¼;
Sec. 10, W½NW¼, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 15, W½SE¼.
T. 40 N., R. 7 E.,
Sec. 11, S½NW¼ and SW¼.
T. 38 N., R. 8 E.,
Sec. 20, S½SE¼;
Sec. 29, SE¼SW¼;
Sec. 32, NE¼NW¼ and S½NW¼.
T. 39 N., R. 8 E.,
Sec. 6, E½SE¼;
Sec. 8, NW¼SW¼;
Sec. 15, SW¼ and N½SE¼.
T. 40 N., R. 8 E.,
Sec. 31, Lots 1 and 2, NE¼, NE¼NW¼, and N½SE¼.
T. 39 N., R. 9 E.,
Sec. 19, NE¼NE¼.

The above described lands aggregate approximately 2,075.63 acres.

Therefore, pursuant to the regulations contained in 43 CFR 2550, such lands at 10:00 a.m. April 6, 1979, will

be relieved of the segretative effect of the above-mentioned application.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 79-7063 Filed 3-7-79; 8:45 am]

[4310-84-M]

CARSON CITY DISTRICT GRAZING ADVISORY BOARD

Meeting

Notice is hereby given, in accordance with Pub. L. 94-579, that the Carson City District Grazing Advisory Board will meet on Thursday, April 12, 1979.

A morning field trip to the Antelope Mountain area (north of Reno, Neveda) will be made to view a grazing allotment with an existing allotment management plan.

A luncheon and business meeting will take place following the field trip at The Knight's Inn, 300 Kietzke Lane in Reno.

Agenda items include (as they relate to range improvements) an update on the District's range environmental statement and planning schedule; wild horse and burro program; water rights; fiscal year 1980 range improvement projects; and renewal of the grazing board's charter and member elections.

The meeting is open to the public. Any person may attend, appear before the Board, or file a written statement.

Date signed: March 2, 1979.

WILLIAM R. BRIGHAM,
Acting District Manager.

[FR Doc. 79-7069 Filed 3-7-79; 8:45 am]

[4310-84-M]

[Colorado 24128 k, 1]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

MARCH 1, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for rights-of-way for natural gas pipelines for the Philadelphia Creek Gathering System approximately 4.688 across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLORADO

T. 1 S., R. 101 W.,
Sec. 34: E½SE¼;
Sec. 35: Lot 4, SE¼SW¼, S½SE¼;
Sec. 36: S½SW¼, W½SE¼.
T. 2 S., R. 101 W.,
Sec. 1: Lots 7, 8;
Sec. 2: Lots 5, S½N½;
Sec. 3: Lots 5, 6, S½NW¼.

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) to give all interested parties the opportunity to comment to the application. (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation.*

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 79-7066 Filed 3-7-79; 8:45 am]

[4310-84-M]

[Colorado 24402q]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

FEBRUARY 28, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for the East Douglas Creek Gathering System approximately 1.281 miles across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLORADO

T. 2 S., R. 100 W.,
Sec. 31: Lot 15;
Sec. 32: Lots 1, 2.
T. 3 S., R. 100 W.,
Sec. 6: N½NE¼, SW¼NE¼, NW¼SE¼, NE¼SW¼.

The above-named gathering system will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) to give all interested parties the opportunity to comment on the application. (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation.*

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 79-7064 Filed 3-7-79; 8:45 am]

[4310-84-M]

[Colorado 25122 g, Colorado 25379 j]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

MARCH 11, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, 315 East 200 South, Salt Lake City, Utah 84111, has applied for rights-of-way for 4¼" o.d. natural gas pipelines for the Foundation Creek and Trail Canyon Gathering Systems approximately 6.151 miles long across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, GARFIELD COUNTY, COLORADO

T. 5 S., R. 101 W.,
Sec. 3: Lot 7;
Sec. 7: E½SE¼, SE¼NE¼;
Sec. 8: W½SW¼, S½NW¼;
Sec. 9: SE¼SW¼;
Sec. 16: N½NW¼, SW¼NW¼;
Sec. 17: SE¼NE¼, NW¼NW¼, N½SE¼;
Sec. 18: E½NE¼, SE¼SW¼, W½SE¼, NE¼SE¼;
Sec. 19: Lot 12 E½W½;
Sec. 30: NW¼NW¼.

The above-named gathering systems will enable the applicant to collect natural gas in areas through which the pipelines will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau

of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) to give all interested parties the opportunity to comment on the application. (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation.*

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 79-7065 Filed 3-7-79; 8:45 am]

[4310-84-M]

IDAHO

Notice of Filing of Plats of Survey

1. Plat of survey of the lands described below will be officially filed at the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective at 10:00 a.m. on May 1, 1979:

BOISE MERIDIAN, IDAHO

T. 10 S., R. 21 E.,
Secs. 25, 27 and 35.

2. A plat representing the dependent resurvey of a portion of the south and east boundaries, a portion of the subdivisional lines, a portion of the original meander lines, left bank of Snake River, the survey of islands in the Snake River and subdivision of sections 25, 27, and 35, T. 10 S., R. 21 E., Boise Meridian, Idaho, accepted November 30, 1978.

3. This survey was executed to meet certain administrative needs of the Bureau.

Inquiries concerning the lands should be addressed to the Chief, Branch of Records, Bureau of Land Management, Boise, Idaho.

SHARRON DEROIN,
Chief, Branch of Records,
Boise, Idaho.

[FR Doc. 79-7067 Filed 3-7-79; 8:45 am]

[4310-84-M]

IDAHO, WILDERNESS INVENTORY

Notice of Decision

Notice is hereby given that the Bureau of Land Management has completed wilderness inventory on certain public lands in Idaho. The inventories, following guidelines established by the Bureau, were conducted in advance of the statewide inventory in order to meet time commitments previously established for the Northern Tier Pipeline and the Western Leg of the Alaska Natural Gas Transportation System, both proposed pipelines crossing the BLM Coeur d'Alene District.

The decision on these inventories is that all public lands in Idaho crossed by the proposed projects clearly and obviously do not meet the BLM wilderness criteria and thus are dropped from further wilderness inventory.

Dated: February 26, 1979.

WILLIAM L. MATHEWS,
Idaho State Director,
Bureau of Land Management.

[FR Doc. 79-7068 Filed 3-7-79; 8:45 am]

[4310-84-M]

RIVERSIDE DISTRICT GRAZING ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Public Law 94-579, Title IV, Sec. 403, that a meeting of the Riverside District Grazing Advisory Board will be held on April 6 and 7, 1979. On April 6, the meeting will convene at 10 a.m. in the Bureau of Land Management Office, 833 South Waterman Avenue, El Centro, California. On April 7, the meeting will convene at 8 a.m. at the same place, and attendees will travel to McCain Valley ES Area to observe the allotments and other land uses in the area.

The agenda for the meeting will include:

(1) The status of the McCain Valley Planning and conflicts of land uses identified in the pre-planning analysis;
(2) the status of the California Desert Plan;
(3) the expenditures of advisory board funds for range improvements;
(4) the influence of the Public Rangeland Improvement Act within the Riverside District; and
(5) clarification of the Range Management Regulations pertaining to paying animal units.

The meeting is open to the public. Interested persons may make oral statements to the Board between 10 and 11 a.m. on April 6, 1979, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507, by April 3, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Persons desiring to make the tour on April 7, should furnish their own transportation, food and drink.

Summary minutes of the Board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

RICHARD D. FREEL,
Acting District Manager.

[FR Doc. 79-7062 Filed 3-7-79; 8:45 am]

[4310-84-M]

[U-42303, U-42304, U-42305, U-42306, U-42308, U-42315, U-42331, U-42332]

UTAH

Applications

FEBRUARY 27, 1979.

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 Corporation has applied for eight 4½-inch buried natural gas pipeline rights-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 19 S., R. 21 E.,
Sec. 33.
T. 20 S., R. 21 E.,
Secs. 4, 9 and 10.
T. 19 S., R. 23 E.,
Sec. 19.
T. 20 S., R. 23 E.,
Secs. 3, 4, 10, 13, 21, 22 and 27.
T. 16 S., R. 26 E.,
Sec. 33.

The needed rights-of-way are a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the applications should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

J. K. LATIMER,
Acting Chief, Branch of Lands
and Minerals Operations.

[FR Doc. 79-7070 Filed 3-7-79; 8:45 am]

[4310-84-M]

[Wyoming 66351]

WYOMING

Application

FEBRUARY 26, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 4½ inch pipeline and anode facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 94 W.,
Sec. 28, NW¼SW¼.

The proposed pipeline will transport natural gas from a point in the NW¼SW¼ section 28 in a northwesterly direction to a point of connection with their gathering line located in the SW¼NE¼ section 29, T. 23 N., R. 94 W., Sweetwater County, Wyoming.

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 should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-7073 Filed 3-7-79; 8:45 am]

[4310-84-M]

[Wyoming 66650]

WYOMING

Application

FEBRUARY 27, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 6⅝ inch pipleine and anode facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 22 N., R. 94 W.,
Sec. 28, SE¼SE¼.

The proposed pipeline will transport natural gas from a point in the SW¼ section 27, in a southerly direction to a point of connection with their gathering line located in the SE¼NW¼ section 33, T. 22 N., R. 94 W., Sweetwater County, Wyoming.

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 should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming, 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-7072 Filed 3-7-79; 8:45 am]

[4310-84-M]

WYOMING

Coal Lease Offering by Sealed Bid

FEBRUARY 27, 1979.

Public notice is hereby given that at 2:00 P.M. on March 27, 1979, an authorized officer of the Bureau of Land Management, Wyoming State Office, will offer certain coal resources in the lands hereinafter described for competitive lease by sealed bid to the qualified bidder submitting the highest bid amount in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended (30 U.S.C. 181-263), and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101).

The sale will be held in the third floor conference room of the Bureau of Land Management office building located at 2515 Warren Avenue in Cheyenne, Wyoming. Two tracts near the town of Hanna in Carbon County will be offered for coal lease. These tracts are described as follows:

SIXTH PRINCIPAL MERIDIAN, WYOMING

Tract #1.[1]
Township 23 North, Range 81 West,
Section 20: E½NE¼ E½E½NW¼NE¼, NE¼SE¼.
Containing 130.00 acres, more or less.

The #80 coal bed is approximately 28 feet thick. It lies under overburden ranging in depth from 0 to 190 feet. It is considered to be mineable by strip mining methods. The U.S. Geological Survey estimates that the bed contains approximately 1,818,500 tons of recoverable coal. The coal has an average quality of 9.75% moisture, 6.9% ash, 0.6% sulfur, and a heat value of 11,433 Btu. per pound.

[1] Limitation as to beds: The lease will be for the coal in only bed 80 as defined by the U.S. Geological Survey and in any overiding rider beds.

Tract #2.[2]
Township 23 North, Range 81 West,
Section 20: N½NW¼, W½NW¼NE¼NE¼, W½E½NW¼NE¼.
Containing 110.00 acres, more or less.

Bidders shall formulate their bids for each tract using one, but not both, of the following cash bonus/royalty payment methods:

Tract #1

(1) A bonus bid of not less than $25.00 per acre and a royalty rate of 16.1% of the production from surface mining, but not less than $2.98 per ton.

(2) A bonus bid of not less than $4,171.92 per acre and a minimum royalty rate of 12.5% of the production from surface mining.

Tract #2

(1) A bonus bid of not less than $25.00 per acre and a royalty rate of 16.1% of the production from surface mining, but not less than $2.90 per ton.

(2) A bonus bid of not less than $1,544.42 per acre and a minimum royalty rate of 12.5% of the production from surface mining.

The coal leases will be issued to the highest qualified bidders for each tract as determined by the authorized officer.

Offers to lease need not be in any prescribed form but must be submitted as sealed bids which will be opened and publicly announced at the specified time of sale. No bids received after 1:00 P.M. on March 27, 1979, will be considered. The Bureau of Land Management reserves the right to reject any and all bids and to issue leases to the next highest bidders if the otherwise successful bidders fail to qualify or obtain the leases for any other reason. All money deposits submitted with offers to lease which are not accepted will be returned to the unsuccessful bidders within a few days of the sale. The successful bidders will be obligated to pay for the advertising costs associated with this coal lease sale.

Payments of the bonus bids will be on a deferred basis, one-fifth due on the day of the sale, with the balance due in equal annual installments on the first four anniversary dates of the lease. The leases issued as a result of this offering also will provide for the payment of annual rentals of $3.00 per acre or fraction thereof throughout the lifetime of the leases.

All bidders must meet the requirements set out in Subpart 3502 of Title

[2] Limitation as to beds: The lease will be for the coal in only bed #79 as defined by the U.S. Geological Survey and in any overlying beds.

The #79 coal bed has a thickness ranging from 17 to 21.5 feet. The U.S. Geological Survey estimates that it contains approximately 877,300 tons of coal recoverable by surface mining methods. The coal has an average quality of 9.1% moisture, 9.7% ash, 1.05% sulfur, and a heat value of 11,259 Btu. per pound.

43 of the Code of Federal Regulations. In addition, all bidders must meet the short term criteria required by the decision in the case of Natural Resources Defense Council v. Royston C. Hughes, et al., as amended, Civil Action No. 75-1749, in the United States District Court for the District of Columbia. A lease will be issued to any bidder who holds or controls more than 46,080 acres under federal coal lease within any one state or 100,000 acres under federal coal lease within the United States. In accordance with the Federal Coal Leasing Amendments Act of 1975, each successful bidder, as a prospective lessee, will be required to disclose the nature and extent of its coal holdings and other information to the Department of Justice for review.

The public is invited to submit written comments concerning the fair market value of the coal lands listed in this offering. Comments should be sent to the State Director, Wyoming State Office, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001, to arrive no later than the sale date.

All documents and written comments concerning this lease offering, except those identified as proprietary information and which meet exemptions stated in the Freedom of Information Act, will be available for public examination on the fourth floor of the Bureau of Land Management office building located at 2515 Warren Avenue in Cheyenne, Wyoming.

Persons or companies desiring to submit bids or make comments concerning this sale are invited to write to the State Director, Wyoming State Office. Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001, in order to obtain a detailed statement about this coal lease offering.

Approved: February 27, 1979

DANIEL P. BAKER,
State Director.

[FR Doc. 79-7071 Filed 3-7-79; 8:45 am]

[4310-31-M]

Geological Survey

COAL LAND CLASSIFICATION ORDER COLORADO NO. 144

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

COAL LANDS

T. 46 N., R. 15 W.,
Sec. 13, SW¼SW¼;
Sec. 14, S½NE¼, and SE¼;
Sec. 23, N½, and SE¼;
Sec. 24, NW¼NW¼.
T. 47 N., R. 15 W.,
Sec. 19, lot 4;
Sec. 29, W½SW¼;
Sec. 30, lots 1 to 3 inclusive, W½NE¼, SE¼NE¼, E½W½, and SE¼;
Sec. 31, NE¼NE¼, W½NE¼, and E½NW¼;
Sec. 32, NW¼NW¼.
T. 47 N., R. 16 W.,
Sec. 24, SE¼SW¼, and S½SE¼;
Sec. 25, N½NE¼, SE¼NE¼, and NE¼NW¼.

The area described aggregates 2,044 acres (827 ha), more or less, of which all are classified as coal land.

Dated: February 28, 1979.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 79-7074 Filed 3-7-79; 8:45 am]

[4310-70-M]

National Park Service

CAPE COD NATIONAL SEASHORE, SOUTH WELLFLEET, MASS.

Cape Cod National Seashore Advisory Commission, Meeting

Notice is hereby given in accordance with Publid Law 92-463 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, March 23, 1979, at 1:30 pm at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Massachusetts.

The Commission was established pursuant to Public Law 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will consider the following matters: 1) Review of citizen's proposal for offroad vehicle use on Long Point, Province Lands; 2) Assessment of Alternatives, request of Provincetown to withdraw water temporarily from within Cape Cod National Seashore; and 3) Review of resource management proposals for Ballston Beach, Truro.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663, Telephone 617-349-3785. Minutes of the meeting will be available for public information and copying four weeks after the meeting a the office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

HERBERT OLSEN,
Superintendent,
Cape Cod National Seashore.

FEBRUARY 26, 1979.

[FR Doc. 79-6954 Filed 3-7-79; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[AA1921-198, AA1921-199, and AA1921-200]

SUGAR FROM BELGIUM, FRANCE, AND WEST GERMANY

Investigations and Hearing

The United States International Trade Commission (Commission) received advice from the Department of the Treasury (Treasury) on February 16, 1979, that sugar from Belgium, France, and West Germany, provided for in item numbers 155.20 and 155.30 of the Tariff Schedules of the United States, is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921. Accordingly, the Commission on March 1, 1979, instituted investigations Nos. AA1921-198, AA1921-199, and AA1921-200, under section 201(a) of the act, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigations will be held in Miami, Florida, on Tuesday, April 10, 1979, at 10:00 a.m., e.s.t., at a location to be announced. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received in writing in the office of the Secretary to the Commission, United States International Trade Commission Building, 701 E Street, NW., Washington, D.C., not later than noon Thursday, April 5, 1979.

Written statements. Interested parties may submit statements in writing in lieu of, and in addition to, appearance at the public hearing. A signed original and nineteen true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission,

such statements should be received not later than Friday, April 20, 1979.

By order of the Commission.

Issued: March 2, 1979.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-6957 Filed 3-7-79; 8:45 am]

[7020-02-M]

[AA1921-Inq.-24]

CERTAIN 45 R.P.M. ADAPTORS FROM THE UNITED KINGDOM

Commission Determines "No Reasonable Indication of Injury"

On the basis of information developed during the course of inquiry No. AA1921-Inq.-24, undertaken by the United States International Trade Commission under section 201(c) of the Antidumping Act, 1921, as amended, the Commission determines that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of certain 45 R.P.M. adaptors from the United Kingdom, allegedly sold at less than fair value as indicated by the Department of the Treasury.[1]

On January 30, 1979, the Commission received advice from the Department of the Treasury that, in accordance with section 201(c)(1) of the Antidumping Act, 1921, as amended, an antidumping investigation was being initiated with respect to certain 45 R.P.M. adaptors from the United Kingdom, and that, pursuant to section 201(c)(2) of the act, information developed during Treasury's preliminary investigation led to the conclusion that there is substantial doubt that an industry in the United States is being or is likely to be injured by reason of the importation of certain 45 R.P.M. adaptors from the United Kingdom into the United States. Accordingly, the Commission on February 7, 1979, instituted inquiry No. AA1921-Inq.-24 under section 201(c)(2) of the act to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

[1]Chairman Joseph O. Parker, Vice Chairman Bill Alberger, Commissioners George M. Moore, Catherine Bedell and Paula Stern, determined that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of the subject 45 R.P.M. adaptors.

A public hearing was held on February 15, 1979, in Washington, D.C. Public notice of both the institution of the inquiry and of the hearing was duly given by posting copies of the notice at the Secretary's office in the Commission in Washington, D.C., and at the Commission's office in New York City, and by publishing the original notice in the FEDERAL REGISTER of February 13, 1979 (44 FR 9438).

The Treasury Department instituted its investigation after receiving a properly filed petition on December 12, 1978, from the Aldshir Manufacturing Co., Inc., Tuckahoe, New York. Treasury's notice of its antidumping proceeding was published in the FEDERAL REGISTER of February 2, 1979 (44 FR 6824).

VIEWS OF THE COMMISSION

STATUTORY CRITERIA OF SECTION 201 (c)(2)

If the Secretary of the Treasury concludes, during a preliminary investigation under the Antidumping Act, 1921, as amended, that there is substantial doubt regarding possible injury to an industry in the United States, he shall forward to the U.S. International Trade Commission (Commission) his reasons for such doubt. Within 30 days of receipt of the Secretary's reasons, the Commission shall determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established,[1] by reason of the importation of merchandise allegedly sold in the United States at less than fair value (LTFV). This inquiry, instituted on February 7, 1979, concerns 45 R.P.M. adaptors from the United Kingdom.

DETERMINATION

On the basis of information developed during the course of this inquiry, we determine there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of 45 R.P.M. adaptors into the United States from the United Kingdom allegedly sold at less than fair value as indicated by the Department of the Treasury.

THE IMPORTED ARTICLE, THE DOMESTIC INDUSTRY, AND THE DOMESTIC MARKET

45 R.P.M. adaptors permit phonograph records with a center hole diameter of approximately 1½ inches to be played on a conventional automatic record player. 45 R.P.M. adaptors are made in two different configurations: flat-package and cylindrical. Currently there are three domestic producers of 45 R.P.M. adaptors in the United States: Aldshir Manufacturing Co., Inc., Tuckahoe, N.Y.; BSR (USA) Ltd., Blauvelt, N.Y.; and Avnet Inc.—I.P.M.; Group, St. Joseph, Ill. Only Aldshir Manufacturing Co., the petitioner, exclusively manufacturers and sells 45 R.P.M. adaptors for the major brands of record changes. BSR sells adaptors for use on turntables which it also manufactures. Avnet produces adaptors only for record changes which it manufactures.

The domestic market for this industry is divided into two components: an original equipment market and a smaller service and replacement market. The original equipment market is made up of about 30 domestic producers of phonographs and other electrical equipment incorporating phonographs as well as importers of phonographs. In the overwhelming preponderance of both the domestically produced and imported phonographs, the record changer component is manufactured by BSR Ltd. of the United Kingdom.

Generally, neither BSR Ltd. or the other domestic producers or foreign manufacturers who export phonographs to the United States sell adaptors as part of the original equipment. Rather, the adaptors must be separately ordered and added to the record changer.

BSR (USA), as both an importer and now a domestic producer, sells adaptors only for record changers made by its parent corporation BSR Ltd., which, as mentioned, supplies a large percentage of the record changer market. Only Aldshir, which does not manufacture record changers, produces and sells 45 R.P.M. adaptors for the major brands of record changers. The structure of the market necessitates that Aldshir sell in the replacement market or to phonograph manufacturers who, generally speaking, have purchased record changers made by BSR Ltd.

INFORMATION REGARDING ALLEGED MARGINS OF LTFV SALES

The Department of the Treasury advised the Commission that the petitioner alleged margins of LTFV sales from 30 to 90 percent.

NO REASONABLE INDICATION OF INJURY

Discussion of the data underlying our finding that no reasonable indication of injury exists in this case is limited by confidentiality rules extended to the parties in this case. One domestic producer and on importer account for nearly all production and import figures. Detailed discussion of economic indicators, would, therefore, violate the confidence of these two major parties in this case.

[1]Prevention of establishment of an industry in this inquiry is not in question and will not be discussed further in these views.

Importers of all models of 45 R.P.M. adaptors from the United Kingdom increased by nearly a million units from 1976 to 1977. Imports declined in 1978 by approximately 10 percent due largely to BSR's decision to discontinue importing the product in favor of manufacturing in the United States. This action should lead to an even sharper drop in imports in 1979 since BSR accounted for the vast majority of all imports of adaptors from 1976 through 1978.

Prior to BSR's entry in late 1978 as a U.S. producer, Aldshir Co. accounted for almost all of U.S. production. At the public hearing, Aldshir, which subcontracts its production to a plastics manufacturer, stated that its operations could increase output to 20,000 adaptors a week. In contrast, BSR (USA) Ltd., which combines the complete processes for production, assembly, and packaging in-house, started up production in late 1978, and currently produces 85,000 adaptors a week.

Pricing information available to the Commission establishes that petitioner has undersold BSR made adaptors in each of the last 3 years in both the original equipment market and in the replacement market. In the latter, the margin of underselling has been significant. Nevertheless, it has been unable to make significant inroads into BSR's share of the original equipment market. It thus appears price is not the primary consideration for sales in the original equipment market. Aldshir's lack of success in this major market, however, has not hurt its profit picture. From fiscal 1975 through fiscal 1977, Aldshir's net sales increased every year and its profits increased significantly. Clearly, it is a healthy company.

In summary, this industry is in good economic condition. Imports have declined while production and shipments by U.S. producers have gone up. What limited employment there is for the industry is also up, and profits have nearly doubled during the period examined by the Commission. Thus, we have no reasonable indication of injury or likelihood thereof to this industry.

Issued: March 5, 1979.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-7103 Filed 3-7-79; 8:45 am]

[4410-10-M]

DEPARTMENT OF JUSTICE

[AAG/A Order No. 23-79]

PRIVACY ACT OF 1974

New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes a new system of records to be maintained by the Immigration and Naturalization Service.

The Top Priority Program (TPP), JUSTICE/INS—004, is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the FEDERAL REGISTER.

The Privacy Act of 1974 provides that the Congress and the Office of Management and Budget (OMB) be notified of any proposal to establish a new system of records and that the public be given a 30-day period in which to comment on the routine uses of the system. In addition, OMB requires a 60-period in which to review the system before it is implemented. Therefore, the public, OMB, and the Congress are invited to submit written comments on this system.

Comments should be addressed to the Administrative Counsel, Office of Managment and Finance, Room 1118, Department of Justice, Washington, DC 20530.

If no comments are received on or before May 7, 1979, the system will be implemented without further notice in the FEDERAL REGISTER. No oral hearings are contemplated.

A report of the proposed system has been provided to the Director, OMB, to the President of the Senate, and to the Speaker of the House of Representatives.

Dated: February 27, 1979.

KEVIN D. ROONEY,
Assistant Attorney General for Administration.

JUSTICE/INS—004

System name:

Top Priority Program (TPP).

System location:

Central Office, Immigration and Naturalization Service, 425 I Street NW, Washington, DC.

Categories of individuals covered by the system:

Individuals, groups of individuals, or organizations that are expected to generate continuing public interest over a period of time and whose activities lie within the jurisdiction of the Immigration and Nationality Act, including but not limited to those involved in schemes to defraud the government, notorious crime figures, and perpetrators of horrendous or unusual crimes.

Categories of records in the system:

1. Index records of individuals covered by the system, including name of person, group, or organization, and status, reference, and locator information on the related INS case file, if any, in field offices.

2. Temporary file folders established at headquarters containing personal information about the indviduals, such as the date and place of birth, immigration status in the United States, marital status, and names of family members and associates; and progress reports on the priority cases.

Authority for maintenance of the system:

Section 103 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103).

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Information regarding status and progress of top priority cases is disseminated to INS managers, the Attorney General, officials of other Federal law enforcement agencies, Members of Congress, and to the President. No personal information is diseminated outside the Department of Justice.

Release of information to the news media and the public: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained as paper documents in manually operated index machines and file drawers.

Retrievability:

Records are retrieved by the name of the individual, group of individuals, or organization.

Safeguards:

The data is safeguarded and protected in accordance with Department of Justice and INS rules and procedures. INS offices are located in buildings under security guard, and access to premises is by official identification. Access to records is restricted to INS employees. All records are stored in locked containers outside of normal office hours.

Retention and disposal:

Records are deleted from the system one year after the individual or organization ceases to be active in the Top Priority Pro-

gram. Records are destroyed by shredding or burning.

System manager:

Assistant Commissioner, Investigations, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536.

Notification procedure:

Inquiries should be address to the Assistant Commissioner, Investigations, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536. To enable INS to identify whether the system contains a record relating to an individual, the requester must provide the individual's full name, date of birth, and place of birth; name of organization, if any; description of subject matter; and, if known, the related file number.

Access and contest:

A person desiring to access or contest a record shall submit his request in writing to the agency official designated under "Notification Procedure" above. If a request to access or contest a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request." If a requester wishes access to a record, he must identify the record by furnishing the information listed under "Notification Procedure" above. If the requester wishes to contest a record, he must also clearly state which record(s) is being contested, the reason(s) for contesting, and the proposed amendment(s) to the record(s). In addition, he must provide a return address for transmitting any information.

Record source categories:

Data is obtained from official records of the Immigration and Naturalization Service. These records include information obtained from other Government agencies.

Systems exempted from certain provisions of the Act:

None.

[FR Doc. 79-6964 Filed 3-7-79; 8:45 am]

[4410-01-M]

PROPOSED CONSENT DECREE IN ACTION TO ENJOIN DISCHARGES OF WATER POLLUTANTS

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on February 26, 1979, a proposed consent decree in *United States* v. *Ethyl Corporation* was lodged with the United States District Court for the District of South Carolina. The proposed decree would require *Ethyl Corporation* to construct treatment facilities and achieve effluent limitations at its plant in Orangeburg, South Carolina by August 16, 1979.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Ethyl Corporation*, D.J. Ref. 90-5-1-1-869.

The proposed consent decree may be examined at the office of the United States Attorney, 151 U.S. Courthouse, 1100 Laurel Street, Columbia, South Carolina, 29201, at the Region IV office of the Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia, 30308, and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice (Room 2625), Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A Copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice.

SANFORD SAGALKIN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-7076 Filed 3-7-79; 8:45 am]

[4410-01-M]

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION

Meeting

MARCH 2, 1979.

United States Circuit Judge Nominating Commission, Fourth Circuit Panel, Chairman: Wesley M. Walker.

The Panel for the Fourth Circuit of the United States Circuit Judge Nominating Commission will meet on March 19, 20, and 21, 1979, at 9:00 a.m. in the Federal Building, 500 Quarrier Street, Charleston, West Virginia. These meetings will be closed to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (CF 5 U.S.C. 552b(c)(6).)

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

[FR Doc. 79-7075 Filed 3-7-79; 8:45 am]

[4410-01-M]

NOTICE OF FORMATION OF INTERAGENCY TASK FORCE OF COMPENSATION AND LIABILITY FOR RELEASES OF HAZARDOUS MATERIAL

Contact: Khristine L. Hall, Land and Natural Resources Division, Room 2613, Department of Justice, Washington, D.C. 20530 (202-633-2586).

The purpose of this notice is to inform the public about the formation and ongoing work of an interagency task force to study the issue of compensation and liability for releases of hazardous materials. The Department of Justice, the Council on Environmental Quality, the Department of Commerce, the Department of the Interior, the Department of State, the Department of Transportation, the Environmental Protection Agency, and the Office of Management and Budget are participating in the task force.

The task force intends to examine the following topics:

1. Nature of the problem. This section will summarize and describe the nature of hazardous material releases, their extent, and cost.

2. Existing law. This section will examine the existence and adequacy of State and federal law, including common law, and international and comparative law.

3. Definition of legal liability. This section will examine liability for both individuals and the fund. Subissues to be looked at include types of liability, defenses, which parties can be held liable (generator, handler, Federal Government, etc.), time limitations, and relationship to other forms of compensation.

4. Fund issues. This section will examine types of damages which might be compensated (cleanup and mitigation, restoration of natural resources, third-party damages, etc.) materials to be covered, pathway of incidents, and operation of the fund (whom to assess, how to assess, size of fund, use of fund, and administration).

5. Financial responsibility requirements.

Because the issue of compensation and liability for releases of hazardous materials is receiving widespread attention, the task force intends to operate within a short time frame. The task force is currently scheduled to have first drafts of sections written by March 19 and to have a final work product the week of April 9, 1979.

Comments by the public are welcome, but will only be useful if submitted within the operating time frame of the task force.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-7141 Filed 3-7-79; 8:45 am]

[6820-35-M]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

MARCH 6, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the ap-

proval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. East River Legal Services in Sioux Falls, South Dakota to serve Aurora, Davison, Hanson, Douglas, Hutchinson, Miner, Sanborn, Beadle, Codington, Deuel, Brookings, Hamlin, Lake, Kingsbury, Clark, McPherson, Faulk, Hand, Edmonds, Spink, Brown, Marshall and Day Counties.

2. South Dakota Legal Services in Mission, South Dakota to serve Roberts and Grant Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation
Chicago Regional Office
310 South Michigan Avenue, 24th Floor
Chicago, Illinois 60604

THOMAS EHRLICH,
President.

[FR Doc. 79-7023 Filed 3-7-79; 8:45 am]

[4510-26-M]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health has formed a Subgroup to consider the development of court required "Fully Effective" benchmarks for state plans. This Subgroup will meet at 9:30 a.m. on March 15 and 16, 1979 at the OSHA Training Institute, 1555 Times Drive, Des Plaines, Illinois. The same Subgroup will continue its deliberations on April 1, at 4:00 p.m. in Room N-5437, the New Department of Labor Building, Third Street and Constitution Avenue, NW, Washington, D.C. The public is invited to attend.

On April 2, 1979, the National Advisory Committee on Occupational Safety and Health will meet in Room N-5437, the New Department of Labor Building, Third Street and Constitution Avenue, NW, Washington, D.C., to hear the report of the Subgroup and to discuss and formulate its recommendations on "Fully Effective" state plan benchmarks for the Assistant Secretary of Labor for Occupational Safety and Health. The committee will also discuss data collection procedures and statistical methods for safety and health applications. This meeting will begin at 9:00 a.m. and, as always, the public is invited.

At its March 2, 1979 meeting, the National Advisory Committee on Occupational Safety and Health (NACOSH) appointed a Subgroup to consider ways of meeting the U.S. District Court requirements for "Fully Effective" benchmarks for state plans. The recommendations of NACOSH are essential to the Agency and the report of this Subgroup will be a basis for the development of these recommendations at the April 2, 1979 meeting of the full committee. I hereby find that an emergency situation exists which makes it impossible to give the full 15 days notice required by OMB Circular A-63.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 (Pub. L. 91-596) to advise the Secretary of Labor and the Secretary of Health, Education and Welfare on matters relating to the administration of the Act.

FOR ADDITIONAL INFORMATION CONTACT:

Mr. Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3635, Third Street and Constitution Avenue, NW, Washington, D.C. 20210, telephone number: 202-523-8024.

Official records of the meeting will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C., this 6th day of March 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-7196 Filed 3-7-79; 9:12 am]

[3510-12-M]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

PARTIALLY CLOSED MEETING

Pursuant to Sec. 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Monday and Tuesday, March 19 and 20, 1979 in the Penthouse Page Building Number 1, 2001 Wisconsin Avenue NW., Washington, D.C. The Tuesday afternoon session, between 1:00 p.m. and adjournment at approximately 3:00 p.m., will be closed to the public under authorization of the Assistant Secretary of Commerce for Administration in the determination dated March 2, 1979, and cosigned by the Assistant General Counsel for Administration. Closure is necessitated by discussions of the qualifications and capabilities of candidates for the position of Executive Director, NACOA. Because these discussions will be concerned with matters listed in 5 U.S.C. 552b(c)(6), the session will be closed to protect and insure free discussion of those matters. All other sessions will be open to the public.

The Committee, consisting of 18 non-Federal members appointed by the President from State and local governments, industry, science and other appropriate areas, was established by Congress by Public Law 95-63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

A general agenda contains the following topics:

MARCH 19, 1979

9:00 a.m.-11:30 a.m. Plenary Session—Open.

- Opening Remarks
- Update on Federal Reorganization for Marine and Atmospheric Affairs
- Preliminary Discussion of NACOA's 8th Annual Report
- Discussion of Revised Committee Panel Structure and Tentative Work Plan

1:00 p.m.-5:00 p.m. Panel Meetings—Open

5:00 p.m. Adjourn

MARCH 20, 1979

8:00 a.m.-10:00 a.m. Panel Meetings—Open

10:00 a.m.-11:30 a.m. Plenary Session—Open

- Briefing on Draft National Ocean Pollution Research and Development and Monitoring Plan
- Reports of Panel Chairmen

1:00 p.m.-3:00 p.m. Closed Session

- Discussion of Candidates for Position of Executive Director, NACOA

3:00 p.m. Adjourn

The public is welcome at the open sessions and will be admitted to the

extent that seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

A copy of the determination to close a portion of this meeting is available for public inspection and copying in the public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce. Additional information concerning this meeting may be obtained through the Committee's Acting Executive Director, Mr. John W. Connolly, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Room 434, Page Building No. 1, 3300 Whitehaven Street NW., Washington, D.C. 20235. The telephone number is 202/254-8418.

SAMUEL H. WALINSKY,
Executive Officer.

[FR Doc. 79-7044 Filed 3-7-79; 8:45 am]

[4510-23-M]

NATIONAL ADVISORY COMMITTEE FOR WOMEN

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the National Advisory Committee for Women.

Date, Time, and Room: March 21, 1979—2:00 p.m.-6:30 p.m. Conference Room C5515. March 22, 1979—9:00 a.m.-6:30 p.m. Seminar Room 1 C5515. March 23, 1979—9:00 a.m.-6:30 p.m. Seminar Room 1 C5515.

Place: Department of Lobor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Purpose: This is the regular meeting of the National Advisory Committee for Women.

The agenda for the meeting will focus on the new direction of the Committee, including working procedures and program. There will also be issue briefings.

A portion of the above meetings will be closed under the authority of section 10(d) of the Federal Advisory Committee Act—Exemptions 2 and 6 of the Government in the Sunshine Act. During its closed session the Committee will discuss personnel and Committee management.

Dated: March 2, 1979.

ALEXIS HERMAN,
Director, Women's Bureau.

[FR Doc. 79-6950 Filed 3-7-79; 8:45 am]

[4510-23-M]

NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

Public Meeting

Notice is hereby given that the National Commission on Employment and Unemployment Statistics will hold a public meeting on April 19 and 20, 1979, in Room 6510, 2020 K Street NW., Washington, D.C. 20006.

The National Commission on Employment and Unemployment Statistics was established under Section 13 of the Emergency Jobs Program Extension Act of 1975, Public Law 94-444. Its purpose is to advise the President and the Congress on reliable and comprehensive measurements of employment and unemployment by examining the procedures, concepts, and methodology involved in employment and unemployment statistics, and suggesting ways and means of improving them.

The meetings will begin each day at 9:30 a.m. to review public comments on the Commission's Preliminary Draft Report. The public is invited to attend. Official records of the meetings will be available for public inspection by contacting:

Mr. Wesley H. Lacey, Administrative Officer, National Commission on Employment and Unemployment Statistics, Suite 550, 2000 K Street NW., Washington, D.C. 20006.

Signed at Washington, D.C., this 5th day of March, 1979.

SAR A. LEVITAN,
Chairman.

[FR Doc. 79-6955 Filed 3-7-79; 8:45 am]

[7535-01-M]

NATIONAL CREDIT UNION ADMINISTRATION

PRIVACY ACT OF 1974

Notice of a New System of Records

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of a New System of Records.

SUMMARY: Pursuant to the Section (e)(4) of the Privacy Act of 1974(5 U.S.C. § 552a (e)(4)), NCUA hereby publishes and requests comments on a new system of records described herein.

EFFECTIVE DATES: Comments will be fully considered if received before April 7, 1979. Unless comments require substantial amendment, this notice for a new system of records will be the final publication.

ADDRESS: Send written comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Beatrix Fields, Staff Attorney, at the above address or telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION: System of records NCUA-31 is an existing system of records, for which a separate public notice has not been previously published. This system has only recently included individual identifiers. Those matters previously included in other general systems of records, which are similar in scope to the files in the new system, will be separately maintained in the Office of the General Counsel as a part of the new system.

In accordance with the Office of Management and Budget (OMB) circular No. A-108 and the transmittal memoranda thereto, a report on this system of records has been distributed, concurrent with this publication, to the director of OMB, to the Speaker of the House of Representatives and to the President of the Senate.

NCUA-31

System name: Litigation Case Files.

System location: Office of the General Counsel, Room 4202, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456.

Categories of individuals covered by the system: Records are maintained in files by the case name of individuals who are the subject of NCUA investigations made in contemplation of legal action, involved in civil litigation with NCUA, involved in administrative proceedings, involved in litigation of interest to NCUA, or pursuing tort claims.

Categories of records in the system: Records in case files include investigative reports relating to possible felonies or violations of the Federal Credit Union Act, transcripts of testimony or affidavits, documents and other evidentiary matter, pleadings and other documents filed in administrative proceedings or court, orders filed or issued in civil, administrative or criminal proceedings, correspondence relating to investigatory or litigation matters, information provided by the individual under investigation or by a Federal credit union, and other memoranda gathered and prepared by staff in performance of their duties.

Authority for maintenance of the system: 12 U.S.C. 1766, 1786, 1789; 28 U.S.C. 2671-2680.

Routine uses of records maintained in the system, including categories of

users and purposes of such uses: The staff of the Office of General Counsel may use such records to render legal advice concerning investigations or courses of legal action, to represent NCUA in all judicial and administrative proceedings in which NCUA or its Administrator, in an official capacity or as liquidating agent, is a party, or to intervene as an amicus curiae. Referral of information in this system may be made, as a routine use, to: any appropriate agency or official in the course of collection of an outstanding claim; to any appropriate agency, official, court, magistrate, or administrative tribunal or opposing party in the course of prosecution of a violation or alleged or potential violation of any civil or criminal law or rule, regulation or order; to a surety company in pursuit of a fidelity bond claim; to a member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on paper hard copy.

Retrievability: System is indexed by case name or subject matter under consideration.

Safeguards: Records are maintained in metal file cabinets in secured offices of the Office of General Counsel.

Retention and disposal: After records have served the operational needs of NCUA and after disposition of the subject matter of the records, they are returned to the originating office or agency, or maintained in the same file cabinets.

System manager and address: General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456.

Notification procedure: NCUA notification procedures are contained in 12 CFR Part 720, Subpart B; subject to exemption discussed below.

Record access procedures: NCUA procedures for record access are contained in 12 CFR Part 720, Subpart B; subject to exemption discussed below.

Contesting record procedures: NCUA rules for contesting records are contained in 12 CFR Part 720, Subpart B; subject to exemption discussed below.

Record source categories: Record source categories vary depending upon the legal issue but generally are obtained from the following: NCUA staff and internal agency memoranda; Federal employees and private parties involved in torts; contracts; Federal credit unions' files or officials; general law texts and sources; law enforcement officers; witnesses and others, administrative and court pleadings; transcripts or judicial orders/decisions; evidence gathered in connection with the matter involved; and from individuals to whom the records relate.

Systems exempted from certain provisions of the Act: This system is subject to the specific exemption provided by 5 U.S.C. § 552a(k)(2), as the system of records is investigatory material complied for law enforcement purposes.

LAWRENCE CONNELL,
Administrator.

MARCH 1, 1979.

AUTHORITY: Section 120, 73 Stat. 635 (12 U.S.C. 1766) and section 209, 84 Stat. 1014 (12 U.S.C. 1789).

[FR Doc. 79-6941 Filed 3-7-79; 8:45 am]

[6820-49-M]

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD

MEETING AND HEARINGS

In the matter of notice of a meeting and hearings, March 22-23, 1979, in Detroit, Michigan.

MEETING

The National Commission on the International Year of the Child will be holding an open meeting at the following time and location:

FRIDAY, MARCH 23, 1979

9:00 AM—12:30 PM, City-County Bldg., 2 Woodward Avenue, 13th Floor Auditorium, Detroit, Michigan.

HEARINGS

The National Commission on the International Year of the Child will be holding public hearings at the following times and locations:

THURSDAY, MARCH 22,1979

9:00 AM—12:30 PM, Community Arts Auditorium
2:00 PM—4:30 PM, Wayne State Campus
7:00 PM—9:00 PM, Detroit, Michigan

FRIDAY, MARCH 23, 1979

2:30—5:30 PM and 7:00—9:00 PM, City-County Bldg., 2 Woodward Avenue, 13th Floor Auditorium, Detroit, Michigan.

The hearings are being conducted to assure that the views of the public are heard and considered by the National Commission in its work. Anyone wishing to testify at the hearing should write to, or call, Mrs. C. Williams, at 1126 City County Building, Detroit, Michigan, 48226, (313) 224-6855. You will have to provide your name, address, telephone number, a brief description (about one paragraph) of the subject you wish to speak on, and the name of the organization you are representing, if any. Testimony will be limited to 3 minutes in length. You may submit your testimony, and other information, for the record, if you wish to do so after you have testified.

Requests to address the Commission must be received by close of business, March 15, 1979. The National Commission is mandated to:

(1) Promote in the United States a significant observance of 1979 as the International Year of the Child; (2) Stimulate a better understanding of the needs of children in the United States and abroad, especially in areas related to social, health, educational, and developmental needs;

(3) Keep informed of activities in this country specifically generated to celebrate the Year;

(4) Encourage groups such as educational institutions, community organizations, foundations, professional societies, corporations, unions and other Federal agencies to initiate programs and activities which will focus attention at the local, state and national levels on the needs of the child; and

(5) Make recommendations to the President on national policies in the furtherance of the goals of the Year and which will have a lasting and beneficial effect on the lives of children.

Attendance at the meeting and hearing will be limited to the space available.

BENEDICT J. LATTERI.

[FR Doc. 79-7099 Filed 3-7-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON EVALUATION OF LICENSEE EVENT REPORTS

Meeting

The ACRS Subcommittee on Evaluation of Licensee Event Reports will hold an open meeting on March 23 and 24, 1979, in Room 1046, 1717 H Street, N.W., Washington, DC 20555.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Friday, March 23 and Saturday, March 24, 1979.

8:30 a.m. until the conclusion of business each day.

The Subcommittee will meet in Executive Session, with any of its consultants who may be present, representatives of the NRC Staff and their consultants, to continue its review of Licensee Event Reports submitted during the period 1976-1978.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Andrew L. Bates, (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. EST.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555.

Dated March 1, 1979.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 79-6840 Filed 3-7-79; 8:45 am]

[6820-36-M]

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

OPEN MEETING

In accordance with Subsection 10(a) of the Federal Advisory Committee Act, Public Law 92-463, the National Transportation Policy Study Commission announces the following meeting:

NAME: Meeting of the Commission.

DATE: March 29, 1979.

PLACE: 2167 Rayburn House Office Building, Washington, D.C. 20515.

TYPE OF MEETING: Open.

CONTACT PERSON: Joseph LaSala, National Transportation Policy Study Commission, 2000 M St. NW, Suite 3000, Washington, DC 20036, 202-254-7453.

Purpose of the Commmission: The National Transportation Policy Study Commission was established under Section 154 of the Federal Aid Highway Act of 1976 (Pub. L. 94-280) to report findings and recommendations with respect to the Nation's transportation needs, both national and regional, through the year 2000.

Tentative Agenda: Review of Draft Chapters, Review of Special Reports, Review of Staff Working Papers.

Dated: March 2, 1979.

EDWARD R. HAMBERGER,
General Counsel.

[FR Doc. 79-6956 Filed 3-7-79; 8:45 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-10]

ACCIDENT REPORT; SAFETY RECOMMENDATIONS AND RESPONSES

Availability

Marine Accident Report.—On March 1 the National Transportation Safety Board released its formal investigation report on the capsizing of the charter fishing boat DIXIE LEE II in a severe thunderstorm in the Chesapeake Bay near Norfolk, Va., June 6, 1977. The report notes that 12 of the 27 persons on board drowned and one person is missing and presumed dead. The report number is NTS B-MAR-79-1.

The Safety Board determined that the probable cause of the accident was the capsizing of the DIXIE LEE II due to high winds and the continued operation of the DIXIE LEE II after severe thunderstorm warnings had been issued by the National Weather Service. Contributing to the accident was the location of the required radiotelephone which was too far from the control station to provide effective safety and weather communications. The loss of the buoyant apparatus after the capsizing increased the loss of life.

As a result of its analysis of this accident, the Safety Board has recommend new safety measures for charter fishing boats and other small passenger vessels. Eight recommendations were issued on February 12 to the U.S. Coast Guard, objectives including: Revised stability requirements which state on a certificate the wind speed "equivalent," and include the effect of off-center passenger weight in stability certification calculations; a requirement that skippers check the National Weather Service forecast before and during each operation, and seek the nearest refuge whenever forecast winds exceed their vessel's certification wind speed; a special weather broadcast receiver at the operator station; and tethering for liferafts and floats so they do not float away. (For complete text of recommendations M-79-1 through M-79-8, see 44 FR 10647, February 22, 1979.)

Because this accident has again shown the importance to vessel safety of having a radio telephone near the operator when he is navigating the vessel, the Safety Board has reiterated the following recommendation made to the Federal Communications Commission on October 26, 1977, as a result of investigation of the sinking of the charter fishing boat PEARL—C while it was being towed across the Columbia River Bar near Astoria, Oreg., on September 13, 1976:

> Require the installation at each operator steering station on charter boats of a radiotelephone or an extension speaker and microphone with adequate control of the transceiver to insure reliable communications. (M 77-31)

Highway Safety Recommendations H-79-3 and 4.—Last July 31, an automobile traveling at 55 mph entered the rail-highway grade crossing on State Road No. 706 at highway milepost 2.5 near Elbe, Wash., when it was struck by a Milwaukee Road freight train traveling at 10 mph. One occupant in the automobile was killed, one was injured seriously, two were injured slightly, and one was not injured. There were no injuries to the traincrew.

Investigation revealed a safety problem at this specific location which could exist at other similar locations throughout the State of Washington. The railroad-highway grade crossing at which the accident occurred provided train approach warning through the use of overhead flashing light signals. The crossing is located such that highway vehicles approach in east and west directions. The flashing signals are mounted so that when the sun is low in the sky (which it was when this accident occurred), the operator of an approaching highway vehicle, facing the sun, is unable to discern whether the signal is operating.

In order to correct this problem, the Safety Board on March 1 recommended that the Washington State Department of Transportation:

> Improve the flashing light signals at rail-highway grade crossing 397-189-J on the Milwaukee Road at milepost 2.5 of State Route 706 east of Elbe, Wash., to assure that motorists are afforded ample warning of oncoming trains. Alternative methods available that will solve the problem include installation of post-mounted supplemental flashing signals, installation of 12-inch-diameter roundels, or installation of a large black background plate. (Class I, Urgent Action) (H-79-3)
>
> Survey all east-west rail-highway grade crossings within your jurisdiction to determine if glare from sunlight reduces the visibility of warning devices at the crossing and take necessary corrective action. (Class II, Priority Action) (H-79-4)

Railroad Safety Recommendations R-79-3 and 4 and R-79-5.—On February 22, 1978, 23 cars of a Louisville and Nashville Railroad Company (L&N) freight train derailed in Waverly, Tenn. Some 40 hours later a derailed tank car containing liquefied petroleum gas ruptured. The escaping gas ignited with an explosive force; the ensuing fire resulted in deaths of 16 per-

sons and injury to 43 others. Property damage was estimated at $1,800,000.

Investigation disclosed that a broken wheel on the 17th car, which had been added to the train en route, first derailed about 6 miles before the point of the general derailment. The wheel contained evidence of above-normal heating which contributed to the wheel's cracking.

The Safety Board determined that a composition brakeshoe instead of a cast iron brakeshoe, standard to the car, was installed at the broken wheel location. Also, a hand brake had been left applied on this car when it was added to the train. The crewmembers did not make an airbrake test of the train as required by the Power Brake Law, 49 CFR Part 232, nor were they required to do so by L&N rule. Had they done so, the applied hand brake and the improperly applied brakeshoe may have been detected.

Also, the investigation disclosed that there was no one at the scene of this derailment, prior to the rupture of the tank, who could have assessed the mechanical damage to the tank. The Safety Board believes that a group of experts trained in the handling of hazardous materials at accidents would be a more viable approach to the problem and one in which a certain degree of success may be attained. This could be accomplished for rail transportation through the direction of the Association of American Railroads.

Accordingly, on March 1 the Safety Board forwarded the following recommendations to:

Louisville and Nashville Railroad Company—Correct its airbrake special instructions to comply with the regulations of the Power Brake Law, 49 CFR Part 232. (R-79-3)

Determine that all freight cars are provided with the proper brakeshoes before they are dispatched in trains. (R-79-4)

Association of American Railroads—Provide guidelines to railroad employees to aid them in an assessment of tank car damage and procedures for the proper handling of tank cars. (R-79-5)

Each of the above recommendations is designated "Class II, Priority Action."

Responses to Safety Recommendations

Aviation

A-71-59.—Letter of February 7 from the Federal Aviation Administration is in response to the Safety Board's letter of December 13 requesting a progress report on this recommendation, which resulted from investigation of Allegheny Airlines, Convair 580 accident at New Haven, Conn., June 7, 1971, and the Capitol International Airways, DC-8 accident at Anchorage, Alaska, November 27, 1970. The recommendation asked FAA to require a provision for fuel system fire safety devices effective in preventing and controlling inflight and postcrash fuel system fires and explosions.

FAA reports on the June 13-16, 1977, public hearing which showed that the liquid nitrogen fuel tank inerting system, the reticulated polyurethane foam fuel tank filler, or the explosion suppression system cited in proposed rulemaking 74-16 could possibly prevent fires in undamaged fuel systems, but would not prevent external fires caused by ignition of fuel released from damaged fuel tanks under postcrash conditions. Of these three systems, FAA concluded that a nitrogen fuel tank inerting system may hold the most promise for inflight protection if problems of weight, logistics, and servicing could be resolved.

Last August 15 FAA withdrew NPRM 74-16 as premature in view of the need for developing systems such as the onboard nitrogen generating fuel tank inerting system and an antimisting fuel which could reduce postcrash fire hazard from ruptured tanks. FAA is now conducting a high priority research and testing program.

FAA reports establishment of the Special Aviation Fire and Explosion Reduction (SAFER) Advisory Committee coincident with the withdrawal of NPRM 74-16. This committee, composed of Government and industry representatives, will guide and moniter research and development efforts and recommend ways to improve postcrash survivability. First meeting will tentatively be in April or May 1979, and three or four meetings are planned for each year, the committee to terminate in June 1980, unless it is extended. Safety Board staff will participate.

A-72-51 and A-72-55.—FAA's February 7 letter refers to the Safety Board's December 19 letter advising that recommendation A-72-51 has been closed—acceptable action. The Safety Board noted that § 135.13 of the Federal Aviation Regulations has been amended to give the Administrator authority to deny ATCO certificates to applicants who have a poor safety record.

With reference to A-72-55, the Safety Board regretted FAA's deferred action. The Board believes that a requirement for a flight and duty time limitation is as important for operations under Part 135 as it is for operations under Part 121 and Part 123, and requested that priority be given to resolve this recommendation.

FAA's response refers to the large number of comments (over 5,000 pages) received on notice of proposed rulemaking 78-3. These comments are being reviewed, top priority, with respect to Parts 121 and 123 and their application to a Part 135 proposal. FAA's position as explained in its response of last October 27 (43 FR 52307, November 9, 1978), is that many of the concepts presented in NPRM 78-3 are similar to those proposed in Notice 77-17. The responses to NPRM 78-3 will help in completing the Part 135 rulemaking actions.

A-78-84-through 89.—On February 15 FAA responded to recommendations issued last November 17 following investigation of the crash of a Continental Airlines DC-10 off the end of a runway at Los Angeles International Airport after two tires suddenly blew out on the left main gear at an airspeed slightly below V_1. The recommendations sought improved accelerate-stop criteria requisite for aircraft certification and use during operations to insure that they consider the effects of wet runway conditions and the most frequent and critical causes of rejected takeoffs. (See 43 FR 56112, November 30, 1978.)

FAA reports that Flight Standards personnel and the airlines have recently been briefed by the Douglas Aircraft Company, the Lockheed Corporation, and the Boeing Company concerning these criteria. FAA will soon meet with the manufacturers to review plans in greater detail. British Civil Aviation Authority rules will be considered in FAA's review of accelerate-stop criteria with the manufacturers.

Specific to A-78-86, efforts are underway to encourage air carriers to upgrade their simulators. FAR § 121.439 has been amended and two exemptions have been issued to permit air carriers to increase the use of any simulator which has been upgraded and approved for the landing maneuver. This upgrading includes ground handling programming and hardware modifications, essential for rejected takeoff situations. The landing maneuver program is designed to upgrade simulators in order that positive training in rejected takeoffs and windshear situations can be given. Advisory Circular 121-14, "Aircraft Simulator and Visual System Evaluation and Approach," was amended last October 16 to reflect this program. FAA also reports that the Air Transport Association of America Training Committee has evaluated this recommendation and will brief FAA on some of their ideas for approving aircraft simulators for training to account for performance derogation during takeoffs and landings on wet runways.

Addressing recommendations A-78-87 and 88, FAA reports issuance of Telegraphic Notice N8430.306, "Maximum Deceleration Rejected Takeoffs," last October 28. This notice requires each air carrier principal operations inspector to review his assigned air carrier's simulator training program and assure that the rejected takeoff (RTO) maneuver for turbojet-

powered airplanes is initiated on a runway where the length is critical, the airplane is at maximum gross takeoff weight and at a speed just under V_1. The notice also makes the RTO maneuver a special emphasis item for all pilot certification and proficiency checks. FAA will discuss this with the ATA Training Committee and may revise Notice 8430.306 if appropriate.

With reference to A-78-89, FAA, in cooperation with NASA Langley, is working to develop data which accurately reflect failed tire and contaminated runway effects on aircraft and which can be programmed into a simulator.

Highway

H-78-31 and 32.—The Department of Transportation, State of New Jersey, on January 31 responded to the Safety Board's request of January 9 for information about actions taken to implement recommendations concerning the safety surveillance of the intersection of U.S. Route 2-7 and County Road Route 616 near Vincentown, N.J., where on July 6, 1977, a truck with a gross weight of 52,000 pounds struck an automobile. Also recommended was the installation of directional signs. (See 43 FR 21520, May 11, 1978.)

The Department reports that the recommended signing was completed last August 9, and its Bureau of Traffic Engineering has been in contact with the area State police station that investigates all accidents at this intersection. Since the flashing signal was installed on July 18, 1977, five accidents have occurred—a substantial reduction from previous years. The Department's engineering staff has been directed to continually monitor this situation. At present, the Department said, neither the current traffic volume nor the number of accidents indicates the need for anything more than the flashing signal. Should either of these two conditions change, the Department said it will proceed with the design and installation of a fully operational traffic signal.

H-78-71.—Following the railroad/highway grade crossing accident in Plant City, Fla., on October 2, 1977, the Safety Board recommended last December 27 that the Federal Highway Administration, the Federal Railroad Administration, Amtrak, the Seaboard Coast Line Railroad Company, and the Florida Department of Transportation cooperate in taking necessary corrective action to reduce the high frequency of railroad/highway grade crossing accidents along the 240 miles of Florida's track between Jacksonville and Tampa. On February 23 the Federal Railroad Administration advised that the Federal Highway Administration has been designated to be the lead office for the Department of Transportation in responding to this recommendation.

Marine

M-77-31.—The Federal Communications Commission on January 30 responded to the Safety Board's December 12 letter which commented on FCC's response of last August 24. (See 43 FR 44577, September 28, 1978. See also reference above to this recommendation, reiterated in the report on the sinking of the charter fishing boat DIXIE LEE II.)

The Safety Board's December 12 letter strongly urges FCC to reconsider its position on this recommendation. With reference to FCC's discussion of the "handi-talkie" portable VHF radios, the Safety Board is concerned that relying on this application unduly increases the risk of persons in the towed vessel. The operator of the Coast Guard rescue vessel is required to decide as to the use of the handi-talkie unit based on information that is not readily available. The Safety Board asked these questions: Does the vessel have a radio telephone? Are all conning stations covered? Can the portable unit be passed to the other vessel successfully? These questions, the Board states, all demand the coxswain's time and attention—attention that could be directed elsewhere if there was previous knowledge that all conning stations would have communications capabilities. The Board has found that the use of these portable units is a district procedure and not general Coast Guard policy; the Coast Guard would rather see all conning positions covered by onboard equipment. The Safety Board also noted its intention to reiterate this recommendation in connection with the DIXIE LEE II incident.

FCC's January 30 letter indicates that, based on the DIXIE LEE II action by the Coast Guard in making a similar recommendation and on the Safety Board's proposed reiteration of M-77-31, FCC feels that a rulemaking process should be initiated. Copies of documents issued by FCC in this matter will be forwarded to the Safety Board.

M-78-10 through 12.—On January 29 the U.S. Coast Guard responded to the Safety Board's comments of November 3 concerning Coast Guard action on these recommendations as reported last August 11. (See 43 FR 44577, September 28, 1978.) The recommendations, issued after investigation into the sinking of the SS EDMUND FITZGERALD in Eastern Lake Superior, November 10, 1975, asked that annual inspections before the spring shipping season, inspections before the winter load line season, the ship-rider program, and inspections at cargo loading facilities be used to insure that all hatch covers, hatch coamings, and vents are capable of being made weathertight and to prevent the sailing of any vessel found lacking in weathertightness. The results of this work were to be tabulated and reported at the end of a two-year period.

The Safety Board's November 3 letter urged the Coast Guard to go beyond the ship-rider inspection program then underway during which the possibility of preventing sailing would be preempted as the operation would be underway prior to the inspection. The Board asked the Coast Guard to use all inspections to determine the weathertight integrity of these vessels and stress the importance of this integrity by preventing sailings when "frequent" compromises of weathertight integrity are discovered.

Coast Guard's January 29 letter notes that in August 1978 the Commander, Ninth Coast Guard District reported that Coast Guard inspection efforts subsequent to 1976 have significantly improved vessel weathertightness and industry awareness of the problem. Great Lake ore carriers are required to undergo complete inspections for recertification annually, and weathertightness is one of many conditions that must be satisfactory prior to certification and commencing operations. Coast Guard explained that after a vessel is certificated in the spring, it is reexamined after the summer season by conducting a special spar deck examination and pre-November riding inspection. The spar deck examination is conducted while the vessel is moored with the hatches open. If found unseaworthy, a vessel is not allowed to sail until the deficiencies are satifactorily corrected. Most riding inspections are commenced while the vessel is moored. Prior to getting underway, emergency drills are conducted and the inspector tours the vessel to ascertain overall seaworthiness.

Also, Coast Guard reports that during the navigation season, vessels are boarded by Coast Guard marine inspectors for many purposes such as drydockings, damage surveys, casualty investigations, law violations, crew misconduct, crew complaints, pollution cases, etc. Inspectors are alert to detect any dificiencies affecting the safety of the vessel and crew and to require appropriate timely correction. Coast Guard contends that this regular regimen of inspections provides sufficient visitations to ensure the safety and weathertightness of these vessels.

Pipeline

P-76-66.—Letter of February 5 from the Research and Special Programs Administration (RSPA) of the U.S.

Department of Transportation is in response to the Safety Board's letter of January 25 which noted that, based on the Materials Transportation Bureau (MTB) letter of November 9 (43 FR 57360, December 7, 1978), the recommendation has been classified as "Open—Unacceptable Action." The recommendation resulted from investigation of the rupture and explosion of a 1,000-gallon liquefied petroleum gas tank which occurred in a residential neighborhood of Lehigh Acres, Fla., March 23, 1976. The recommendation asked DOT to modify the exemption from 49 CFR Part 192 for pipelines with less than 10 customers to include systems that have pipeline facilities which expose a substantial part of a community or neighborhood to a potential hazard.

Reasons for the Safety Board's classification, based on MTB's initial response of December 23, 1976, were: MTB's concern for their jurisdiction in areas of small significance in interstate commerce but failure to specify agreement or disagreement with the concept of the recommendation; MTB's objection to the suggested test of jurisdiction—whether the system exposes a substantial part of a community or neighborhood to a potential hazard—as being too vague for enforcement, and proposing no alternate criteria; and MTB's discussion of application of State, local, or industry imposed standards and regulations as not sufficiently precise to allow a determination of their effectiveness. The Safety Board asked for further discussion concerning MTB's concurrence with the concept of regulation of small companies, a possible alternate test for jurisdiction, and further definitive information on the degree of non-Federal regulation and control by State and local governments and industry imposed standards.

RSPA's February 5 letter reports that additional information will be gathered and reviewed and will be forwarded to the Safety Board in the near future.

Railroad

R-78-19 through 22.—On January 19 the Secretary, U.S. Department of Transportation responded to the Safety Board's letter of December 26 which discussed monitoring the installation of safeguards for DOT 112A/114A tank car retrofit programs through industry reports, personal observation, staff field reviews, and data reported to the Federal Railroad Administration. The recommendations, issued last April following the Safety Board's public hearing on railroad derailments and the carriage of hazardous materials, called on DOT to require that shelf couplers and approved headshields be installed on all DOT 112A/114A jumbo tank cars by December 25, 1978.

The Safety Board's December 26 letter notes that analysis of the data available indicates that approximately 2,350 tank cars of a fleet of 17,922 will not have the required shelf coupler retrofit installed by December 31, 1978. The Board expressed its view that no relaxation of this schedule should be granted by DOT and that DOT/FRA's positive commitment to see this safety retrofit to successful completion would be seriously undermined if the deadline for the most simple of the several safeguards (shelf couplers) were not met.

The Secretary's January 19 letter assures the Safety Board that DOT has denied all requests for waiver or extension of the shelf coupler deadline. Based on an ongoing survey of retrofit efforts, DOT estimates that approximately 1,400 cars had not received shelf couplers by the end of 1978; these remaining cars will be equipped with shelf couplers before the end of January. The Secretary said that strict enforcement action will be taken if any nonequipped car loaded with hazardous materials is offered for service on or after January 1, 1979. The Secretary further stated that substantial compliance with the retrofit deadlines for tank head protection and thermal protection will also be realized and that material disruptions in the transportation of essential products will be avoided.

NOTE: Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of the Board's recommendation letters, responses, and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)))

MARGARET L. FISHER,
Federal Register Liaison Officer.

MARCH 5, 1979.

[FR Doc. 79-7025 Filed 3-7-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

[Policy Letter No. 78-5; Amendment No. 1]

CONTRACTING FOR MOTION PICTURE PRODUCTIONS

Operating Procedures

MARCH 1, 1979.

To the Heads of Executive Departments and Establishments.

Subject: Contracting for Motion Picture Productions.

1. *Purpose.* This amendment corrects a statutory citation contained in OFPP Policy Letter No. 78-5. It also promulgates operating procedures and related documents for use in implementing the uniform, government-wide motion picture production contracting system.

2. *Background.* Policy Letter No. 78-5, dated August 28, 1978, established a uniform contracting system for use by Federal agencies in acquiring motion picture production work. That system, as broadly defined in the Policy Letter and as subsequently incorporated in OMB Circular No. A-114, is characterized by a Government-wide Qualified Film Producers List comprised of approved motion picture producers who have entered into contracts with the Executive Agent of the system: the Directorate for Audiovisual Activities of the Department of Defense. The enclosed operating procedures, with attachments, have been prepared by the Executive Agent to enable Federal agencies to award motion picture production orders under those contracts.

3. *Instructions.*

a. Delete the reference to 10 USC 2304(a)(10)(vi) in paragraph 6.e.(1) of Policy Letter No. 78-5 and substitute 41 USC 252(c)(10).

b. Maintain, as part of the motion picture contracting system described in OFPP Policy Letter No. 78-5, and utilize the enclosed Operating Procedures for implementing that system.

4. *Effective Date.* This amendment is effective immediately.

LESTER A. FETTIG,
Administrator.

MARCH 1, 1979.

I. PURPOSE

These procedures implement OFPP Policy Letter No. 78-5 (app. 1) which establishes a single uniform Government-wide system for use by all executive departments and establishments (hereinafter referred to collectively as agencies) in contracting for the production of motion pictures (8-mm, 16-mm, 35-mm, and 70-mm sound-on-film). The system does not include videotape, sound slide, multimedia productions, or separate services.

II. OPERATING PROCEDURES

a. *Basic contract.* A basic contract (app. 2) has been tailored for this system. The indi-

vidual contracts between the firms/producers (contractors) and the Executive Agent (DoD Directorate for Audiovisual Activities) will contain the standard provisions covering Government motion picture work. Awards for productions and other work provided under the system will be in the form of orders placed under those contracts without repeating the standard provisions.

b. *The Qualified Film Producers List (QFPL).* The QFPL is maintained by the Executive Agent and will be used by all agencies to obtain motion picture proposals from private sources.

The names of contractors on the QFPL will be rotated (as described below) to ensure that all have an opportunity to submit proposals for Government motion picture work.

The referral of contractors from the QFPL will be handled through the use of a computer file. This file will contain codes for all of the qualified contractors. The file will be ordered through the use of a random number generator after which contractors will be referred in sequential order from the file. Upon reaching the end of the file the contractors will be reordered in a different sequence (using the random number generator) before proceeding down through the file a second time.

c. *Requesting Names from the QFPL.* To obtain names from the QFPL, an agency will submit a memorandum to the Executive Agent, DoD Directorate for Audiovisual Activities, 1117 North 19th Street, Room 601, Arlington, VA 22209. The agency will request a specific number of contractors from the QFPL. These will be provided by the Executive Agent in increments of five. For every five contractors that the agency requests, it will be permitted to pick a maximum of two additional names from the QFPL. The requesting agency will be mailed a computer printout listing the number of contractors they requested.

(NOTE.—Each printout will contain a *transaction number. It is imperative that this transaction number appear on all correspondence between the requesting agency and the Executive Agent to keep track of that specific motion picture action*).

d. *Soliciting Proposals.* In soliciting proposals from sources on the QFPL, agencies will use the uniform Request For Proposal (RFP) formats provided at appendices 3 and 4.

(NOTE.—Agencies may modify these formats to accommodate their specific requirements).

Since contractors on the QFPL have basic contracts with the Executive Agent, agencies will not reissue standard contractual terms and conditions for each proposal. Agencies will, however, attach a Standard Form 33 (SF 33, Rev. 3-77) to each proposal sent to a contractor.

(NOTE.—*The transaction number noted in paragraph II.c. above, must be entered on the top right corner of each SF 33*).

1. Number of Proposals to be Solicited. Agencies will solicit proposals for their specific requirements from no fewer than five contractors on the QFPL. The exact number of contractors requested from the QFPL, over the five, will be determined by the agency, depending on its particular requirements. As a general guide, however, agencies should not solicit proposals from more than two increments for films costing less than $100,000.

2. Two Types of Proposals. In using the RFP formats, an agency must first determine whether scripting will be separated from production. This is a judgmental determination involving two approaches to film making. The first approach is that a clear separation can be made in some films between scripting and a production. The second approach holds that production of some films (from initial research through treatment, scripting, and production) is a continuous process. The proper format must be used depending on the approach selected.

e. *Acquisition Information.* Agencies will provide to the Executive Agent (at the address noted in paragraph II.c. above) a copy of each RFP (front page only of the SF 33) at the time they mail the RFP (front page only of the SF 33) at the time they mail the RFP to the prospective contractors. Agencies will subsequently provide to the Executive Agent a copy of each contractors' offer, the award document(s) and any amendments/modifications. This information is mandatory and will allow the Executive Agent to input the data into the computer which supports the motion picture contracting system.

f. *Responsibility Determinations.* The evaluation criteria contained in the RFP formats (appendices 3 and 4) are the considerations that agencies will weigh in evaluating proposals. Agency contracting officers, however, will determine a particular firm's responsibility in meeting the RFP specifications prior to making a production award. For this purpose, financial and other data may be requested from the firm. It is imperative that evaluations and awards made under this system represent a coordinated effort between agency technical and contracting personnel.

g. *Use of Commerce Business Daily* (CBD). Agencies will not synopsize their motion picture proposals in the Commerce Business Daily when using this system. Agencies are encouraged, however, to publicize awards of orders placed under this system in the CBD to provide information for potential subcontracting opportunities.

III. EXCEPTION TO MANDATORY USE OF THIS SYSTEM

This use of this system is mandatory for all agencies in soliciting motion picture proposals except as follows:

a. When a contract is made pursuant to Section 8(a) of the Small Business Act in accordance with existing regulation.

b. When a noncompetitive acquisition is justified in accordance with agency regulations.

c. When a script only is required; normally these can be obtained directly from writers under small purchase procedures.

d. When requirement covers videotapes, sound slide, multimedia productions, or separate media services.

IV. IMPLEMENTATION

In accordance with paragraph 7 of OFPP Policy Letter No. 78-5, the General Services Administration and the Department of Defense shall implement these operating procedures by incorporation of appropriate provisions in the Federal Procurement Regulations and the Defense Acquisition Regulations as necessary.

V. EFFECTIVE DATE

Effective March 31, 1979, all solicitations for motion picture proposals and subsequent awards shall be made in accordance with the uniform system.

VERNON L. PETERSON,
Colonel, USAF, Chief,
Directorate for Audiovisual Activities.

APPENDICES

1. OFPP Policy Letter No. 78-5.
2. Basic Contract.
3. Suggested RFP Format for Motion Picture Production.
4. Suggested RFP Format for Treatments or Treatments and Scripts.

Comments and suggested improvements for these procedures or the contract system should be forwarded to the Executive Agent.

[FR Doc. 79-6952 Filed 3-7-79; 8:45 am]

[3110-01-M]

AGENCY FORMS UNDER REVIEW

BACKGROUND

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

LIST OF FORMS UNDER REVIEW

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
An estimate of the number of forms that will be filled out;
An estimate of the total number of hours needed to fill out the form; and
The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting re-

quirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk(*).

COMMENTS AND QUESTIONS

Copies of the proposed forms may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

Department of Energy

(Agency Clearance Officer, Albert H. Linden, 566-9021)

NEW FORMS

Transfer Pricing Report
FEA-F701
Monthly
Certain petroleum refiners; 420 responses, 16,800 hours
Hill, Jefferson B., 395-5867

EXTENSIONS

Statement of Actual Legitimate Original Cost of Construction
EIA-114
On occasion
Hydro-electric projects licensees; 12 responses, 288 hours
Hill, Jefferson B., 395-5867

Initial Cost Statement of Licensed Projects
EIA-104
On occasion
Electric cos-hydro-projects—licensees; 12 responses, 960 hours
Hill, Jefferson B., 395-5867

Department of Health, Education, and Welfare

(Agency Clearance Officer, Peter Gness, 245-7488)

NEW FORMS

Office of the Secretary
Evaluation and identification of policy issues in the Cuban Community
OS-7-79
Single-time
Household interviews; 550 responses, 225 hours
Off. of Federal Statistical Policy and Standard, 673-7974

EXTENSIONS

National Institutes of Health
Family History Survey
Single-time
Parents of child with phenylketonuria; 400 responses, 80 hours
Off. of Federal Statistical Policy and Standard, 673-7974

Department of Housing and Urban Development

(Agency Clearance Officer, John Kalagher, 755-5184)

NEW FORMS

Community Planning and Development
Progress in carrying out the community development Block Grant Program
Single-time
Local Officials involved in CDBG in 25 cities; 25 responses, 288 hours
Strasser, A., 395-5080

EXTENSIONS

Housing Management
*Report on unit availability
HUD-51230
On occasion
Pub. Housing Agen. operating low income public housing; 2,800 responses, 1,400 hours
Strasser, A., 395-5080

Housing Production and Mortgage Credit
Section 8 Housing Assistance Payments Program Application for Existing Housing
HUD-52515
On occasion
Pha's Desir. to Admin. the Sec. 8 Existing Housing Prog.; 1,200 responses, 7,200 hours
Strasser, A., 395-5080

Department of the Interior

(Agency Clearance Officer, William L. Carpenter, 343-6716)

EXTENSIONS

National Park Service
*Park Visitation Census
NPS 10-157A
On occasion
National Park Visitors; 18,600 responses, 750 hours
Ellett, C. A., 395-5080

Department of Justice

(Agency Clearance Officer, Donald E. Larue, 376-8283)

NEW FORMS

Offices, Boards, Division
Federal Sentencing Guideline Survey
Single-time
Guidelines; 150 responses, 150 hours
Laverne V. Collins, 395-3214

Department of Labor

(Agency Clearance Officer, Philip M. Oliver, 523-6341)

EXTENSIONS

Labor Management and Service Administration
*Surety Company Annual Report
LMSA S-1
Annually
Surety companies issuing bonds under the LMEDA; 250 responses, 125 hours
Strasser, A., 395-5080

Equal Employment Opportunity Commission

(Agency Clearance Officer, Sally E. Crocker, 634-6470)

NEW FORMS

Recordkeeping Requirements on Guidelines on Employee Selection Procedures
On occasion
Recordkeeping requirements;
Laverne V. Collins, 395-3214

Veterans Administration

(Agency Clearance Officer, R. C. Whitt, 389-2282)

REVISIONS

*Federal Fiduciary's Account
27-4706B
On occasion
Federal Fiduciaries; 7,000 responses, 2,333 hours
Strasser, A., 395-5080

STANLEY E. MORRIS,
Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-7107 Filed 3-7-79; 8:45 am]

[6820-99-M]

PRESIDENT'S COMMISSION ON PENSION POLICY

MEETING

The first meeting of the President's Commission on Pension Policy, established by Executive Order 12071 dated July 12, 1978, has been scheduled for 9:30 a.m. on Friday, March 23, 1979, in Room 2008 of the New Executive Office Building, 726 Jackson Place, N.W.; Washington, D.C.

The purpose of the meeting is to discuss the items listed below.

1. Swearing-in of Commission
2. Overview of Commission's Mandate.
3. Reports Required by Executive Order; Commission's Research Strategy.
4. Suggestions for Additional Reports.
5. Establishment of Study Groups.

6. Consideration of Suggestions Received by the Commission.
7. Statements from the Public.

The meeting will be open for observation by the public. Persons interested in attending should address a letter to the President's Commission on Pension Policy, 736 Jackson Place, N.W.: Washington, D.C. 20006. The Commission's phone number is (202) 395-5132. Admission of observers will be on the basis of earliest notification and to the extent space is available.

Members of the public may file a written statement concerning one of the topics on the above Agenda by submitting 30 copies to the Commission on or before March 21, 1979.

The Commission chairman is C. Peter McColough, chairman and chief executive officer of Xerox Corporation, Stamford, Connecticut. Other members of the Commission are Henry L. Bowden, partner in the law firm of Lokey and Bowden, Atlanta, Georgia; John Bragg, member of the Tennessee House of Representatives; Lisle C. Carter, Jr., president of the University of the District of Columbia; James Clark, Jr., president of the Maryland Senate; Paul R. Dean, professor of law of Georgetown University Law School, Washington, D.C.; William C. Greenough, chairman and chief executive officer of the Teachers Insurance and Annuity Association, New York, New York; Martha W. Griffiths, partner in the law firm of Griffiths & Griffiths, Romeo, Michigan; Harvey Kapnick, chairman and chief executive officer of Arthur Andersen and Company, Chicago, Illinois; John H. Lyons, president of the International Association of Bridge, Structural and Ornamental Iron Workers Union, Washington, D.C.; and Dorothy W. Nelson, dean and professor of law at the University of Southern California Law Center, Los Angeles, California.

Signed at Washington, D.C. this 5th day of March 1979.

THOMAS C. WOODRUFF,
Executive Director.

[FR Doc. 79-7012 Filed 3-7-79; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

[Docket No. A79-5]

BAY CENTER, WASHINGTON 98527

Notice and Order of Filing of Appeal

MARCH 1, 1979.

On February 22, 1979, the Commission received a handwritten letter from Joyce Ostergren (hereinafter "Petitioner") on behalf of herself and others similarly situated concerning alleged U.S. Postal Service plans to close the Bay Center, Washington (98527) post office. On the same day the Commission received an appeal letter from Maxine Walther which is being consolidated with that of Joyce Ostergren for convenience. Although the letter makes no explicit reference to the Postal Reorganization Act, we believe it should be liberally construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)], so as to preserve petitioners' right to appeal which is subject to a 30-day time limit.[1] Since the petition was apparently written by a layman rather than an attorney, it does not conform perfectly with the Commission's rules of practice which also require a petitioner to attach a copy of the Postal Service's final determination to the petition.[2] However, section 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.[3]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "* * * insure that such persons will have an opportunity to present their views."[4] The petition requests that the decision to close the Bay Center post office be reversed. From the face of the petition it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, and whether a determination has been made under 39 U.S.C 403(b)(3). (Petitioners failed to supply a copy of the Postal Service's final determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.[5]

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rual areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[6]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. Petitioners assert that Bay Center is an expanding community and that relocating the post office would pose significant difficulties in gaining access to another post office. The effect "on the community" of a post office closing is made a mandatory subject for consideration by section 404(b)(2)(A) of the Act. The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the discontinuance of post offices.[7]

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases, and none is being appointed.[8]

The Commission Orders

(A) The letter of February 22, 1979, from Joyce Ostergren shall be construed as a petition for review pursuant to section 40(b) of the Act [39 U.S.C. 404(b)]. The letter of February 22, 1979, from Maxine Walther will be consoldiated with the Ostergren petition.

(B) The Secretary of the Commission shall publish this Notice and Order in the FEDERAL REGISTER.

(C) The Postal Service shall file the administrative record in this case on or before March 9, 1979, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

By the Commission.

DAVID F. HARRIS,
Secretary.

APPENDIX

February 22, 1979: Filing of Petition.

March 1, 1979: Notice and Order of Filing of Appeal.

March 9, 1979: Filing of record by Postal Service [*see* 39 CFR 3001.113(a)].

March 14, 1979: Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

March 26, 1979: Petitioners' initial brief [*see* 39 CFR 3001.115(a)].

April 10, 1979: Postal Service answering brief [*see* 39 CFR 3001.115(b)].

April 25, 1979: (1) Petitioners' reply brief, if petitioners choose to file such brief [*see* 39 CFR 3001.115(c)].

(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.

June 22, 1979: Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 79-7078 Filed 3-7-79; 8:45 am]

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[1] 39 U.S.C. 404(b)(5). 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-1311. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

[2] 39 CFR 3001.111(a).

[3] 39 CFR 3001.1.

[4] 39 USC 404(b)(1).

[5] 39 CFR 3001.13(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

[6] 39 USC 101(b).

[7] 42 FR 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[8] In the Matter of Gresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

[7715-01-M]

[Docket No. A79-4]

TIPPO, MISSISSIPPI 38962

Notice and Order of Filing of Appeal

FEBRUARY 27, 1979.

On February 15, 1979, the Commission received a handwritten letter from Katherine Clark and fifty (50) citizens of Tippo, Mississippi, (hereinafter "Petitioners"), on behalf of themselves and others similarly situated concerning alleged United States Postal Service plans to close the Tippo, Mississippi post office. Although the letter makes no explicit reference to the Postal Reorganization Act, we believe it should be liberally construed as a petition for review pursuant to Section 404(b) of the Act [39 U.S.C. Section 404(b)], so as to preserve petitioners' right to appeal which is subject to a 30-day time limit.[1] Since the petition was apparently written by a layman rather than an attorney, it does not conform perfectly with the Commission's rules of practice which also require a petitioner to attach a copy of the Postal Service's final determination to the petition.[2] However, section 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.[3]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "* * * insure that such persons will have an opportunity to present their views."[4] The petition requests that the decision to close the Tippo post office be reversed. From the face of the petition it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, and whether a determination has been made under 39 U.S.C. 403(b)(3). (Petitioners failed to supply a copy of the Postal Service's final determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.[5]

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[6]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under Section 404(b)(2)(A) of the Act. Petitioners assert that the community has sufficient population to warrant a post office and the distances and road conditions would cause a hardship if the citizens of Tippo had to travel to another post office. Additionally, the petitioners contend that the Postal Service did not have the correct mileage to the Post Offices the Tippo citizens would use if the one at Tippo were closed. The peition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the discontinuance of post offices.[7]

The Act does not contemplate appointment of an Officer of the Commission in Section 404(b) cases, and none is being appointed.[8]

The Commission Orders

(A) The letter of February 15, 1979, from Katherine Clark shall be construed as a petition for review pursuant to § 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the FEDERAL REGISTER.

(C) The Postal Service shall file the administrative record in this case on or before March 2, 1979, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

By the Commission.

DAVID F. HARRIS,
Secretary.

APPENDIX

February 15, 1979: Filing of Petition.

February 27, 1979: Notice and Order of Filing of Appeal.

March 2, 1979: Filing of record by Postal Service (*see* 39 CFR 3001.113(a)].

March 7, 1979: Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

March 19, 1979: Petitioners' initial brief [*see* 39 CFR 3001.115(a)].

April 3, 1979: Postal Service answering brief [*see* 39 CFR 3001.115(b)].

April 18, 1979: (1) Petitioners' reply brief, if petitioners choose to file such brief [*see* 39 CFR 3001.115(c)].

(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.

June 15, 1979: Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 79-7077 Filed 3-7-79; 8:45 am]

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[1] 39 USC 404(b)(5). 39 USC 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-1311. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

[2] 39 CFR 3001.111(a).

[3] 39 CFR 3001.1.

[4] 39 USC 404(b)(1).

[5] 39 CFR 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

[6] 39 USC 101(b).

[7] 42 FR 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 USC 404(b)(5).

[8] In the Matter of Gresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

[8025-01]

SMALL BUSINESS ADMINISTRATION

REGION IV ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Jacksonville and Miami, Florida, will hold a combined public meeting at 9:00 a.m., Wednesday, March 28, 1979, at the Gold Key Inn, 7100 S. Orange Blossom Trail, Orlando, Florida 32809, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Mr. Douglas E. McAllister, District Director, U.S. Small Business Administration, Box 35067, 400 W. Bay Street, Jacksonville, Florida 32202, (904) 791-3781.

Dated: March 2, 1979.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-7102 Filed 3-7-79; 8:45 am]

[4710-02-M]

DEPARTMENT OF THE STATE

Agency for International Development

ANNUAL REVIEW OF ADVISORY COMMITTEES

Request for Public Recommendations and Comments

The Agency for International Development is currently conducting the Annual Comprehensive Review of the Federal Advisory Committees for which it has responsibility. The purpose of this review is to determine whether to continue, merge, terminate or revise the responsibilities of any of these advisory committees.

Currently A.I.D. advisory committees are: The Advisory Committee on Voluntary Foreign Aid; the A.I.D. Research Advisory Committee; and the Board for International Food and Agricultural Development.

The Agency seeks public participation in the annual review process and, in pursuit of this objective, is inviting comments and recommendations from all interested persons and groups regarding any of these advisory committees. Comments should be submitted to A.I.D. in writing no later than

March 30, 1979, and should be addressed to: Mr. Richard F. Calhoun, Advisory Committee Management Officer, Agency for International Development, Office of Management Planning, Washington, D.C. 20523.

D. G. MACDONALD,
Assistant Administrator, Bureau for Program and Management Services.

[FR Doc. 79-6949 Filed 3-7-79; 8:45 am]

[4710-02-M]

ZAMBIA

Determination and Waiver Pursuant to Section 553(b) of the Foreign Assistance Act of 1961

The Agency for International Development has proposed a commodity import program loan to Zambia in the amount of $20 million from the Economic Support Fund on standard concessional A.I.D. terms. The primary purpose of the loan is to provide balance of payments assistance by financing high-priority imports of fertilizer; agricultural inputs, excluding pesticides; equipment including spare parts; and raw materials for local industries intended to increase food production. Funding for the loan will be drawn from the Southern African Program of the Economic Support Fund (FAA Section 533).

FAA Section 533(b) prohibits the utilization of the Southern Africa program funds for Zambia unless it is determined that such assistance would further the foreign policy interests of the United States.

Zambia occupies a key geographic and political position in Southern Africa. Zambia has a major role in efforts aimed at a peaceful solution to majority rule in Southern Rhodesia (Zimbabwe) and Namibia. Zambia has experienced severe economic problems by adhering strictly to UN sanctions imposed by the UN against Southern Rhodesia. These have been compounded by a sharp and continuing decline in world copper prices, Zambia's main export. The significant economic dislocations have created a substantila need for increased capital and development assistance to Zambia.

United States foreign policy in Southern Africa is to support self-determination, majority rule, equal rights and human dignity for all people of the region. It is United States policy that the region have an opportunity to establish the foundations for economic growth and to become a full-fledged participant in the evolving international economic system.

The economic stability of Zambia is extremely important in contributing to the economic stability of Southern Africa, which reflects the basic United States concerns and objectives. The proposed A.I.D. loan will have a direct bearing on helping the country meet its critical economic needs and move toward implementing its plans for increasing agricultural production and rural development.

Pursuant to the authority set forth in Section 533(b) of the Foreign Assistance Act of 1961, as amended, and delegated to me by Executive Order 10973 and Department of State Delegation of Authority 104, and for the reasons stated above, I hereby determine that it would further the foreign policy interests of the United States to provide assistance to Zambia from the Economic Support Fund and hereby waive the prohibition set forth in the above cited provision of law with respect to Zambia.

This determination and waiver shall be reported to the Congress and shall be published in the FEDERAL REGISTER.

Dated: February 8, 1979.

JOHN J. GILLIGAN,
Administrator, Agency for International Development.

[FR Doc. 79-7080 Filed 3-7-79; 8:45 am]

[4710-07-M]

ADVISORY COMMITTEE ON THE 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Meeting

The Department of State announces that the Advisory Committee on the 1979 World Administrative Radio Conference (WARC) will meet on March 28, 1979 beginning at 10:00 a.m. in the Loy Henderson Conference Room (Room 1309) of the Department of State, 2201 C St., N.W., Washington, D.C. This will be the fifth meeting of the full Committee.

The Committee assists in the formulation of U.S. Government positions for the Conference which will be held in Geneva in September 1979. It reports to its Chairman, Mr. Glen O. Robinson, who also serves as Chairman of the U.S. Delegation to the WARC.

The agenda of the March 28 meeting will include:

a. Status report by the Committee Chairman on the U.S. proposals to the WARC;

b. Report on the March 12-23 International Telecommunication Union (ITU) Seminar in Panama and other recent consultations with foreign government representatives; and

c. Reports from the five Advisory Committee working groups.

Members of the public may attend the meeting and join in the discussions, subject to instructions of the Chairman. Admittance of public observers will be limited to the seating available. Before the meeting on March 28, members of the public wishing to attend should communicate their name and address to Mr. Wilson Dizard, WARC Delegation Staff, Office of International Communications Policy, Department of State, Washington, D.C. 20520. Mr. Dizard can be reached by telephone at (area code 202) 632-2631.

Dated: February 27, 1979.

RUTH H. PHILLIPS,
Executive Secretary, Advisory Committee on the 1979 World Administrative Radio Conference.

[FR Doc. 79-7079 Filed 3-7-79; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA), SPECIAL COMMITTEE 135—ENVIRONMENTAL CONDITIONS AND TEST PROCEDURES FOR ELECTRONIC/ELECTRICAL EQUIPMENT AND INSTRUMENTS

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 135 on Environment Conditions and Test Procedures for Electronic/Electrical Equipment and Instruments to be held March 27 through 30, 1979, in Conference Room 6-ABC, DOT/Federal Aviation Administration Building, 800 Independence Avenue, S.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Second Meeting held July 25 through 28, 1978; (3) Review Proposed Changes to RTCA Document DO-160, Environmental Conditions and Test Procedures for Electronic/Electrical Equipment and Instruments; and (4) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on February 27, 1979.

KARL F BIERACH,
Designated Officer.

[FR Doc. 79-6812 Filed 3-7-79; 8:45 am]

[4910-13-M]

AIRPORTS DISTRICT OFFICES AT CLEVELAND, OHIO; LANSING, MICH., AND DETROIT, MICH.

Closing/Opening

Notice is hereby given that on or about March 2, 1979, the Airports District Offices at Cleveland, Ohio and Lansing, Michigan will be closed. Services to the aviation public of Ohio and Michigan, formerly provided by these offices, will be provided by the Airports District Office at Detroit, Michigan which will assume operations on March 5, 1979. The address of the new Detroit Airports District Office will be Federal Aviation Administration, Airports District Office, Building 358, Detroit Metropolitan Airport, Detroit, Michigan, 48242. An appropriate change will be made to the FAA field organizational statements to reflect this information.

Issued in Des Plaines, Illinois on February 21, 1979.

WM. S. DALTON,
Acting Director,
Great Lakes Region.

[FR Doc. 79-6630 Filed 3-7-79 8:45 am]

[4910-22-50]

Federal Highway Administration

[Notice No. 79-2]

USE OF CITIZENS BAND RADIO BY COMMERCIAL MOTOR CARRIERS OF PASSENGERS FOR HIRE

Public Meeting

AGENCY: Federal Highway Administration, DOT.

ACTION: Public meeting.

SUMMARY: Two public meetings will be held to discuss the use of Citizens Band Radios (CB's) by commercial motor carriers of passengers for hire. Interested individuals and groups are invited to attend and participate in the discussion.

Date: See supplementary information below.

FOR FURTHER INFORMATION CONTACT:

Mr. Donnell W. Morrison, Chief Vehicle Requirements Branch, Bureau of Motor Carrier Safety, 202-426-1700; or Mrs. Kathleen S. Markman, Office of the Chief Counsel. 202-426-0346, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

ADDRESS: See supplementary information below.

SUPPLEMENTARY INFORMATION: On April 10, 1979, at 9:30 a.m. a public meeting will be held on the use of CB's by commercial motor carriers of passengers for hire, at 400 Seventh Street, SW., Washington, D.C., Room 4234. A second meeting will be held on April 17, 1979, at 9:30 a.m. at 2420 Federal Building, State and First Streets, Salt Lake City, Utah, Room 3421.

These meetings result from many inquiries regarding the use of CB's on buses. In particular, some bus drivers have inquired why certain motor carriers prohibit the use of communication equipment on buses. The Federal Highway Administration's Bureau of Motor Carrier Safety (BMCS) and the National Highway Traffic Safety Administration (NHTSA) are sponsoring these meetings so that interested parties may have a chance to discuss this matter, or any other matter involving the relationship between CB's and highway safety. Also, these meetings will provide a forum by which interested parties may provide NHTSA and BMCS information to assist in better defining or resolving the issues. The information obtained at these preliminary meetings will assist BMCS in determining if an Advance Notice of Proposed Rulemaking should be promulgated. All interested individuals and groups are invited to attend. Following the presentations by BMCS and NHTSA officials an opportunity will be provided for the public to participate in the discussion of the foregoing activities.

Any person wishing to present an oral statement at either meeting should notify the Director, Bureau of Motor Carrier Safety, 400 Seventh Street, SW., Washington, D.C. 20590, Room 3402, in writing by March 30, 1979. Each request should identify the speaker, the length of the presentation, not to exceed 10 minutes, and the meeting at which the presentation will be made.

Issued on: March 2, 1979.

ROBERT A. KAYE,
Director, Bureau of
Motor Carrier Safety.

[FR Doc. 79-6953 Filed 3-7-79; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[Docket No. IP79-02; Notice 1]

FIAT MOTORS CORP. OF NORTH AMERICA

Receipt of Petition for Determination of Inconsequential Defect

Fiat Motors Corporation of North America, Inc. has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (the Act) (15 U.S.C. 1381 *et seq.*) for an apparent safety-related defect involving the susceptibility of critical components to weakening and failure due to rust or corrosion. The basis of Fiat's petition is that the defect is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

On January 16, 1979, the NHTSA informed Fiat pursuant to section 152(a) of the Act (15 U.S.C. 1412(a)) that it had made an initial determination that Fiat models 850 and 124 for the model years 1970 through 1974 contain a safety related defect resulting from a susceptibility to failure from rust and corrosion. The NHTSA further informed Fiat that a public proceeding on this matter was scheduled for February 21, which has since been rescheduled to March 21 (44 FR 4546, 44 FR 8948). Within 30 days of receipt of notice, Fiat filed a petition for inconsequentiality under 49 CFR 556.4(c).

The NHTSA's initial determination affects the 1970 through 1974 model years of models 850 and 124, approximately 182,500 vehicles. The NHTSA's investigation indicates that the underbody assemblies of the affected Fiat models are subject to weakening and failure of critical structural components which can result in accidents, injuries, deaths, and property damage. Fiat's petition challenges the NHTSA's finding, stating that no collisions, accidents, or injuries have resulted from failure of components due to weakening caused by corrosion. Further, Fiat claims that: "[e]ach owner of a Subject Vehicle knows or, with the exercise of due diligence, should know of the existence of the alleged 'defect' in his/her vehicle." Fiat plans to submit further data and arguments in support of its petition in the March 21, meeting.

Interested persons are invited to submit written data, views, and arguments on the Fiat petition described

above or to make oral presentations at the public meeting scheduled for March 21, 1979, in Room 6332, at 10:00 a.m., Department of Transportation, 400 Seventh Street, S.W. Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date April 9, 1979.

(Sec. 102, Pub. L. 93-493, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8).

Issued on March 5, 1979.

LYNN L. BRADFORD,
Acting Associate Administrator for Enforcement.

[FR Doc. 79-7081 Filed 3-7-79; 8:45 am]

[4910-59-M]

SAFETY, BUMPER, AND CONSUMER INFORMATION PROGRAMS

Public Meetings

The National Highway Traffic Safety Administration (NHTSA) will hold a meeting on Wednesday, April 18, 1979, to answer questions from the public and industry regarding the Agency's safety, bumper, and consumer information programs. The meeting will begin at 10:30 a.m., run until 1:00 p.m., and reconvene at 2:00 p.m., if necessary. It will be held in the Conference Room of the Environmental Protection Agency's Motor Vehicle Environmental Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

This is one of a series of public technical meetings modeled after those conducted by the Environmental Protection Agency (EPA) for its motor vehicle emissions program. At the April 18 meeting, representatives of DOT will answer questions received in writing from the industry and the public relating to NHTSA's vehicle safety, bumper, or consumer information programs which are technical, interpretative or procedural in nature. The questions may relate to the research and development, rulemaking, or enforcement (including defects) phases of these activities. (Questions regarding this Agency's fuel economy program will continue to be addressed at the EPA's meetings on vehicle emissions.)

Questions for the April 18 meeting must be submitted in writing by March 29 to William Marsh, NHTSA Executive Secretary, Room 5221, 400 Seventh Street S.W., Washington, D.C. 20590. Every effort will be made to answer appropriate questions received. Questions received after the March 29 date may be answered at the meeting if sufficient time is available and a person from DOT knowledgeable in the subject matter is present. The individual, group, or company submitting a question does not have to be present for the question to be answered. A consolidated list of questions submitted by March 29 will be available at the meeting and this list will serve as the agenda.

A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, D.C., within four weeks after the meeting. Copies of the transcript will be available in four to five weeks at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA, Technical Reference Section, Room 5108, 400 Seventh Street S.W., Washington, D.C. 20590.

Succeeding meetings will be held on June 20, August 15, October 10 and December 12, 1979.

Issued in Washington, D.C. on March 2, 1979.

WM. H. MARSH,
Executive Secretary.

[FR Doc. 79-7104 Filed 3-7-79; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

TAX FORMS COORDINATING COMMITTEE

Request for Forms Suggestions

As part of its annual forms review process, the Internal Revenue Service is inviting written comments and suggestions for improving its tax return forms, instructions, and related schedules. These written submissions should be self-explanatory and in sufficient detail to communicate clearly what is being suggested. Careful consideration will be given to all comments and suggestions received. However, individual responses to the submissions will not be made because of the volume of correspondence involved.

In order to meet our work schedule and early printing deadlines, it is requested that written submissions be made on or before June 1, 1979.

Comments and suggestions should be sent to the Chairman, Tax Forms Coordinating Committee, Room 5577, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224. Further information concerning this notice may be obtained by calling 202-566-6254.

Dated: February 23, 1979.

Approved:

JOHN L. WITHERS,
Assistant Commissioner (Technical).

[FR. Doc. 79-6958 Filed 3-7-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Volume No. 9]

APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

FEBRUARY 28, 1979.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before April 9, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 6031 (Sub-No. 45) (2d Republication), filed March 6, 1978, published in the FR issues of April 20, 1978 and November 24, 1978, and republished this issue. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Avenue, Milwaukee, WI 53204. Representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. A Decision of the Commission, Review Board Number 1, decided October 23, 1978, and served November 7, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *Contract carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Such commodities* as are dealt in by lawn and garden supply houses; and (2) *pet food*, from Milwaukee, WI, to points in IL bounded by a line beginning at the junction of U.S. Hwy 24 and the IL-IN State line and extending along U.S. Hwy 24 to its

junction with U.S. Hwy 51, then along U.S. Hwy 51 to its junction with U.S. Hwy 52, then along U.S. Hwy 52 to its junction with IL Hwy 78, then along IL Hwy 78 to the IL-WI State line, then east along the IL-WI State line to the shore of Lake Michigan, then east along the shore of Lake Michigan to the IL-IN State line, and then along the IL-IN State line to the point of beginning, including points on the described lines, restricted to the transportation of traffic originating at the facilities of Loft-Kellog Seed, Inc., at Milwaukee, WI, and destined to the indicated destinations, under a continuing contract or contracts with Loft-Kellogg Seed, Inc., of Milwaukee, WI, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to reflect the Permit number MC 6031(Sub-no. 45) in lieu of Certificate number MC 123765 (Sub-No. 12F).

MC 11207 (Sub-No. 414F) (Republication), filed February 27, 1978, published in the FR issue of April 27, 1978, and republished this issue. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 101 Wisconsin Avenue, NW., Washington, D.C. 20014. A Decision of the Commission, review Board Number 2, decided December 12, 1978, and served January 30, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Iron and steel articles* (except commodities in bulk), from Alabama City, AL, to points in TX, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description.

MC 107478 (Sub-No. 33F) (Republication), filed April 4, 1978, published in the FR issue of June 29, 1978, and republished this issue. Applicant: OLD DOMINION FREIGHT LINE, a Corporation, 1791 Westchester Drive, P.O. Box 2006, High Point, NC 27261. Representative: Harry J. Jordan, 1000 16th Street, NW., Washington, D.C. 20036. A Decision of the Commission, Review Board Number 2, decided December 18, 1978, and served February 1, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Lumber, landscape timbers, and pallets*, from Kinsale, VA, to points in CT, DE, FL, GA, IL, IN, IA, ME, MD, MA, MI, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, WI, and the District of Columbia, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the deletion of VA as a destination point.

MC 112304 (Sub-No. 142F) (Republication), filed March 31, 1978, published in the FR issue of June 22, 1978, and republished this issue. Applicant: ACE DORAN HAULING & RIGGING CO., a Corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). A Decision of the Commission, Review Board Number 3, decided December 19, 1978, and served January 25, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Iron and steel articles* (except in dump vehicles), from the facilities of Southern Strip Steel, Inc., in Miami County, IN, to points in IL, IA, KY, MI, MN, MO, OH, OK, TN, and WI, restricted to the transportation of traffic originating at the named origin, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the origin point as Miami County, IN, in lieu of Kokomo, IN, and add a restriction.

MC 113678 (Sub-No. 732F) (Republication), filed March 22, 1978, published in the FR issue of May 11, 1978, and republished this issue. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). A Decision of the Commission, Division 2, decided January 11, 1979, and served January 29, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Central Packing Co., Inc., located at Boulder, CO, to points in the United States (except AK, CO, and HI), restricted to the transportation of traffic originating at the named origin, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description, and add a restriction.

MC 117109 (Sub-16) (republication), filed December 28, 1976, published in the FR issue of February 3, 1977, and republished this issue. Applicant: SYKES TRANSPORT COMPANY, a corporation, Hwy 85 East, Madisonville, KY 42431. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. A Decision of the Commission, Division 2, decided January 9, 1979, and served January 24, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Insulated panels*, from Dallas, TX, to points in the United States (except AK and HI), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 130488F (republication), filed March 28, 1978, published in the FR issue of April 27, 1978, and republished this issue. Applicant: WOODY B. SEARLE, VENETTA SEARLE, FARON WILKINS AND WAYNE WILKINS, a partnership, d/b/a FRONTIER TRAVEL & TOURS, 15 South Vernal Avenue, Vernal, UT 85078. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. A Decision of the Commission, Review Board Number 2, decided December 12, 1978, and served January 30, 1979, finds that the present and future public convenience and necessity require operations by applicant to engage in operations, in interstate or foreign commerce, as a *broker*, at Vernal, UT, to sell or offer to sell the transportation of *Passengers and their baggage*, in special and charter operations, in sightseeing and pleasure tours, beginning and ending at points in Uintah County, UT, and West Yellowstone, MT, and extending to points in the United States (including AK and HI), that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republica-

tion is to indicate applicant's actual grant of authority.

MC 135684 (Sub-82F) (republication), filed March 30, 1978, published in the FR issue of May 25, 1978, and republished this issue. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. A Decision of the Commission, Review Board Number 4, decided January 10, 1979, and served January 30, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Sodium bicarbonate, sodium carbonate, and cleaning, scouring, and washing products* (except in bulk), from the facilities of Church & Dwight Co., Inc., at or near Syracuse, NY, to points in CT, DE, MA, MD, ME, MI, NH, NJ, NY, OH, PA, RI, VA, VT, and the District of Columbia; and (2) *materials and equipment used in the manufacture, sale, and distribution of commodities described in (1) above* (except commodities in bulk), from the destination States in (1) above to the origin in (1) above, that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to add VT as a destination State.

MC 141600 (republication), filed December 8, 1975, published in the FR issue of January 22, 1976, and republished this issue. Applicant: BARKER'S SCHOOL BUS SERVICE, INC., 2323 W. 47th Avenue, Gary, IN 46408. Representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46304. A Decision of the Commission, decided November 9, 1978, and served November 29, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Passengers and their baggage*, in round-trip charter operations, beginning and ending at points in Lake, La Porte, and Porter Counties, IN, and extending to points in IL, KY, the Lower Peninsula of Michigan, OH, WI, and those points in MO on and east of U.S. Hwy 63 and on and north of U.S. HWy 60, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpoe of this republication is to indicate applicant's actual grant of authority.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally, Protests not in reasonable compliance with the requirements of the rules may be rejected.

The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such request shall meet the requirements of Section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the* FEDERAL REGISTER *of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that approval of its application will not signaificantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 73165 (Sub-E4) filed May 14, 1974. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, AL 35203. Representative: Fritz R. Kahn, Mark J. Andrews, Suite 1000, 1660 L. St. NW., Washington, DC 20036. By letter-notice filed may 14, 1974, and published in the FEDERAL REGISTER June 21, 1974, Eagle Motor Lines, Inc., informed the Interstate Commerce Commission of its intention to conduct operations under the Commission's Gateway Elimination Rules (49 CFR 1065), over irregular routes as listed below. However, it has come to the Commission's attention that there is a possibility that the underlying certificate used in tacking, Sub-No. 272, can not be joined with applicant's existing authority.

The purpose of further hearing and reconsideration of this proceeding is to determine whether the letter-notice authority previously granted to Eagle in its (Sub-No. E-4) certificate should be revoked. Any interested parties shall have 30-days in which to intervene in the proceedings.

The Commission will address the following issues upon deciding this matter:

(a) Would a no-tacking restriction on Eagle's Sub-No. 272 authority have been warranted in the public interest at the time this certificate was issued? (b) Did competing carriers have actual knowledge of the true tacking capabilities and intentions of Eagle at that time? (c) Did affected parties act with due diligence in appraising the Commission that Eagle's Sub-No. 272 certificate failed to contain a "no-tacking" restriction, contrary to Eagle's representation on its application? (d) Is there shipper need for the involved direct service such that revocation would be detrimental to the public interest?

Following the 30-day period allowed for interested parties to seek intervention the Commission will determine whether oral hearing is necessary or handling under the modified procedure is more appropriate.

Iron and steel articles, as described in Appendix V to the report in *Descriptions in Motor Carrier certificates*, 61 M.C.C. 209, (except iron and steel buildings, completed, knocked down, or in sections, and except commodities which because of size or weight require the use of special equipment), (1) between points in LA (except points in West Feliciana

Parish), on, west, or south of a line beginning at a point on the MS-LA State line and extending along US Hwy 61 to New Orleans, then along US Hwy 90 to the LA-AL State line, on the one hand, and, on the other, points in MS, TN, AL, GA, FL, MD, PA, NY, NC, SC, and points in AR on or east of US Hwy 61, (2) between points in West Feliciana, Ascension, St. John the Baptist, and east Baton Rouge Parishes, LA, and points in Livingston, Tangipahoa, and St. Tammany Parishes, on and south of a line beginning at a point on the Livingston Parish Line near Denham Springs, LA; and extending along US Hwy 190 to Covington, then along LA Hwy 36 to its junction with LA Hwy 41, then along LA Hwy 41 to its junction with US Hwy 11, then along US Hwy 11 to the LA-MS State line, on the one hand, and, on the other, points in GA, TN, MD, PA, NY, NC, SC, AL, AR, FL, and points in MS on and north of US Hwy 82, (3) between points in Livingston, Tangipahoa, and St. Tammany Parishes, LA, north of a line beginning at a point on the Livingston Parish Line near Denham Springs, and extending along US Hwy 190 to Covington, then along LA Hwy 36 to its junction with LA Hwy 41, then along US Hwy 41 to its junction with US Hwy 11, then along US Hwy 11 to the LA-MS State line, and points in East Feliciana, St. Helena, and WA Parishes, on the one hand, and, on the other, points in GA, TN, MD, PA, NY, NC, SC, AR, FL east of the Apalachicola River, and that part of AL on or east of a line beginning at the AL-GA State line, then along US Hwy 84 to Dothan, AL, then along US Hwy 431 to Abbeville, then along AL Hwy 10 to Clio, then along AL Hwy 51 to Midway, then along US Hwy 82 to Union Springs,, then along US Hwy 29 to Tuskegee, then along AL Hwy 81 to Loachapoka, then along AL Hwy 14 to Wetumpka, then along US Hwy 231 to Sylacauga, then along US Hwy 280 to Birmingham, then along US Hwy 31 to the TN-AL State line, (4) from points in LA to points in VA, WV, ME, NH, VT, MA, RI, CT, NJ, DE, the lower Peninsula of MI, that part of Ohio south of a line beginning at the OH-PA State line and extending along US Hwy 62 to Columbus, OH, then along US Hwy 23 to Circleville, and then along US Hwy 22 to Cincinnati, the Upper Peninsula of MI on or east of US Hwy 45, that part of KY (except Louisville) on or east of a line beginning at Hawesville, KY; then along KY Hwy 69 to Caneyville, then along KY Hwy 185 to Bowling Green, then along US Hwy 31W to the KY-TN State line, and that part of WI on or east of a line beginning at Land O'Lake, WI; extending along US Hwy 45 to Monico, then along WI Hwy 32 to Gillett, then along WI Hwy 22 to Oconto, then along US Hwy 41 to Pensaukee, (5) from points in LA on or east of a line beginning at the LA-TX State line southwest of many, and extending along LA Hwy 6 to Clarence, then along US Hwy 84 to Joyce, then along LA Hwy 34 to Monroe, then along US Hwy 165 to the LA-AR State line to points in KY (except Louisville) on or east of US Hwy 431, and that part of WI on or east of a line beginning at Port, Wig, WI; and extending along Bayfield County Hwy A to Iron River, then along US Hwy 2 to its junction with US Hwy 63, then along US Hwy 63 to Grandview, then along Bayfield County Hwy D to its junction with Bayfield County Hwy M, then along Bayfield County Hwy M to Clam Lake, then along WI Hwy 77 to its junction with WI Hwy 13, then along WI Hwy 13 to Igema, then along WI Hwy 86 to Tomahawk, then along US Hwy 51 to Wausau, then along WI Hwy 29 to its junction with WI Hwy 49, then along WI Hwy 49 to its junction with WI Hwy 175 near Lomira, then along WI Hwy 175 to Menomonee Falls, then along WI Hwy 100 to Bayside, and the Upper Peninsula of MI, (6) from points in LA on or east of a line beginning at the LA-TX State line near Burr Ferry, and extending along LA Hwy 8 to Sicily Island, then along LA Hwy 15 to Clayton, then along US Hwy 65 to Tallulah, then along US Hwy 80 to Delta, to points in KY (except LA), on or east of US Hwy 41, that part of WI on or east of a line beginning at Superior, WI; and extending along US Hwy 53 to Spooner, then along US Hwy 63 to Turtle Lake, then along WI Hwy 79 to its junction with US Hwy 12, then along US Hwy 12 to its junction with I Hwy 94 near Memomonie, then along Hwy 94 to Osseo, then along WI Hwy 27 to Westby, then along US Hwy 14 to its junction with WI Hwy 23 near Helena, then along WI Hwy 23 to Darlington, then along WI Hwy 81 to Monroe, then along WI Hwy 69 to the WI-IL State line, and that part of IL on or within an area bounded by a line beginning at the IL-WI State line near Oneco, IL; then along IL Hwy 26 to Dixon, then along US Hwy 52 to Mendote, then along US Hwy 51 to it junction with US Hwy 6 near La Salle, then along US Hwy 6 to Joliet, then along Alternate US Hwy 66 to junction with US Hwy 66, then along US Hwy 66 to Chicago, (except points on US Hwy 6, Alternate US Hwy 66, or US Hwy 66), (7) from points in LA in, south, or east of West Feliciana, Pointe Coupee, St. Landry, Acadia, Jefferson Davis, and Calcasieu Parishes, to point in Kentucky (except LA) on or east of a line beginning at the KY-IL State line and extending south along KY Hwy 109 to Clay, then along KY Hwy 132 to Shady Grove, then along KY Hwy 139 to the KY-TN State line, that part of WI on or east of a line beginning at Danbury, and extending along WI Hwy 35 to its junction with WI Hwy 46 near Milltown, then along WI Hwy 46 to its junction with US Hwy 63, then along US Hwy 63 to the WI-MN State line, that part of IA on or east of a line beginning at the IA-MN State line near Burroak, and extending along US Hwy 52 to Luxemburg, then along IA Hwy 3 to Dubuque, and that part of IL on and east of a line beginning at East Dubuque, and extending along US Hwy 20 to Stockton, then along IL Hwy 78 to Mt. Carroll, then along IL Hwy 88 to Peoria, then along I Hwy 74 to its junction with IL Hwy 121 southeast of Peoria, then along IL Hwy 121 to Greenup, then along IL Hwy 130 to Olney, then along US Hwy 50 to the IL-IN State line except points on and within that part of IL bounded by a line beginning at the IL-IN State line and extending west along US Hwy 36 to Decatur, then north along US Hwy 51 to La Salle, then east along US Hwy 6 to Joliet, then north along alternate US Hwy 66 to junction US Hwy 66, then along US Hwy 66 to Chicago, and then south along the IL-IN State line to point of beginning, (8) from points in LA in or east of Iberia, LaFayette, St. Martin, Iberville, West Baton Rouge, East Baton Rouge, and East Feliciana Parishes, to points in WI, that part of KY (except Louisville) in or east of Crittenden, Caldwell, and Trigg Counties, that part of IA on or east of US Hwy 218, and that part of IL on, north or east of a line beginning at Quincy, and extending along IL Hwy 104 to its junction with IL Hwy 29 near Taylorville, then along IL Hwy 29 to Pana, then along US Hwy 51 to Centralia, then along IL Hwy 161 to junction with IL Hwy 37, then along IL Hwy 37 to Mt. Vernon, then along IL Hwy 15 to the IL-IN State line (except points on and within that part of IL bounded by a line beginning at the IL-IN State line and extending west along US Hwy 36 to Decatur, then north along US Hwy 51 to La Salle, then east along US Hwy 6 to Joliet, then north along alternate US Hwy 66 to junction US Hwy 66, then along US Hwy 66 to Chicago, and then south along the IL-IN State line to point of origin), (9) from points in LA in Terrebonne, LaFourche, St. Charles, Jefferson, Plaquemines, St. Bernard, Orleans, St. John the Baptist, and St. Tammany Parishes, to points in KY (except Louisville) Iowa, Illinois (except points on and within that part of IL bounded by a line beginning at the IL-IN State line and extending west along US Hwy 36 to Decatur, then north along US Hwy 51 to LaSalle, then east along US Hwy 6 to Joliet, then north along alternate US

Hwy 66 to junction US Hwy 66, then along US Hwy 66 to Chicago, and then south along the IL-IN State line to point of origin), and that part of MO on and north of a line beginning at a point on the IA-MO State line near Irema, MO; then along US Hwy 169 to Carmack, then along US Hwy 136 to Bethany, then along MO Hwy 13 to Hamilton, then along US Hwy 36 to Chillicothe, then along US Hwy 65 to Marshall, then along MO Hwy 41 to junction US Hwy 40 near Boonville, then along US Hwy 40 to Columbia, then along US Hwy 63 to Jefferson City, then along US Hwy 50 to Beaufort, then along MO Hwy 155 to junction MO Hwy 8 near Potosi, then along MO Hwy 8 to Leading Ton, then along US Hwy 67 to junction MO Hwy 72 near Fredericktown, then along MO Hwy 72 to junction with MO Hwy 34 near Jackson, then along MO Hwy 34 to Cape Cirardeau, (10) between points in Terrebonne, LaFourche, St. James, Ascension, St. John the Baptist, St. Charles, Jefferson, Plaquemines, St. Bernard, Orleans, St. Mary, part of St. Martin, Assumption, Iberville, Pointe Coupee, Concordina, Tensas, East Carroll Parishes, LA, and points in Madison Parish, on or east of US Hwy 65, on the one hand, and, on the other points in Arkansas, (11) between points in Iberia, Vermilion, LaFayette, St. Martin, Acadia, St. Landry, Madison, and Avoyelles Parishes, LA; on the one hand, and, on the other points in AR (except points in Polk, Sevier, Howard, Little River, Hempstead, Miller, Lafayette, and Columbia Counties), (12) between points in Cameron, Jefferson Davis, Calcasieu, Allen, Evangeline, Rapids, La Salle, Catahoula, Franklin, and West Carroll Parishes, LA; on the one hand, and, on the other points in AR on or north of a line beginning at the LA-AR State line and extending along US Hwy 65 to Pine Bluff, then along US Hwy 270 to Y City, then along US Hwy 71 to Ft. Smith, (13) between points in Beauregard, Vernon, Sabine, Natchitoches, Grant, Caldwell, Winn, Quachita Richland, and Morehouse Parishes, LA; on the one hand, and, on the other, points in AR in and north of Phillips, Desha, Chicot, Monroe, Woodruff, Jackson, Independence, Cleburne, Stone Searcy, and Boone Counties, (14) between points in Jackson, Quachita, and Morehouse Parishes, LA; on the one hand, and, on the other, points in Benton, Carroll, Washington, Madison, and Newton Counties, AR; (15) between points in TX, on the one hand, and, on the other, points in GA, FL, NC, SC, AL, NY on or east of a line beginning at the NY-PA State line near Corbettsville, and extending along NY Hwy 7 to Schenectady, then along NY Hwy 50 to Saratoga Springs, then along US Hwy 9 to the Canada-US Boundary line, PA on or east of I Hwy 81, MD on or east of US Hwy 522, TN on or east of a line beginning at the TN-KY State line near Static, and extending along TN Hwy 42 to Sparta, then along US Hwy 70s to McMinnville, then along TN Hwy 55 to junction with TN Hwy 50 near Lynchburg, then along TN Hwy 50 to junction with US Hwy 64, then along US Hwy 64 to Fayetteville, then along US Hwy 231 to the TN-AL State line, and MS on or east of a line beginning at the MS-TN State line and extending along US Hwy 45 to Tupelo, then along MS Hwy 6 to Pontotoc, then along MS Hwy 9 to Calhoun City, then along MS Hwy 8 to Grenada, then along MS Hwy 7 to Greenwood, then along US Hwy 82 to Greenville, (16) between points in TX on or south of a line beginning at Glenrio, and extending along US Hwy 66 to Amarillo, then along US Hwy 287 to Decatur, then along TX Hwy 24 to Greenville, then along US Hwy 69 to Mineola, then along US Hwy 80 to the TX-LA State line, on the one hand, and, on the other, points in MS, TN, NY on or east of a line beginning at Alexandria Bay, and extending along NY Hwy 12 to Watertown, then along I Hwy 81 to Cortland, then along NY Hwy 13 to Horseheads, then along NY Hwy 14 to the NY-PA State line, PA on or east of a line beginning at Lawrenceville, and extending along US Hwy 15 to Williamsport, then along US Hwy 220 to the PA-MA State line, and MD, (17) between points in TX on or south of a line beginning at Farwell, and extending along US Hwy 70 to the TX-OK State line east of Vernon, on the one hand, and, on the other, points in NY and PA, (18) between points in TX on or south of a line running from the NM-TX State line along US Hwy 180 to Weatherford, and then along US Hwy 80 to the TX-LA State line, on the one hand, and, on the other, points in AR on or east of I Hwy 55, (19) between El Paso, TX; and points in TX on or south of a line beginning at Orange, and extending along I Hwy 10 to Houston, then along U.S Hwy 59 to Laredo, on the one hand, and, on the other points in AR on or east of a line beginning at the AR-LA State line and extending along US Hwy 65 to Little Rock, and then along US Hwy 67 to the AR-MO State line, (20) from points in TX to points in DE, NJ, CT, VT, ME, MA, RI, NH, VA, points in WV on or east of a line beginning at Williamson, and extending along US Hwy 119 to Logan then WV Hwy 10 to Pineville, then along WV Hwy 16 to Beckley, than along US Hwy 19 to junction US Hwy 60, then along US Hwy 60 to Lewisburg, then along US Hwy 219 to the WV-MD state line, Ky on or east of a line beginning at the KY-TN State line near Albany and extending along US Hwy 127 to Albany, then along KY Hwy 90 to Burnside, then along US Hwy 27 to Somerset, then along US Hwy 80 to Manchester, then along US Hwy 421 to Tyner, then along KY Hwy 30 to Salyersville, KY: then along US Hwy 460 to Paintsville, and then along KY Hwy 40 to the KY-WV State line, (21) from points in TX on or south of a line beginning at Glenrio, and extending along US Hwy 66 to Amarillo, then along US Hwy 287 to Decatur, then along TX Hwy 24 to Greenville, then along US Hwy 69 to Mineola, then along US Hwy 80 to the TX-LA State line to points in WV on, south, or east of a line beginning at Huntington, and extending along US Hwy 60 to Charleston, then along US Hwy 119 to Weston, and then along US Hwy 19 to the WV-PA State Line, Ky beginning at the KY-TN State line, and extending along US Hwy 31E to Glasgow, then along US Hwy 68 to Lexington, then along US Hwy 60 to Ashland, (22) from points in TX on or south of a line beginning at Farwell, and estending along US Hwy 70 to the TX-OK State line east of Vernon, to points in WV, OH south of a line beginning at the OH-PA State line and extending along US Hwy 62 to Columbus, then along US Hwy 23 to Circleville, and then along US Hwy 22 to Cincinnati, and KY (except Louisville) on or east of US Hwy 431, (23) from points in TX on or south of a line beginning at El Paso, and extending along US Hwy 80 to Pecos, then along US Hwy 285 to Ft. Stockton, then along US Hwy 67 to San Angelo, then along US Hwy 87 to Brady, then along US Hwy 190 to Temple, TX; then along US Hwy 81 to Waco, and then along US Hwy 84 to the TX-LA State line to points in the Lower Peninsula of MI, and KY east of the TN River (except Louisville), (24) from points in TX on or south of a line beginning at the TX-NM State line and extending along TX Hwy 176 to Big Spring, then along US Hwy 80 to the TX-LA State line to points in MI on or east of a line beginning at the Canada-US Boundary line, and extending along I Hwy 75 to Topinabee, then along US Hwy 27 to the MI-IN State line, (25) from points in Orange and Jefferson Counties, TX; to points in KY (except Louisville) WI on or east of a line extending from Superior, along US Hwy 53 to La Crosse, and then along US Hwy 61 to the WI-IL State line, IL on or east of a line extending from E. Dubuque, along US Hwy 20 to Freeport, then along IL Hwy 26 to Dixon, then along US Hwy 52 to Mendota, then along US Hwy 51 to Sandovel, then along US Hwy 50 to the IL-IN State line (except points on and within that part of IL bounded by a line beginning at the IL-IN State line and extending along US Hwy 36

to Decatur, then north along US Hwy 51 to La Salle, then east along US Hwy 6 to Joliet, then north along alternate US Hwy 66 to junction US Hwy 66, then south along the IL-IN State line to point of beginning), (26) from points in Hidalgo, Cameron, Kenedy, Kleberg, Nueces, and San Patricio Counties, TX to points in KY, (except Louisville) WI on or east of US Hwy 51, and IL on or east of US Hwy 51 (except points on and within that part of IL bounded by a line beginning at the IL-IN State line and extending west along US Hwy 36 to Decatur, then north along US Hwy 51 to La Salle, then east along US Hwy 6 to Joliet, then north along alternate US Hwy 66 to junction US Hwy 66, then along US Hwy 66 to Chicago, and then south along the IL-IN State line to point of origin). The purpose of this filing is to eliminate the gateways of: In proposals number (1), (10), (11), (12), (13), (14), (18), and (19), points in LA on the MS River; in proposals number (2), (3), (4), (5), (6), (7), (8), and (9), points in LA on the MS River, or Pearl River, LA; and Birmingham, AL; and in proposals number (15), (16), and (17) points in LA on the MS River and Birmingham, AL; and in proposals number (20), (21), (22), (23), (24), (25) and (26) points in LA on the MS River and Birmingham, AL.

MC 107615 (Sub-14F), filed January 10, 1979. Applicant: UNTCO, INC., 850 E. Luzerne Street, Philadelphia, PA 19124. Representative: Richard A. Mehley, 1000—16th Street, NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting (1) *printed matter and printed products*, and (2) *materials and supplies* used in the manfacture and distribution of printed matter, (except commodities in bulk), between points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, WV, MD, DE, VA, TN, NC, SC, GA, FL, and DC. (Hearing information: Assigned for prehearing conference on March 20, 1979 at 9:30 a.m., local time, at the offices of the Interstate Commerce Commission, Washington, D.C.)

MC 123255 (Sub-186F) (correction), filed November 30, 1978, previously noted in FR of January 18, 1979 and republished this issue. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C.F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container ends, and closures*, (2) *commodities* manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers; and (3) *materials, equipment and supplies* used in the manufacture and distribution of containers, container ends and closures, restricted in (1) through (3) above against the transportation of commodities in bulk, between points in the United States (except AK and HI). Note: The purpose of this republication is to indicate the territorial scope of the application. Procedural information: Applicants shall file their initial verified statements on or before February 13, 1979. Protestants shall file their verified reply statements on or before March 13, 1979. Applicants shall file their rebuttal statements on or before April 2, 1979.

MC 124211 (Sub-350F) (correction), filed December 26, 1978, previously noted in FR of January 18, 1979 and republished this issue. Applicant: HILT TRUCK LINE, INC., P.O. box 988 D.T.S., Omaha, NE 68101. Representative: A.J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container ends, and closures*, (2) *commodities* manufactured or distributed by manufactures and distributors of containers when moving in mixed loads with containers; and (3) *materials, equipment and supplies* used in the manufacture and distribution of containers, container ends and closures, restricted in (1) through (3) above against the transportation of commodities in bulk, between points in the United States (except AK and HI). Note: The purpose of this republication is to indicate the territorial scope of the application. Procedural information: Applicants shall file their initial verified statements on or before February 13, 1979. Protestants shall file their verified reply statements on or before March 13, 1979. Applicants shall file their rebuttal statements on or before April 2, 1979.

MC134922 (Sub-No. 277F), filed: December 19, 1978. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Arkansas 72118. Representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Small arms ammunition* (except Classes A and B explosives) and *related parts and components*, from Lonoke, AR, to points in LA, TX, OK, KS, NE, MT, WY, CO, NM, AZ, UT, ID, WA, OR, NV, and CA. Note: Applicant has filed a petition for exclusion from fitness under 49 CFR paragraph 1067.12. Replies have been filed by the Commission's Bureau of Investigations and Enforcement. (Hearing site: Washington, D.C. or New York, NY.). Common control may be involved.

MC134922 (Sub-No. 278F), filed: January 9,1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Arkansas 72118. Representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured, distributed or dealt in by manufacturers of glass and glass products*, between the facilities of the Anchor Hocking Corporation and it subsidiaries, located in IN, MD, NJ, OH, PA, and WV, on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, NM, CO, OR, UT, WA, and WY. Note. Applicant has filed a petition for exclusion from fitness under 49 CFR paragraph 1067.12. Replies have been filed by the Commission's Bureau of Investigations and Enforcement. Common control may be involved. (Hearing site: Columbus, OH or Washington, D.C.) Applicant states that purpose of this application is to replace interline service it is presently providing in conjunction with other carriers.

MC134922 (Sub-No. 279F), filed: January 11,1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Arkansas 72118. Representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware* (except commodities in bulk and those which because of size of weight require the use of special equipment), between Youngstown, Ohio, on the one hand, and, on the other, points in MT, WY, CO, NM, TX, OK, KS, NE, SD, ND, MN, IA, MO, AR, LA, WI, IL, MI, IN, KY, TN, MS, AL, FL, GA, SC, NC, and VA. Note: Common control may be involved. Applicant has filed a petition of exclusion from fitness under 49 CFR paragraph 1067.12 Replies have been filed by the Commission's Bureau of Investigation and Enforcement. (Hearing site: Columbus, OH, or Washington, D.C.)

MC134922 (Sub-No. 280F), filed: January 11, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Arkansas 72118. Representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Compounds, defoaming NOI, compounds thinning* (except in bulk), from Newark, NJ and Marietta, GA, to points in AZ, CA, TX, and Chicago, IL. Note: Applicant states the purpose of this application is to replace interline service it is presently providing in conjunction with other

carriers. Applicant has filed a petition for exclusion from fitness under 49 CFR paragraph 1067.12. Replies have been filed by the Commission's Bureau of Investigations and Enforcement. Common control may be involved. (Hearing site: New York, NY or Washington, D.C.).

MC 134922 (Sub-281F), filed: January 12, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic granules* (except in bulk), from Peru, IL; Jamesburg, NJ and Monaca, PA, to Sallisaw, OK; (2) *Paper backed aluminum foil*, from Attleboro, MA, to Sallisaw, OK; and (3) *Plastic articles* (except in bulk), from Sallisaw, OK, to points in AL, AR, IA, KS, LA, MS, MO, OK, TN and TX. Applicant has filed a petition for exclusion from fitness under 49 CFR paragraph 1067.12. Replies have been filed by the Commission's Bureau of Investigations and Enforcement. (Hearing site: Little Rock, AR or Washington, D.C.)

MC 134922 (Sub-282F), filed: January 17, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, brass, bronze or copper, wire, cable and cord sets* (except commodities which because of size or weight require the use of special equipment), between Jewett City and Montville, CT, and New Brunswick, NJ, on the one hand, and, on the other, points in AL, AZ, CA, CO, ID, LA, MS, NV, NM, OK, OR, TX, UT, WA and WY. Applicant has filed a petition for exclusion from fitness under 49 CFR paragraph 1067.12. Replies have been filed by the Commission's Bureau of Investigations and Enforcement. Applicant states the purpose of this application is to replace interline service it is presently providing in conjunction with other carriers. (Hearing site: New York, N.Y. or Washington, D.C.)

MC 134922 (Sub-283F), filed: January 18, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brass, bronze or copper, pipe connections or joints and fittings*, and *store displays* (except commodities which because of size or weight require the use of special equipment) between Archbald, PA, on the one hand, and, on the other, points in AL, AZ, CA, CO, ID, LA, MS, NV, NM, OK, OR, TX, UT, WA and WY. Applicant has filed a petition for exclusion from fitness under 49 CFR paragraph 1067.12. Replies have been filed by the Commission's Bureau of Investigations and Enforcement. Applicant states the purpose of this application is to replace interline service it is presently providing in conjunction with other carriers. (Hearing site: New York, N.Y. or Washington, D.C.)

NOTE: Common control may be involved.

MC 134922 (Sub-284F), filed January 18, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tile and such commodities as are manufactured or distributed by manufacturers or distributors of tile* (except commodities in bulk and those which because of size or weight require the use of special equipment), from points in WA, OR, CA, NM, NV, ID, UT, AZ and CO, to Jackson, TN. Applicant has filed a petition for exclusion from fitness under 49 CFR paragraph 1067.12. Replies have been filed by the Commission's Bureau of Investigations and Enforcement. (Hearing site: Philadelphia, PA or Washington, D.C.)

NOTE: Common control may be involved.

MC 139577 (Sub-29F) (CORRECTION), filed December 18, 1978, previously noted in FR of January 18, 1979 and republished this issue. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container ends, and closures*, (2) *commodities* manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers; and (3) *materials, equipment and supplies* used in the manufacture and distribution of containers, container ends and closures, restricted in (1) through (3) above against the transportation of commodities in bulk, between points in the United States (except AK and HI). Note: The purpose of this republication is to indicate the territorial scope of the application. Procedural information: Applicants shall file their initial verified statements on or before February 13, 1979. Protestants shall file their verified reply statements on or before March 13, 1979. Applicants shall file their rebuttal statements on or before April 2, 1979.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before April 9, 1979. Such protest shall comply with Special Rule 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC-F 13772 F. Transferee: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, MO 64801. Transferor: FARRIS TRUCK LINES, P.O. Box 224, Faucett, MO 64448. Representative: Dean Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th Street, Oklahoma City, OK 73112. Authority sought for purchase by Transferee of the operating rights of Transferor as set forth in permit No. MC 114239 (in part) and Subs 26, 32, and 33 issued October 31, 1973, August 1, 1972, September 29, 1975, and September 19, 1977 respectively as follows: *MC 114239 (in part), Agricultural pesticides*, dry, in containers and in bulk (other than in tank vehicles), and agricultural pesticides, liquid, in drums; From St. Joseph, MO, to points in AR, IA, IL, KS, MN and NE; *Agricultural pesticides and ingredients thereof*, dry, in containers and in bulk (other than in tank vehicles), and liquid, in containers; From St. Joseph, MO, to points in CO, IN, IA, KY, MI, MT, ND, NM, OH, OK, SD, TN, TX, WI, and WY; From points in AR, CA, CO, FL, IL, IA, MI, MS, NV, NJ, NM, OH and TN, to St. Joseph, MO; *Agricultural pesticides and ingredients thereof*, in containers; From St. Joseph, MO, to points in MS, LA, AL, GA, FL, AZ, CA, and NY; From points in TX, LA, AL, GA, AZ, and IN to St. Joseph, MO; From the plant site of Missouri Chemical Company at Los Angeles, CA, to points in NV, UT, AZ, MT, WY, CO, NM, TX, OK, KS, NE, SD, ND, MO, AR, LA, MS, AL, GA, FL and NY; From Orlando, FA, to points in GA, AL, MS, LA, AR, TN, IN, OH, KY, TX,

OK and CA; From Denver, CO, to points in NE, WY, LA, MO, TN, MS, AL, GA, FL, CO, KS, ND, SD, WY, NM, MT, NE and MN; From Lubbock, TX, to points in AR, OK, LA, MO, TN, MS, AL, GA, FL, CO, KS, ND, SD, WY, NM, MT, NE and MN; Restricted to a transportation service to be performed under a continuing contract, or contracts, with Missouri Chemical Company, Farmland Industries, Inc., of Kansas City, MO and Dow Chemical Company, Woodbury Industries, Inc., Woodbury Company Division of Techne Corporation, and Missouri Chemical Company of St. Joseph, MO.

SUB 26—Anti-freeze in containers, between St. Joseph, MO, on the one hand, and on the other, points in AL, AZ, AR, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MT, NE, NV, NJ, NM, NY, ND, OH, OK, SD, TN, TX, WI and WY, to a transportation service to be performed under a continuing contract, or contracts, with the following shippers: Missouri Chemical Company, Dow Chemical Company, Farmland Industries, Woodbury Industries, Inc. and Woodbury Chemical Company Division of Techne Corporation.

SUB 32—Agricultural pesticides and ingredients thereof, dry, in bulk and in containers (other than in tank vehicles), and agricultural pesticides, liquid in containers; From North Kansas City, MO, to points in AL, AZ, AR, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MT, NE, NM, NY, ND, OH, OK, SD, TN, TX, WI and WY; From points in AL, AZ, AR, CA, CO, FL, GA, IL, IN, IA, LA, MI, MS, NV, NJ, NM, OH, TN, and TX to North Kansas City, MO. Restricted to a transportation service to be performed, under a continuing contract, or contracts, with Farmland Industries, Inc, The Missouri Chemical Company, and Techne Corporation.

SUB 33—Containers and bags, and *agricultural pesticides* and *ingredients thereof* (except commodities in bulk), From points in KS, KY, MN, MT, ND, NY, NE, OK, SD, WI and WY to St. Joseph, MO, Restricted to a transportation service to be performed under a continuing contract, or contracts, with Farmland Industries, Inc., Missouri Chemical Company, and Techne Corporation. Transferee presently holds authority from the Commission under the lead docket MC 119399, which authorizes common carrier authority within the States of AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, ND, OK, PA, SD, TN, TX, WI, and WY. Application has been filed for temporary authority under section 210a(b) of the Act.

NOTE.—MC119399 (Sub-No. 94F) is a directly related matter.

MC-F 13842F. (SHANAHAN's EXPRESS, INC.—PURCHASE (PORTION)—P. CALLAHAN, INC.), published in the January 25, 1979, issue of the FEDERAL REGISTER. Application filed February 14, 1978, for temporary authority under section 210a(b).

MC-F 13844F. Applicant (Transferee): ADVANCE-UNITED EXPRESSWAYS, INC., 2601 Broadway Road NE., Minneapolis, MN 55413. Applicant (Transferor): GREENE INTERNATIONAL TRANSPORT, INC., 3200 South St. Louis Avenue, Chicago, IL 60623. Transferee's Representative: WILLIAM S. ROSEN, 630 Osborn Building, St. Paul, MN 55102. Transferor's Representative: ABRAHAM A. DIAMOND, Suite 454 Barristers Building, 29 South LaSalle Street, Chicago, IL 60603. Authority sought for purchase by ADVANCE-UNITED EXPRESSWAYS, INC., 2601 Broadway Road NE., Minneapolis, MN 55413, of the operating rights of GREENE INTERNATIONAL TRANSPORT, INC., 3200 South St. Louis Avenue, Chicago, IL 60623, and for acquisition by FRED J. WINES, 2601 Broadway Road, Minneapolis, MN 55413, of control of such rights through the transaction. Transferee's attorney: William S. Rosen, 630 Osborn Building, St. Paul, MN 55102; Transferor's attorney: Abraham A. Diamond, suite 454 Barristers Building, 29 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be transferred: *Commodities general,* as a *common* carrier, within a fifty (50) mile radius of 1014 West Van Buren Street, Chicago, IL, and to transport such property to or from any point on or north of U.S. Hwy. 36 for a shipper or shippers within such authorized area. RESTRICTION: There shall be no transportation of commodities in bulk, household goods moving from house to house, commercial papers, documents and written instruments as are used in the conduct and operation of banking institutions, radioactive pharmaceuticals, isotopes and related products, exposed and processed film, flowers, and processed auditing and processed accounting media and business papers such as processed in the business of data processing centers as input or output of computers, as contained in Certificate of Registration No. MC-120122 (Sub-No. 1). Transferee is authorized to operate as a common carrier in the states of Illinois, Minnesota, North Dakota and Wisconsin. Applicant states that it intends to tack the authority sought with exitsting authority. Application has been filed for temporary authority under section 210a(b). (Hearing site: Chicago, IL.)

Note.—MC-107605 (Sub-No. 22F) is a directly related matter.

MC-F 13847F. Authority sought for control by L. G. DeWITT, P.O. Box 70, Ellerbe, NC 28338, of L. G. DeWITT, INC., P.O. Box 70, Ellerbe, NC 28338 and to continue to control TEXTILE MOTOR FREIGHT, INC., P.O. Box 70 Ellerbe, NC 28338. Applicants' Representative: Terrence D. Jones, 2033 K Street, NW., Washington, DC 20006. Operating rights sought to be controlled: (1) L. G. DeWitt, Inc. possesses no permanent authority from the commission, but possesses temporary authority to transport candy, confectionery, and snack foods (except in bulk), from the facilities of Whitman's Chocolates Division, Pet Incorporated, at Philadelphia, PA to numerous specified cities, and to transport frozen foods from the facilities of Pet Incorporated at Chambersburg and Allentown, PA to Santa Fe Springs, CA. Operating rights sought to be continued in controlled: TEXTILE MOTOR FREIGHT, INC. possesses authority generally to transport foodstuffs and various specific commodities from points in NY, PA, MD, and NJ to points in MC, SC, AL, FL, GA, LA, and MS. Textile also possesses authority to transport canned citrus juice and other citrus products from specified points in FL to points in numerous eastern and midwestern states. The aforementions summary embraces generally the commodities and territory involved but does not intend to define precisely the scope of authority of the carriers for which approval of continuing control is sought. Application has not been filed for temporary authority under section 210a(b). L. G. DeWITT, INC., presently holds no authority from the commission but has filed applications for permanent authority as a contract carrier. These applications are docketed as Nos. NC-144740F, No. MC-144740 (Sub-No. 2F), and No. MC-144740 (Sub-No. 4F).

MC-F 13862F. Authority sought for purchase by DE-PEN LINE, INC., Hollow Road RD 1, P.O. Box 486, Phoenixville, PA., 19460 of a portion of the operating rights of JAMES H. RUSSELL, INC., 3 Rocky Hill Road, Smithfield, RI., 02917, of control of such rights through the transaction. Applicants' representatives: Maxwell Powell, P.O. Box 486, Phoenixville, PA., 19460 and Daniel V. McKinnon, 1166 Newport Avenue, Pawtucket, RI., 02661. Operating rights sought to be purchased: General commodities, with exceptions as a common carrier over irregular routes between points in Atlantic, Cape May and Goucester Counties, NJ, on the one hand, and, on the other, Providence, RI., Corning, NY, points in that part of NY within 150 miles of Newark, NJ, points in that part of Massachusetts on and east of U.S. Hwy 5, and points in that part of CT on and east of U.S. Hwy 5, and those on U.S. Hwy 1 between the NY-CT State Line and New Haven, CT. Vendee is authorized to operate as a

common carrier in the States of MD, DE, NJ, NY, PA, VA, and the District of Columbia. Application has been filed for temporary authority under section 210a(b) of the Act.

MOTOR CARRIER OF PASSENGERS

MC-F 13864F. Authority sought for purchase by ARROW BUS CO., INC., 52 East 11th Street, Clifton, New Jersey 07011, of a portion of the operating authority of DE CAMP BUS LINES, INC., 30 Allwood Road, Clifton, New Jersey 07014, and for acquisition by Raymond Moore, Ronald Moore, Katherine Pezzuti and Marlene Pezzuti, of control of the rights through the purchase. Transferee's attorney: Bowes, Millner, Rodgers, Liberstein & Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, New Jersey 07006. Transferor's attorney: Robert E. Goldstein, Esq., 8 West 40th Street, New York, NY 10018. Operating rights sought to be purchased: *Passengers and their baggage*, as a *common carrier*, over *regular routes*, between junction Kingsland Road and West Passaic Avenue at the municipal boundary of Bloomfield and Nutley, NJ and New York, NY: From junction Kingsland Road and West Passaic Avenue over Kingsland Road to junction Kingsland Road and Bloomfield Avenue, thence over Bloomfield Avenue to High Street, thence over High Street and Station Plaza to Franklin Avenue, thence over Franklin Avenue to Center Street, thence over Center Street to Washington Avenue, thence over Washington Avenue to Park Avenue, thence over Park Avenue to the Passaic River Bridge to Kingsland Avenue in Lyndhurst, thence over Kingsland Avenue to Stuyvesant Avenue, thence over Stuyvesant Avenue to Valley Brook Avenue, thence over Valley Brook Avenue to Ridge Road (also from junction Stuyvesant and Kingsland Avenues over Kingsland Avenue to Ridge Road, thence over Ridge Road to Valley Brook Avenue), thence over Ridge Road to Rutherford Avenue in Rutherford, thence over Rutherford Avenue to New Jersey Highway 3 (portion formerly New Jersey Highway S-3), thence over New Jersey Highway 3 to the Depressed Highway and Marginal Street, thence over the Depressed Highway and Marginal Street to junction Palisade Avenue in Union City, NJ, thence via the Overhead Ramp to Lincoln Tunnel Plaza (or from junction New Jersey Highway 3, also known as Depressed and Marginal Highway and Marginal Street, with Hudson County Boulevard to junction 32nd Street in Union City, thence over 32nd Street to junction New York Avenue, thence over New York Avenue to junction Marginal Street, thence over Marginal Street to junction Hudson Avenue, thence via the Overhead Ramp to Lincoln Tunnel Plaza), and thence through the Lincoln Tunnel to New York, and return over the same route. Service is authorized to and from intermediate points between junction Kingsland Road and West Passaic Avenue at the municipal boundary of Bloomfield and Nutley, NJ and junction New Jersey Highways 20 and 3 (formerly junction New Jersey Highways S-3 and 3), in East Rutherford, NJ, inclusive, and those on New Jersey Highway 3 between junction New Jersey Highway 20 and 3, (formerly junction New Jersey Highways S-3 and 3), in East Rutherford, NJ, and the Secaucus-North Bergen boundary line. The above-described authority to transport passengers was issued pursuant to an application filed on or before January 1, 1967, and therefore incidental charter operations in interstate or foreign commerce may be conducted under rules and regulations prescribed by the Commission pursuant to section 209(c) of the Interstate Commerce Act, as amended November 10, 1966. *Alternate Route for Operating Convenience Only: Passengers and their baggage, and express, newspapers, and mail in the same vehicles with passengers*, between junction New Jersey Highway 3 and renumbered New Jersey Highway 3 (just east of the Hackensack River), and junction renumbered New Jersey Highway 3 and New Jersey Highway 3 (at or near Union Avenue), all in Secaucus, NJ, serving no intermediate points but serving the terminal only for the purpose of joining this route to said carrier's presently authorized routes: From junction New Jersey Highway 3 and renumbered New Jersey Highway 3 over renumbered New Jersey Highway 3 passing north of the Secaucus, NJ business center, to junction renumbered New Jersey Highway 3 and New Jersey Highway 3, and return over the same route. *Regular routes, passengers and their baggage*, between the junction of Kingsland Road and West Passaic Avenue at the municipal boundary of Bloomfield and Nutley, NJ, and New York, NY: From the junction of West Passaic Avenue and Kingsland Road over Kingsland Road to the junction of Kingsland Road and Bloomfield Avenue, thence over Bloomfield Avenue to High Street, thence over High Street and Station Plaza to Franklin Avenue, thence over Franklin Avenue to Center Street, thence over Center Street to Washington Avenue, thence over Wasington Avenue to Park Avenue, thence over Park Avenue to the Passaic River Bridge to Kingsland Avenue in Lyndhurst, thence over Kingsland Avenue to Stuyvesant Avenue, thence over Stuyvesant Avenue to Valley Brook Avenue, thence over Valley Brook Avenue to Ridge Roard (also from the intersection of Stuyvesant and Kingsland Avenue over Kingsland Avenue to Ridge Road, thence over Ridge Road to Valley Brook Avenue), thence over Ridge Road to Rutherford Avenue in Rutherford, thence over Rutherford Avenue to New Jersey Highway S-3, thence over New Jersey Highway S-3 to its intersection with New Jersey Highway 3, thence over New Jersey Highway 3 to the Depressed Highway and Marginal Street, thence over the Depressed Highway and Marginal Street to junction Palisade Avenue in Union City, NJ, thence via the Overhead Ramp to Lincoln Tunnel Plaza (or from the junction of NJ Highway 3 also known as Depressed and Marginal Highway and Marginal Street, with Hudson County Boulevard, over Hudson County Boulevard to junction 32nd Street, in Union City, thence over 32nd Street to junction New York Avenue, thence over New York Avenue to junction Marginal Street, thence over Marginal Street to junction Hudson Avenue, thence via the Overhead Ramp to Lincoln Tunnel Plaza), and thence through the Lincoln Tunnel to New York, and return over the same route. Service is authorized to and from intermediate points between the intersection of Kingsland Road and West Passaic Avenue at the municipal boundary of Bloomfield and Nutley, NJ and the intersection of New Jersey Highway S-3 and 3 in East Rutherford, NJ, inclusive, and those on New Jersey Highway 3 between junction New Jersey Highways S-3 and 3, in East Rutherford, NJ, and the Secaucus-North Bergen boundary line. Between points in New Jersey as follows: From junction New Jersey Highway 3 and renumbered New Jersey Highway 3 (just east of the Hackensack River) over renumbered New Jersey Highway 3 passing north of the Secaucus, NJ business center, to junction renumbered New Jersey Highway 3 and New Jersey Highway 3 (at or near Union Avenue) all in Secaucus, and returning over the same route, as an alternate route for operating convenience only. Service is not authorized to or from intermediate points and service is authorized at the termini only for the purpose of joining this route to said carrier's presently authorized route. Vendee is authorized to operate as a common carrier in the states of NJ & NY. Applicants state that approval of the proposed transaction will not result in significant duplicate services. Application has been filed for temporary authority under Section 210a(b).

MC-F 13891F. This notice is a *republication* of the notice published in the FEDERAL REGISTER, February 15, 1979, at page 9841. *Republication* is required

because the original notice did not appear in the appropriate section of the FEDERAL REGISTER. Application for authority under 49 U.S.C. 11343 by CSX Corporation (CSX), 707 East Main Street, Richmond, VA 23212, to acquire control of SEACOAST TRANSPORTATION COMPANY (STC), 500 Water Street, Jacksonville, FL., 32202, filed with the Interstate Commerce Commission on January 18, 1979. CSX is presently owned and controlled by CHESSIE SYSTEM, INC. (CSI), 2 North Charles Street, Baltimore, MD., 21201, and SEABOARD COAST LINE INDUSTRIES, INC. (SCLI), 3600 West Broad Street, Richmond, VA., 23230, and would acquire control of STC through the acquisition by CSX of the stock of CSI and SCLI, and merger of CSI and SCLI into CSX, and consequent control of SEABOARD COAST LINE RAILROAD COMPANY (SCL), 500 Water Street, Jacksonville, FL 32202, which, in turn, owns and controls STC. Applicants' attorneys are: R. W. Donnem, Esquire, SR., Vice President-Law, Chessie System, Inc., P.O. Box 6419, Cleveland, OH., 44101, and Richard A. Hollander, Esquire, General Counsel, Seaboard Coast Line Railroad Company, 3600 West Broad Street, Richmond, VA 23230. Operating rights sought to be controlled: General Commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, restricted to service which is auxiliary to, or supplemental of, rail carrier service of SCL as a common carrier over regular routes between and through the states of VA, NC, SC, GA, FL, and AL. Application has not been filed for temporary authority under 49 U.S.C. 11349. This application is directly related to the consolidation and securities issuance applications filed by CSX, CSI, SCLI and the rail carrier subsidiaries of CSI and SCLI, pursuant to 49 U.S.C. 11343 and 11301. Notice of these applications was published in the February 15, 1979 edition of the FEDERAL REGISTER at page 9839 under Finance Docket No. 28905 (Sub-Nos. 1F and 2F). The time limits established for Finance Docket No. 28905 (Sub-Nos. 1F and 2F) will be applied to this motor carrier application, and the cases will be considered together.

MC-F 13899F. Authority sought for purchase by ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, Ohio 45223, of a portion of the operating rights of PARKHILL TRUCK COMPANY, Post Office Box 912, Joplin, Missouri 64801, and for acquisition by R. J. Doran, R. E. Doran, and C. M. Doran, all of 1601 Blue Rock Street, Cincinnati, Ohio 45223, of control of such rights through the transaction. Applicants' attorney, A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Operating rights sought to be purchased: *Heavy machinery*, as a *common carrier*, over irregular routes, between St. Louis, MO; Louisville, KY; and points in IL on the one hand, and, on the other, points in IN. Vendee is authorized to operate as a *common carrier* in all states except AK and HI. Application has not been filed for temporary authority under Section 210a(b).

NOTE.—MC 112304 Sub *171F* is a directly related matter.

MC-F-13911F. Transferee: ADVANCE TRANSPORTATION COMPANY an Illinois Corporation, 5005 South Sixth Street, Milwaukee, Wisconsin 53221. Transferor: GUMPRECHT TRUCKING COMPANY, 72 East Street, Crystal Lake, Illinois 60014. Representative for Transferee & Transferor: Michael J. Wyngaard, Wyngaard & Wilson, 150 East Gilman St., Madison, WI 53703. Authority is sought for purchase by Advance Transportation Company of all of the operating rights of Gumprecht Trucking Company and for acquisition by James L. Joppe, Audrey M. Joppe, Richard H. Lindner, and Ronald G. Lindner of control of such rights through the purchase. Operating rights sought to be purchased include regular and irregular route authorities as follows:

General commodities, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading.

(a) Between Chicago, IL, and points in McHenry County, IL, as follows: From Chicago over U.S. Hwy. 14 to the southern boundary of McHenry County, IL, then over irregular routes to points in McHenry County, and return over irregular routes to the southern boundary of McHenry County, then over the above-specified regular route to Chicago.

(b) Between Harvard, IL, and Chicago, IL, serving all intermediate points, and the off-route points of Ridgefield, Greenwood, and Hartland, IL. From Harvard over U.S. Hwy. 14 to Chicago, and return over the same route.

(c) Between Harvard, IL, and Chicago, IL, serving all intermediate points: From Harvard over I.S. Hwy. 173 to Richmond, IL, then over I.S. Hwy. 31 to McHenry, IL, then over I.S. Hwy 120 (formerly I.S. Hwy 20) to Volo, IL, then over U.S. Hwy. 12 via Lake Zurich, IL, to junction I.S. Hwy. 22, then over I.S. Hwy. 22 to junction U.S. Hwy 14, and then over U.S. Hwy. 14 to Chicago, and return over the same route.

(d) Between Elgin, IL, and Chicago, IL, serving all intermediate points: From Elgin over I.S. Hwy. 31 to Dundee, IL, then over I.S. Hwy. 63 to Barrington, IL, then over U.S. Hwy. 14 to Chicago, and return over the same route.

(e) Between Elgin, IL, and Crystal Lake, IL, serving all intermediate points: From Elgin over I.S. Hwy. 31 to junction U.S. Hwy. 14, then over U.S. Hwy. 14 to Crystal Lake, and return over the same route. Furniture, U.S. Mail, miscellaneous packages for stores, express and freight items and general commodities within a fifty (50) mile radius of Crystal Lake, IL, and to transport such property to or from any point outside of such authorized area of operation for a shipper or shippers within such area; also, household goods and personal effects expressly limited to the territorial limits of a fifty (50) mile radius of 216 North Main Street, Crystal Lake, IL. Vendee is authorized to operate as a common carrier with the States of IL., and WI. Application has been filed for temporary authority under Section 210a(b).

NOTE.—MC-18121 (Sub-25F) is directly related matter.

MC-F-13920F. Authority sought by C W TRANSPORT, INC., 610 High St., Wisconsin Rapids, WI 54494, for purchase of all of the operating rights of TRANS-ILLINOIS EXPRESS, INC., 1046 East Arlington Ave., Box 2164, Decatur, IL 62526, and control of such rights through the purchase. Applicant's Attorney, Edward G. Bazelon, Axelrod, Goodman, Steiner & Bazelon, 39 So. LaSalle St., Chicago, IL 60603. Operating rights sought to be transferred are contained in Certificate of Registration No. MC-120977, Sub No. 1, authorizing the transportation, over irregular routes, by motor vehicle, of unexplosive chemicals, farm products, livestock, rock, building materials, limestone, hardware, freight, farm machinery, household goods, seed and feed within a fifty (50) mile radius of a point five (5) miles East of East St. Louis, IL, and to transport such property to or from any point outside of such authorized area of operation for a shipper or shippers within such area; also, unexplosive chemicals, farm products, livestock, rock, building materials, limestone, hardware, freight, farm machinery, household goods, seed and feed to or from any point or points within the State of IL. Vendee is authorized to operate as a common carrier in the States of MI, MN, WI, IL, MO, IN, OH, KY, NC, SC and GA. Application has been filed for temporary authority under Section 210a(b) and a conversion application has been filed under Section 207.

NOTE: MC-111594 (Sub-82F) is a directly related matter.

MC-F-13926F. Authority sought for purchase by LABAR'S INC., 771 Scott Street, Wilkes-Barre, PA., 18705 of a portion of the operating rights of SHANAHAN MOTOR LINES, INC., 1001 Fairview Street, Camden, NJ., 08104, and for acquisition by JAMES C. LABAR of US Hwy 11, Berwick, PA., 18603 of contro of such rights through the transaction. Applicants' representatives: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA., 17108, Alan Kahn, suite 1920, Two Penn Center Plaza, Philadephia, PA., 19102. Operating rights sought to be transferred: uncrated rug padding, uncrated fiber rugs, uncrated sisal, and uncrated sisal padding, as a common carrier over irregular routes, from Philadelphia, PA, to points in MD and NY (except those in the New York, NY, commercial zone), and Uncrated sisal and sisal padding, from Philadelphia, PA, to points in CT, MA, RI, and VA. Vendee is authorized to operate as a common carrier in the States of CA, CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, and WV. Application has been filed for temporary authority under Section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this *Federal Register* notice. such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 621 (Sub-5F), filed January 24, 1979. Applicant: PAUL ARPIN VAN LINES, INC., 150 Manton Avenue, Providence, RI 02909. Representative: Herbert Burstein, Suite 2373, One World Trade Center, NY, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* (1) Between points in AL, AR, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI, on the one hand, and, on the other, points in CA and AZ, (gateway eliminated: points in LA, MO, and TX) (2) Between points in AL, AR, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI, on the one hand, and, on the other, points in NM, NV, and UT (hearing site: New York, NY, San Francisco, CA or Washington, DC).

NOTE: This application is directly related to a finance proceeding docketed MC-F-13830F, published in the FR issue of December 7, 1978. The purpose of this application is to eliminate the gateways as specified in (1) above and a request for new authority in (2) above.

MC 18121 (Sub-25F), filed January 24, 1979. Applicant: ADVANCE TRANSPORTATION COMPANY, a Corporation, 5005 South Sixth Street, Milwaukee, WI 53221. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: I. Over Regular Routes: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (A)(1) Between Big Foot, IL, and the juction of US Hwy 34 and IL Hwy 23 at or near Leland, IL, serving all intermediate points: From Big Foot, IL over IL Hwy 23 to junction US Hwy 34 and IL Hwy 23 at or near Leland, IL and return over the same route; (2) Between Chicago, IL and Rochelle, IL, serving all intermediate points: From Chicago, IL over Interstate Hwy 90 to IL Hwy 5, then over IL Hwy 5 to Aurora, IL, then over US Hwy 30 to junction US Hwy 51, then over US Hwy 51 to Rochelle, IL and return over the same route; (3) Between Chicago, IL and Byron, IL, serving all intermediate points: From Chicago, IL over IL Hwy 72 to Byron, IL and return over the same route; (4) Between Chicago, IL and junction US Hwy 51 and IL Hwy 64 at or near Kings, IL, serving all intermediate points: From Chicago, IL over IL Hwy 64 to junction US Hwy 51 and IL Hwy 64, and return over the same route; (5) Between Lake Bluff, IL and Marengo, IL, serving all intermediate points: From Lake Bluff, IL over IL Hwy 176 to Marengo, IL and return over the same route. (6) Between Chicago, IL and Winnebago, IL, serving all intermediate points: From Chicago, IL over US Hwy 20 to Winnebago, IL and return over the same route. (7) Between Hebron, IL and Central, IL, serving all intermediate points: From Hebron, IL, over IL Hwy 47 to Central, IL and return over the same route; (8) Between the junction of US Hwy 12 and IL Hwy 31 at or near Richmond, IL and the junction of US Hwy 34 and IL Hwy 31, serving all intermediate points: From the junction of US Hwy 12 and IL Hwy 31 at or near Richmond, IL, over IL Hwy to its junction with US Hwy 34, and return over the same route; (9) Between Zion, IL and junction US Hwy 51 and IL Hwy 173 at or near Loves Park, IL: From Zion, IL over IL Hwy 173 to its junction with US Hwy 51 and return over the same route; (10) Between Rochelle, IL and Beloit, WI, serving all intermediate points: From Rochelle, IL over US Hwy 51 to Beloit, WI and return over the same route; (11) Between Rockford, IL and Byron, IL, serving all intermediate points: From Rockford, IL over IL Hwy 2 to Byron, IL and return over the same route; (12) Between Chicago, IL and junction US Hwys 51 and 34, at or near Mendota, IL, serving all intermediate points: From Chicago, IL over US Hwy 34 to junction with US Hwy 51 at or near Mendota, IL, and return over the same route; (13) Between Chicago, IL and the junction of Interstate Hwys 55 and 80 at or near Joliet, IL, serving all intermediate points: From Chicago, IL over Interstate Hwy 55 to its junction with Interstate Hwy 80 at or near Joliet, IL and return over the same route; (14) Between Chicago, IL and Beloit, WI, serving all intermediate points: From Chicago, IL over Interstate Hwy 90 to Beloit, WI and return over the same route; (15) Between Chicago, IL and Harvard, IL serving all intermediate points: From Chicago, IL over US Hwy 14 to Harvard, IL, and return over the same route; (16) Between Chicago, IL and Genoa City, WI, serving all intermediate points: From Chicago, IL over US Hwy 12 to Genoa City, WI, and return over the same route. Serving with respect to (a)(1) through (A)(16) above points in Boone, Cook, DeKalb, DuPage, Kane, Kendall, Lake, McHenry, Ogle and Winnebago Counties, IL as intermediate and off-route points. (B)(1) Between Chicago, IL and Rock Island, IL, serving all intermediate points: From Chicago, IL over Interstate Hwy 90 to its junction with IL Hwy 5, then over IL Hwy 5 to Rock Island, IL and return over the same route; (2) Between Chicago, IL and Freeport, IL, serving all intermediate

points: From Chicago, IL over US Hwy 20 to Freeport, IL and return over the same route; (3) Between Cairo, IL and Beloit, WI, serving all intermediate points: From Cairo, IL over US Hwy 51 to Beloit, WI and return over the same route; (4) Between Chicago, IL and East St. Louis, IL, serving all intermediate points: From Chicago, IL over Interstate Hwy 55 to East St. Louis, IL and return over the same route; (5) Between Chicago, IL and Quincy, IL, serving all intermediate points: From Chicago, IL over Interstate Hwy 55 to its junction with US Hwy 24, then over US Hwy 24 to Quincy, IL and return over the same route. (6) Between Chicago, IL and junction US Hwy 51, and Interstate Hwy 57 at or near Cairo, IL, serving all intermediate points: From Chicago, IL over Interstate Hwy 57 to its junction with US Hwy 51 at or near Cairo, IL and return over the same route; (7) Between Granite City, IL and junction Interstate Hwys 57 and 70 near Effingham, IL, serving all intermediate points: From Granite City, IL over Interstate Hwy 70 to its junction with Interstate Hwy 57 at or near Effingham, IL and return over the same route; (8) Between Chicago, IL and Rock Island, IL, serving all intermediate points: From Chicago, IL over Interstate Hwy 94 to its junction with Interstate Hwy 80, then over Interstate Hwy 80 to Rock Island, IL and return over the same routes. Restricted with respect to (B) above to the transportation of shipments moving from, to or through points in Boone, Cook, DeKalb, DuPage, Kane, Kendall, Lake, McHenry, Ogle and Winnebago Counties, IL. II. over irregular routes: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) Between points in Boone, Cook, DeKalb, DuPage, Kane, Kendall, Lake, McHenry, Ogle and Winnebago Counties, IL; and (b) between points in the counties named in (a) above, on the one hand, and, on the other, points in IL, restricted in II(a) and (b) to the transportation of shipments moving between any points authorized to be served by applicant in regular route operations. Note: This application is directly related to a Section 5(2) finance proceeding docketed MC-F-13911F, published in a previous section of this FR issue, in which applicant seeks authority to purchase the operating authorities of Gumprecht Trucking Company. The instant application seeks to convert a certificate of registration and it seeks to convert certain irregular route authority to regular route authority. The instant application also involves a request for some authority not directly related to the finance proceeding. (Hearing site: Chicago, IL.)

MC-87205 (Sub-7F), filed: February 9, 1979. Applicant: PERKINS TRUCKING CO., INC., 250 Miller Place, Hicksville, NY 11801. Representative: A. DAVID MILLNER, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *common carrier* by motor vehicle, over *Regular* routes, in the transportation of *General Commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment). (1) Between junction U.S. Hwy 7 and the VT-MA State Boundary Line and junction U.S. Hwy 7 and the MA-CT State Boundary Line: over U.S. Hwy 7; (2) Between junction MA Hwy 8 and the VT-MA State Boundary Line and junction MA Hwy 8 and the MA-CT State Boundary Line: over MA Hwy 8; (3) Between junction Interstate Hwy 91 and the VT-MA State Boundary Line and junction Interstate Hwy 91 and the MA-CT State Boundary Line: over Interstate Hwy 91; (4) Between junction MA Hwy 10 and the NH-MA State Boundary Line and junction MA Hwy 10 and the MA-CT State Boundary Line: over MA Hwy 10; (5) Between junction MA Hwy 32 and the NH-MA State Boundary Line and junction MA Hwy 32 and the MA-CT State Boundary Line; A) Over MA Hwy 32; B) From junction MA Hwy 32 and the NH-MA State Boundary Line over MA Hwy 32 to junction MA Alt. Hwy 32, then over MA Alt. Hwy 32, to junction MA Hwy 32, then over MA Hwy 32 to its junction with the MA-CT State Boundary Line, and return over the same route; (6) Between junction MA Hwy 13 and the NH-MA State Boundary Line and junction MA Hwy 12 and the MA-CT State Boundary Line; From junction MA Hwy 13 and the NH-MA State Boundary Line over MA Hwy 13 to junction MA Hwy 12, then over MA Hwy 12 to its junction with the MA-CT State Boundary Line and return over the same route; (7) Between junction U.S. Hwy 3 and the NH-MA State Boundary Line and junction Interstate Hwy 495 and Interstate Hwy 95; From junction U.S. Hwy 3 and the NH-MA State Boundary Line over U.S. Hwy 3 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction Interstate Hwy 95. (8) Between junction Interstate Hwy 93 and the NH-MA State Boundary Line and junction Interstate Hwy 95; From junction Interstate Hwy 93 and the NH-MA State Boundary Line over Interstate Hwy 93 to junction Interstate Hwy 95; (9) Between junction Interstate Hwy 95 and the NH-MA State Boundary Line and junction Interstate Hwy 95 and the RI-CT State Boundary Line; Over Interstate Hwy 95; (10) Between Boston, MA and Provincetown, MA; From Boston over MA Hwy 3 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Provincetown, and return over the same route; (11) Between Boston, MA and Portsmouth, RI; From Boston over MA Hwy 3 to junction MA Hwy 128, then over MA Hwy 128 to junction MA Hwy 24, then over MA Hwy 24 to junction with RI Hwy 24, then over RI Hwy 24 to Portsmouth, and return over the same route. (12) Between Boston, MA and the MA-CT State Boundary Line; From Boston over Interstate Hwy 90 to junction Interstate Hwy 86, then over Interstate Hwy 86 to its junction with the MA-CT State Boundary Line, and return over the same route; (13) Between Boston, MA and the MA-NY State Boundary Line; A) Over Interstate Hwy 90; B) Over MA Hwy 2; Serving all intermediate points on the above 13 routes and all points in Massachusetts and Rhode Island as off-route points. (14) Between Holbrook, MA, and New London, CT, serving the intermediate points of Danielson and Norwich, CT, and intermediate and off-route points in MA within 10 miles of Holbrook, and off-route points in CT in an area bounded by the Connecticut River, Interstate Hwy 86, and the CT-MA State Line; From Holbrook over MA Hwy 37 to junction MA Hwy 28, then over MA Hwy 28 to junction MA Hwy 123, then over MA Hwy 123 to junction U.S. Hwy 1, then over U.S. Hwy 1 to Providence, RI, then over U.S. Hwy 6 to Danielson, CT, then over CT Hwy 12 via Norwich to junction Interstate Hwy 95, then over Interstate Hwy 95 to New London, and return over the same route. (Hearing site: New York, NY.)

NOTE.—This application is directly related to Docket No. MC-F-13841F wherein Applicant seeks to purchase a portion of B & T Transportation Co.'s operating authority. The instant application seeks to convert that portion of the irregular route authority sought to be purchased authorizing transportation between all points in MA, RI and those specific points in CT to regular route authority. MC-F-13841F is published in a previous section of December 14, 1978.

MC 107605 (Sub-22F), filed December 29, 1978. Applicant: ADVANCE-UNITED EXPRESSWAYS, INC., 2601 Broadway Road, NE, Minneapolis, MN 55413. Representative: William S. Rosen, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives, and commodities of unusual value), (1) Between points in that part of IL on and east of the following described boundary, beginning at the junction of the WI-IL

State line and IL Hwy 47, then over IL Hwy 47 to its junction with IL Hwy 176, then over IL Hwy 176 to its junction with IL Hwy 23, then over IL Hwy 23 to its junction with the southern boundary of DeKalb County, then in a easterly direction over said boundary to the western boundary of Kendall County, then in a southerly direction over said Kendall County boundary to the southern Kendall County boundary, then in a easterly direction over said Kendall County boundary, to its junction with IL Hwy 47, then over IL Hwy 47 to its junction with IL Hwy 113, then over IL Hwy 113 to its junction with the western boundary of Will County, then in a southerly direction over said Will County boundary to its junction with the western boundary of Kankakee County, then continuing in a southerly direction over said Kankakee boundary line to its junction with IL Hwy 17, then over IL Hwy 17 to its junction with IL Hwy 1, then over IL Hwy 1, to its junction with IL Hwy 114, then over IL Hwy 114 to the IL-IN State Boundary Line, and (2) Between points named in (1) above, on the one hand, and, on the other, points in IL, including the commercial zones thereof, on or north of US Hwy 36. (Hearing site: Chicago, IL).

NOTE.—The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity, and is directly related to a finance proceeding docketed MC-F-13844F published in a previous section of this FR issue.

MC 111594 (Sub-82F), filed January 31, 1979. Applicant: C W TRANSPORT, INC., 610 High Street, Wisconsin Rapids, WI 54494. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier* by motor vehicle, over irregular and regular routes, transporting (A) over regular routes *general commodities* (except those of unusual value, Classes A and B explosives, and household goods as defined by the Commission) (1) Between East Dubuque, IL and Cairo, IL, from East Dubuque, IL over U.S. Hwy 20 to junction of IL Hwy 84, then over IL State Hwy 84 to junction of IL Hwy 92, then over IL Hwy 92 to Rock Island, IL, then over U.S. Hwy 67 to Alton, IL, then over IL Hwy 3 to junction of U.S. Hwy 51, then over U.S. Hwy 51 to Cairo, IL, and return over same route. (2) Between South Beloit, IL and Cairo, IL. From South Beloit, IL over U.S. Hwy 51 to Cairo, IL and return over same route. (3) Between Chicago, IL and Brookport, IL. From Chicago, IL over IL State Hwy 1 to the junction of U.S. Hwy 45 at or near Norris City, IL, then over U.S. Hwy 45 to Brookport, IL, and return over same route. (4) Between Chicago, IL and the junction of U.S. Hwy 20 and IL State Hwy 84. From Chicago, IL over Interstate Hwy 90 to junction of U.S. Hwy 20, then over U.S. Hwy 20 to junction of IL Hwy 84, and return over same route. (5) Between Chicago, IL and junction of Interstate Hwy 80 and U.S. Hwy 67. From Chicago, IL over Interstate Hwy 55 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction U.S. Hwy 67, and return over same route. (6) Between Gulfport, IL and Danville, IL. From Gulfport, IL over U.S. Hwy 34 to junction of Interstate Hwy 74, then over Interstate Hwy 74 to Danville, IL and return over same route. (7) Between the junction of U.S. Hwy 36 and 67 near Jacksonville, IL and the junction of Interstate Hwys 72 and 74 near Urbana, IL. From junction of U.S. Hwys 36 and 67 over U.S. Hwy 36 to junction of Interstate Hwy 72, then over Interstate Hwy 72 to junction Interstate Hwy 74, and return over same route. (8) Between Niota, IL and junction of U.S. Hwy 36 and Interstate Hwy 35 at or near Springfield, IL. From Niota, IL over IL Hwy 9 to junction IL Hwy 97, then over IL State Hwy 97 to junction Interstate Hwy 55, and return over same route. (9) Between E. St. Louis, IL and Lawrenceville, IL. From E. St. Louis, IL over U.S. Hwy 50 to Lawrenceville, IL and return over same route. Serving in connection with the above routes all points in Illinois as intermediate and off-route points. (b) *General commodities* (except those of unusual value, Classes A & B explosives, and household goods as defined by the Commission) over irregular routes, as follows: Between points in Illinois.

Restriction: The authority sought in A & B above shall be restricted to service at points in Illinois only.

This application is, in part, directly related to the Section 5 application of C W Transport, Inc. docketed in MC-F-13920F to acquire all of the operating rights and certain properties of Trans-Illinois Express, Inc. The purpose of Part B of this application is to convert the Certificate of Registration of Trans-Illinois Express, Inc. to a Certificate of Public Convenience and Necessity. The purpose of Part A of this application is to convert said Certificate of Registration to a Certificate of Public Convenience and Necessity, and to convert the authority from irregular routes to regular routes. MC-F-13920F is published in a previous section of this FR issue. (Hearing site—Chicago, Illinois.)

MC 112304 (Sub 171F), filed: January 18, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, Ohio 45223. Representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy machinery*, which by reason of size or weight requires the use of special equipment, (a) between St. Louis, MO on the one hand, and, on the other, points in CT, DC, KY, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, AND WV (eliminating IN as the gateway), (b) between points in IL on the one hand, and, on the other, points in CT, KY, MA, the upper peninsula of MI, NH, NJ, NY, RI, VT, VA, and WV (eliminating IN as the gateway), (c) between St. Louis, MO and points in IL on the one hand, and, on the other, points in IL and WI (eliminating eastern IN as the gateway), (d) between St. Louis, MO and points in IL on the one hand, and, on the other, points in TX (eliminating eastern IN as the gateway), (e) from St. Louis, MO and points in IL to points in CA, NV, and UT (eliminating eastern IN as the gateway), and (f) between points in IN on the one hand, and, on the other, points in TX (eliminating Louisville as the gateway). (Hearing site: St. Louis, MO or Washington, DC.)

NOTE.—The purpose of this application is to eliminate the gateways as noted above, and is a directly related application to a finance proceeding docketed MC-F-13899F published in a previous section of the FR issue.

MC 119399 (Sub-94F), filed January 15, 1979. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, Joplin, MO 64801. Representative: Dean Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural pesticides*, dry, in containers and in bulk (other than in tank vehicles), and agricultural pesticides, liquid, in drums, From St. Joseph, Mo., to points in Arkansas, Iowa, Illinois, Kansas, Minnesota, and Nebraska. (2) *Agricultural pesticides and ingredients thereof*, dry, in containers and in bulk (other than in tank vehicles), and liquid, in containers, (a) From St. Joseph, Mo., to points in Colorado, Indiana, Iowa, Kentucky, Michigan, Montana, North Dakota, New Mexico, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming. (b) From points in Arkansas, California, Colorado, Florida, Illinois, Iowa, Michigan, Mississippi, Nevada, Ohio, and Tennessee, to St. Joseph, Mo. (3) *Agricultural pesticides* and *ingredients therefor*, in containers, (a) From St. Joseph, Mo., to points in Mississippi, Louisiana, Alabama, Georgia, Florida, Arizona, California, and New York. (b) From points in Texas, Louisiana, Alabama, Georgia, Arizona, and Indiana, to St. Joseph, Mo. (c) From the plant site of Missouri Chemical Company, at Los Angeles, Calif., to

points in Nevada, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, and New York. (d) From Orlando, Fla., to points in Georgia, Alabama, Mississippi, Louisiana, Arkansas, Tennessee, Indiana, Ohio, Kentucky, Texas, Oklahoma, and California. (e) From Denver, Colo., to points in Nebraska, Wyoming, South Dakota, North Dakota, Minnesota, Wisconsin, Texas, Oklahoma, Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, Missouri, Kansas and Iowa. (f) From Lubbock, Tex., to points in Arkansas, Oklahoma, Louisiana, Missouri, Tennessee, Mississippi, Alabama, Georgia, Florida, Colorado, Kansas, North Dakota, South Dakota, Wyoming, New Mexico, Montana, Nebraska, and Minnesota. (4) *Anti-freeze* in containers, Between St. Joseph, Mo., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin and Wyoming. (5) *Agricultural pesticides and ingredients thereof*, dry, in bulk and in containers (other than in tank vehicles), and agricultural pesticides, liquid in containers, (a) From North Kansas City, Mo., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Montana, Nebraska, Mexico, New York, North Dakota, Tennessee, Texas, Wisconsin and Wyoming. (b) From points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Michigan, Mississippi, Nevada, New Jersey, New Mexico, Ohio, Tennessee and Texas to North Kansas City, Mo. (6) *Containers and bags*, and *agricultural pesticides* and *ingredients thereof* (except commodities in bulk), From points in Kansas, Kentucky, Minnesota, Montana, North Dakota, New York, Nebraska, Oklahoma, South Dakota, Wisconsin and Wyoming to St. Joseph, Mo. (HEARING SITE: Kansas City, MO)

NOTE.—This application is directly related to MC-F-13772F published in a previous section of this FR issue. The purpose of this application is to convert the authority sought to be purchased from contract to common carrier authority.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before April 9, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

MOTOR CARRIERS OF PROPERTY.

MC-2245 (Deviation No. 8), THE O.K. TRUCKING COMPANY, 3000 E. Crescentville Rd., Cincinnati, OH 45241, filed February 14, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Danville, IL over Interstate Hwy 74 to junction IN Hwy 63, then over IN Hwy 63 to Terre Haute, IN, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Danville, IL over US Hwy 150 to Terre Haute, IN and return over the same route.

MC-2245 (Deviation No. 9), THE O.K. TRUCKING COMPANY, 3000 E. Crescentville Rd., Cincinnati, OH 45241, filed February 14, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Columbus, OH over Interstate Hwy 70 to Indianapolis, IN, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Columbus, OH over Interstate Hwy 71 to Cincinnati, OH, then over US Hwy 50 to Versailles, IN, then over US Hwy 421 to Indianapolis, IN and return over the same route.

MC 29555 (Deviation No. 27), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Bldg., St. Paul, MN 55104, filed January 12, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions over deviation routes as follows: (1) From Chicago, IL, over Interstate Hwy 57 to junction Interstate Hwy 64, then over Interstate Hwy 64 to St. Louis, MO, (2) From Chicago, IL over Interstate Hwy 55 to St. Louis, MO, and (3) From Chicago, IL over Interstate Hwy 57 to junction Interstate Hwy 70, then over Interstate Hwy 70 to St. Louis, MO, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Chicago, IL over US Hwy 41 to junction US Hwy 52, then over US Hwy 52 to Lafayette, IN, then over US Hwy 231 to Crawfordsville, IN, then over IN Hwy to junction US Hwy 41, then over US Hwy 41 to Vincennes, IN, then over US Hwy 50 to St. Louis, MO and return over the same route.

MC-30504 (Deviation No. 36), TUCKER FREIGHT LINES, INC., P. O. Box 3144, South Bend, IN 46619, filed February 14, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Louisville, KY over Interstate Hwy 65 to junction US Hwy 50, then over US Hwy 50 to Cincinnati, OH and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Louisville, KY over US Hwy 31-E to Sellersburg, IN, then over US Hwy 31 to Indianapolis, IN, then over US Hwy 52 to Cincinnati, OH and return over the same route.

MC-60012 (Deviation No. 5), RIO GRANDE MOTOR WAY, INC., 1400 W. 52nd Ave., Denver, CO 80221, filed February 15, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Crescent Jct, UT over US Hwy 163 to junction UT Hwy 262 near Blanding, UT, then over UT Hwy 262 to the UT-CO State Line, then over CO Hwy 41 to junction US Hwy 160, then over US Hwy 160 to junction US Hwy 666 near Cortez, CO, then over US Hwy 666 to junction US Hwy 550 near Shiprock, NM, then over US Hwy 550 to Farmington, NM and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Crescent Jct, UT, over US Hwy 50 to Montrose, CO, then over US Hwy 550 to Farmington, NM, and return over the same route.

MC 89723 (Deviation No. 45), MISSOURI PACIFIC TRUCK LINES, INC., 210 N. 13th St., St. Louis, Mo. 63103, filed February 15, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general com-*

modities, with certain exceptions, over a deviation route as follows: From Little Rock, AR, over Interstate Hwy 40 to junction US Hwy 65 at Conway, AR, then over US Hwy 65 to Harrison, AR, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Little Rock, AR, over US Hwy 67-167 to junction AR Hwy 14, then over AR Hwy 14 to junction AR Hwy 122, then over AR Hwy 122 to Newark, AR, then over AR Hwy 69 to Melbourne, AR, then over AR Hwy 9 to junction AR Hwy 56, then over AR Hwy 56 to Calico Rock, AR, then over AR Hwy 5 to junction unnumbered county road, approximately three miles north of Norfolk, AR, then over unnumbered county roads via Buford, AR, to junction US Hwy 62, then over US Hwy 62 to Pyatt, AR, then over unnumbered county road via Zinc, AR, to junction AR Hwy 7, near Bergman, AR, then over AR Hwy 7 to Harrison, AR, and return over the same route.

MC 108835 (Deviation No. 11), HYMAN FREIGHTWAYS, INC., 1745 University Ave., St. Paul, MN 55104, filed January 24, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Chicago, IL over Interstate Hwy 90 to Sioux Falls, SD, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Chicago, IL over US Hwy 14 to Madison, WI, then over US Hwy 12 to Minneapolis, MN, then over US Hwy 169 to junction unnumbered Hwy, then over unnumbered Hwy via Le Sueur, MN to junction US Hwy 169, then over US Hwy 169 to junction MN Hwy 22, then over MN Hwy 22 to Mankato, MN, then over MN Hwy 60 to Madelia, MN, then over MN Hwy 15 to Fairmont, MN, then over US Hwy 16 to Sioux Falls, SD and return over the same route.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 58475, filed November 15, 1978. Applicant: EVANS FREIGHT LINE, INC., 11245 Gladhill Road, Whittier, CA 90604. Representative: Fred H. Mackensen, 9454 Wilshire Blvd., Ste. 400, Beverly Hills, CA 90212. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, between the Los Angeles Basin Territory, as described in Note A and points and places on Interstate Hwy 15 between the Los Angeles Basin Territory and Yermo, on the one hand, and, on the other, points and places on and within 15 miles of IH 15 CA Hwy 127 between Baker and the California-Nevada State Line, and CA Hwy 190 between its junction with CA Hwy 127 and Stove Pipe Wells. Restrictions: (1) No express traffic handled by said applicant as an underlying carrier for any express corporation authorized to serve said points or any of them may be tranported between Yermo, on the one hand, and points on State Hwy 127 between Baker and the California-Nevada State Line, inclusive, on the other hand, where said shipments may have received or would receive a prior or a subsequent movement by rail to or from Yermo. (2) That no shipment of milk in bottles or in bulk, nor empty milk containers returning, may be transported between Barstow and any points on SH 127 between Baker and the California-Nevada State Line, inclusive. *NOTE A Los Angeles Basin Territory.* Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Hwy No. 118, approximately two miles west of Chatsworth; easterly along SH No. 118 to Sepulveda Blvd; northerly along Sepulveda Blvd. to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Los Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Blvd. to U.S. Hwy No. 99; northwesterly along U.S. Hwy No. 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Hwy No. 60; southwesterly along U.S. Hwys Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly, and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to SH No. 74; westerly along SH No. 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of the Atchison, Topeka & Santa Fe Railway Company; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the County road intersecting U.S. Hwy No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Hwy No. 395; southeasterly along U.S. Hwy No. 395 to the Riverside County-San Diego County boundary lines; westerly along said boundary line to the Orange County-San Diego County boundary lines; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, California State Building, 350 McAllister Street, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

California Docket No. 58659, filed February 7, 1979. Applicant L. J. CERKUEIRA, d/b/a C-WAY EXPRESS, P.O. Box 6114, Oakland, CA 94614. Representative: Eldon M. Johnson, The Hartford Bldg., 650 California Street, Suite 2808, San Francisco, CA 94108. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, be-

tween all points and places in the San Francisco Territory (as described in Note A hereto), and points within twenty-five (25) miles thereof, except that pursuant to a within-requested authority, no shipments of the following shall be transported: (1) *Petroleum products*, in bulk, in tank vehicles; (2) *Used household goods and personal effects* not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, travelling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard or straw matting; (3) *Livestock*, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers; (4) *Dangerous explosives*, subject to U.S. Department of Transportation regulations governing the transportation of hazardous materials; and (5) *Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.* In performing the within-requested service, use may be made of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service. *NOTE: A. THE SAN FRANCISCO TERRITORY.* Includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said county line to a point one mile west of State Hwy 82; southerly along an imaginary line one mile west of and paralleling State Hwy 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the southern Pacific Company right-of-way; southerly along the Southern Pacific Company right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Hwy 82; northwesterly along State Hwy 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Hwy 238 (Oakland Road); northerly along State Hwy 238 to Warm Springs; northerly along State Hwy 238 (Mission Blvd) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd and MacArthur Blvd to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd; northerly along Mountain Blvd to Warren Blvd (State Hwy 13); northerly along Warren Blvd to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the campus boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Hwy 123); northerly along San Pablo Avenue to and including the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, California State Bldg., 350 McAllister Street, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

Maine Docket No. X-67, filed February 6, 1979. Applicant: JOHN T. THUT, d/b/a THUT'S EXPRESS, 10 Patten Street, Bangor, ME 04401. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: (A-1) Bangor-Brewer to St. Albans, passing through and serving: Herman, East Hampden*, Carmel, Etna, Newport, Plymouth, Detroit, Pittsfield, (Palmyra), Hartland, St. Albans, East Newport; (A-2) From Stonington to Rockland passing through and serving: Stonington, Deer Isle, Bucksport, Stockton Springs, Searsport, Belfast, Camden, Rockport, Rockland. No intermediate service to be rendered in either direction between mainland points on this route. (A-3) Bangor to Stonington via Ellsworth as follows: Bangor to Stonington, Bangor, East Hampden*, Brewer, Ellsworth Falls, Ellsworth, Surry, Blue Hill, Blue Hill Falls, North Sedgwick, Sedgwick, Sargentville, Deer Isle, Stonington. Serving these points with only such freight as is shipped from or destined to Deer Isle or Stonington. (A-4) To pick up shipments of freight or merchandise in: Rockland, Rockport, Camden, Belfast, Searsport, Stockton Springs. Destined to: Orland, North Castine, Penobscot, Brooksville, Sargentville. Such shipments to be transferred to Fred A. Oxley, d/b/a Fred's Express at Bucksport; and, in the reverse direction to accept from said Fred A. Oxley, d/b/a Fred's Express, at Bucksport, shipments originating at: Sargentville, Brooksville, Penobscot, North Castine, Orland, for delivery at: Stockton Springs, Searsport, Belfast, Camden, Rockport; (A-5) *Fresh fish and shellfish*, from Sargentville to Rockland and Bangor, and empty fish containers from Rockland and Bangor to Sargentville. (A-6) *Candy and ice cream*, from Rockland to: Bucksport, Orland, Brooksville, North Castine, Penobscot, South Penobscot, North Brooksville. *No pickup or delivery service to be rendered in Hampden except that part of Hampden northerly and easterly of the southern junction of Old County Road and Route 1A commonly known as East Hampden and easterly of a line drawn due north from said junction to where it will intersect the main line of the Maine Central Railroad which area is understood to include the Hampden Industrial Park. IRREGULAR ROUTES: *Household goods*, between points in Stonington and/or Deer Isle, and between points in Stonington and/or Deer Isle on the one hand and points in Maine on the other hand. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to Maine Public Utilities Commission, State House, Augusta, ME 04333, and should not be directed to the Interstate Commerce Commission.

Michigan Docket No. L-16622, filed August 14, 1978. Applicant: BOAG WAREHOUSE CO., 2404 North Dort Hwy., Flint, MI 48501. Representative: Robert P. Cooper, 700 Frey Bldg., Grand Rapids, MI 49503. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *Paint products* (paints, lacquers, varnishes, and NOI), for United Coatings, Inc., from the warehouse facilities of Boag Warehouse Co., at or near Flint, MI, to points within a sixty (60) mile radius of Flint, MI, with the right of return from refused, rejected or damaged

shipments. Intrastate, interstate and foreign commerce authority sought. HEARING: March 28, 1979, at 9:30 A.M., at 6545 Mercantile Way, Lansing, MI. Requests for procedural information should be addressed to Michigan Public Service Commission, Mercantile Bldg., 6545 Mercantile Way, P.O. Box 30221, Lansing, MI 48909, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket MC-5317 (Sub-3) (AMENDMENT), filed December 29, 1978. Applicant: VOLUNTEER EXPRESS, INC., 1220 Faydur Court, Nashville, TN 37211. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of: *Such commodities* as are dealt in by printers and publishers, including *materials and supplies* used by printers and publishers, (1) from Dresden, TN via TN Hwy 22 to junction with U.S. Hwy 79, thence via U.S. Hwy 79 to junction with U.S. Hwy 45E, thence via U.S. Hwy 45E to junction with U.S. Hwy 45, thence via U.S. Hwy 45 to Jackson, and return over the same route serving no intermediate points; and (2) from Dresden, TN via TN Hwy 54 to junction with U.S. Hwy 45E, thence via U.S. Hwy 45E to junction U.S. Hwy 45, thence via U.S. Hwy 45 to Jackson, and return over the same route, serving no intermediate points. Restricted against the handling of traffic which originates at, is destined to, or interlined at Jackson, TN, and points in its commercial zone on the one hand, and, on the other, which originates at, is destined to, or interlined at Nashville, TN or Memphis, TN, and points in their respective commercial zones. Intrastate, interstate and foreign commerce sought. HEARING: March 27, 1979, at 9:30 A.M., Commission's Hearing Room, C1-110 Cordell Hull Building, Nashville, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, G1-102 Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-6911 Filed 3-9-79; 8:45 am]

[7035-01-M]

[Notice No. 38]

ASSIGNMENT OF HEARINGS

MARCH 5, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 143743 (Sub-1), Fulton Trucking Company, Inc., now assigned for hearing on May 7, 1979, (2 weeks), at Atlanta, GA., in a hearing room to be later designated.

MC-F-13727, Beaufort Transfer Company—Purchase—Langer Truck Line, Inc., now assigned for hearing on March 15, 1979, at St Louis, Missouri and will be held in Conference Room 322, U.S. Courts & Custom House.

NOR 36948, E & M Furniture & Appliance, Incorporated v. Burlington Northern, Inc, now assigned for hearing on March 13, 1979, at St. Louis, Missouri and will be held in Conference Room 322, U.S. Courts & Custom House.

AB 84 (Sub-2), Illinois Terminal Railroad Company Abandonment of Trackage Rights Over Illinois Central Gulf Railroad Company From Mont to Springfield in Madison, Macoupin, Montgomery, and Sangamon Counties, and FD 28868, Illinois Terminal Railroad Company-Trackage Rights Over Illinois Central Gulf Railroad Company Between Springfield and Wood River, Illinois and FD 28870, Illinois Terminal Railroad Company Construction and Operations of A Line Of Railroad At Wood River, Madison County, Illinois, now assigned for hearing on March 19, 1979, at Springfield, Illinois and will be held in Room 216, Federal Building, U.S. District Court.

MC 107012 (Sub-258), North American Van Lines, Inc., now assigned for hearing On March 19, 1979, at Atlanta, Georgia, and will be held in Room 302, 1252 West Peachtree Street, N.W.

MC 144190 (Sub-2F), Story, Inc., now assigned for hearing on March 21, 1979, at Atlanta, Georgia and will be held in Room 305, 1252 West Peachtree Street, N.W.

MC 124692 (Sub-241F), Sammons Trucking, now assigned for hearing on March 14, 1979, (1 day), at Portland, Oregon is postponed and reassigned to March 22, 1979 (2 days), in Room No. 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois.

MC 37093, Joint Rates Via The Ann Arbor Railroad System, December 1978, now assigned for hearing on March 13, 1979, at Washington, D.C. is postponed to March 28, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 144530F, Carl Leonard Whitted, DBA Hacaronee Bus Service, now assigned for hearing on March 21, 1979, at Wilmington, NC, will be held in the Board Room, Cape Fear Technical Institute, 411 North Front Street, instead of the City Hall, East Main Street.

MC 37093, Cancellation of Intermediate Routing, Ann Arbor Railroad System and I&S No. 9207 Cancellation of Joint Rates on Potash, Ann Arbor Railroad Company, now being assigned for hearing on March 28, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 36962, Camden Fibre Mills, Inc., v. New Hope And Ivyland Railroad Company, Kenneth J. Andrews, Trustees, Et Al., now being assigned for hearing on March 28, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 56679 (Sub-102), Brown Transport Corporation, now assigned for hearing on March 19, 1979, at New York, NY, is canceled and reassigned for hearing on March 19, 1979 (1 week), at the Century Center, 2000 Center Boulevard (Clairmont & I-85), Atlanta, GA.

MC 95540 (Sub-1031F), Watkins Motor Lines, Inc., now assigned for hearing on March 14, 1979, (3 days), at Chicago, Illinois is postponed indefinitely.

MC 109324 (Sub-38F), Garrison Motor Freight, Inc., now assigned March 13, 1979, at Little Rock, Arkansas is canceled transferred to Modified Procedure.

MC 130482F, Central Travel & Ticket, Inc., now assigned for hearing on March 21, 1979, at Toledo, Ohio and will be held in Room 418, Federal Building.

MC 119656 (Sub-44F), North Express, Inc., now assigned for hearing on March 26, 1979, at Columbus, Ohio and will be held in Room 235, Federal Building.

MC 124078 (Sub-845F), Schwerman Trucking Co., now assigned for hearing on March 27, 1979, at Columbus, Ohio and will be held in Room 235, Federal Building.

MC 144437 (Sub-4F), Walters Enterprises, Inc, now assigned for hearing on March 28, 1979, at Columbus, Ohio and will be held in Room 235, Federal Building.

MC 66746 (Sub-21F), Shippers Express, Inc., now assigned for hearing on March 7, 1979, at New Orleans, is canceled and reassigned to March 7, 1979, (2 days), at the Sheraton Inn International Airport, 2150 ' eterans Boulevard, Kenner, Louisiana.

MC—C-8877, Consolidated Freightways Corporation of Delaware—Investigation of and Revocation of Certificates, now being assigned for continued Prehearing Conference on March 30, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

FD 28499 (Sub-1), Norfolk and Western Railroad Company and Baltimore and Ohio Railroad Company—Control—Detroit, Toledo & Ironton Railroad Company and No. F.D. 28676 (Sub-No. 1), Grand Trunk Western Railroad—Control—Detroit and Toledo and Ironton Railroad Company and Detroit and Toledo Shore Line Railroad Company, now being assigned for additional Prehearing Conference on March 5, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 37095, Arthur Goldzweig, et al., v. Transport of New Jersey, et al, now being

assigned for hearing on April 9, 1979, (1 week), at Marlboro New Jersey, location of hearing room will be designated later.

H.G. HOMME, Jr.,
Secretary.

[FR Doc. 79-7085 Filed 3-7-79; 8:45 am]

[7035-01-M]

[Notice No. 35]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 28, 1979.

The following are notice of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 18088 (Sub-59TA), filed January 31, 1979. Applicant: FLOYD & BEASLEY TRANSFER CO., INC., P.O. Drawer 8, Sycamore, AL 35149. Representative: Charles Ephraim, suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Textile and textile products, and machinery, machinery parts, equipment, materials, and supplies* used in or in connection with the operation of textile mills and warehouses, except commodities the transportation of which because of size or weight require the use of special equipment for the transportation thereof, between the facilities of Monsanto Company at or near Gonzalez and Pensacola, FL, on the one hand, and on the other, points in AL and TN and the facilities of Firestone Tire and Rubber Company at or near Bowling Green, KY, for 180 days. Supporting shipper(s): Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63116. Send protests to: Mabel E. Holston, Transportation Asst., Bureau of Operation, ICC, room 1616, 2121 Building, Birmingham, AL 35203.

MC 20992 (Sub-51TA), filed January 24, 1979. Applicant: DOTSETH TRUCK LINE, INC., Knapp, WI 54749. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Iron and steel articles* from points in the Chicago and Granite City, IL Commercial Zones and from points in Lake and Porter Counties, IN to the facilities of Gehl Company at or near West Bend, WI and Madison, SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gehl Company, P.O. Box 179, West Bend, WI 53095. Send protests to: Delores A. Poe, Trans. Asst., ICC, 414 Federal Bldg. & U.S. Courthouse, 110 South 4th St., Minneapolis, MN 55401.

MC 61231 (Sub-136TA), filed January 31 1979. Applicant: EASTER ENTERPRISES, INC. d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Wood fencing, timbers, wood shavings and posts,* from Gladstone, MI to points in IL, IN, IA, MN and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): MacGillis & Gibbs Company, P.O. Box 12788, New Brighton, MN 12788. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 61396 (Sub-366TA), filed February 7, 1979. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Representative: Duane L. Stromer (same address as above). *Cement, in bulk and bag,* from at or near West Winfield, PA, to MD, NY, OH, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): David L. Williams, Penn-Dixie Industries, Inc., Cement Division, P.O. Box 152, Nazareth, PA 18064. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102

MC 68123 (Sub-4TA), filed January 31 1979. Applicant: Marie Cavalleri d.b.a. M & J TRUCKING, 220 Eliot Street, Fairfield, CT 06430. Representative: James M. Burns, Johnson's Bookstore Building, 1383 Main Street, suite 413, Springfield, MA 01103. *Zinc or zinc alloys, viz: annodes, ingots, pigs or slabs* (restricted to movement on flatbed type equipment), from the plant site of the St. Joe Zinc Company, Josephtown, Potter Township, Beaver County, Pennsylvania to points in the states of CT, MA, NY and RI., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): St. Joe Zinc Company, Two Oliver Plaza, Pittsburg, PA 15222. Send protests to: Mr. J. D. Perry, District Supervisor, Interstate Commerce Commission, 135 High Street, Hartford, CT 06101.

MC 75840 (Sub-115TA), filed January 31 1979. Applicant: MALONE FREIGHT LINES, INC., 200 South 35th Street, P.O. Box 11103, Birmingham, AL 35202. Representative: Frank D. Hall, suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. *Paper products,* from the facilities of Moore Business Forms, Inc., at or near Heflin, AL, to Houston, TX, for 180 days. Supporting shipper(s): Moore Business Forms, Inc., P.O. Box 97, Heflin, AL 36264. Send protests to: Mable E. Holston, Transportation Asst., Bureau of Operation, ICC, room 1616, 2121 Building, Birmingham, AL 35203.

MC 75840 (Sub-116TA), filed January 31, 1979. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, 3400 Third Avenue, South, Birmingham, AL 35202. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. *Insulated copper wire and cable,* from the facilities of Phelps Dodge Cable and Wire Company, at or near Yonkers, NY, to Houston, TX, for 180 days. Supporting shipper(s): Phelps Dodge Cable & Wire Company, P.O. Box 448, Yonkers, NY 10702. Send protests to: Mable E. Holston, Transportation Asst., Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 75840 (Sub-117TA), filed January 31, 1979. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, 3400 Third Avenue, South, Birmingham, AL 35202. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. *Paint, paint thinning compounds, and paint removing compounds,* from the facilities of International Paint Company, Inc., at or near Union, NJ, to Houston, TX, for 180 days. Supporting shipper(s): International Paint Company, Inc., 2270 Morris Ave., Union, NJ 07083. Send protests to: Mable E. Holston, Transportation Asst., Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 75840 (Sub-118TA), filed January 31, 1979. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, 3400 Third Avenue, South, Birmingham, AL 35202. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. *Iron or steel pipe fittings*, from the facilities of Victaulic Company of America at or near South Plainfield, NJ, and Easton, PA, to Houston, TX, for 180 days. Supporting shipper(s): Victaulic Company of America, 3100 Hamilton Blvd., So., Plainfield, NJ 07080. Send protests to: Mable E. Holston, Transportation Asst., Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 75840 (Sub-119TA), filed January 31, 1979. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, 3400 Third Avenue, South, Birmingham, AL 35202. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. *Cleaning and buffing compounds*, from the facilities of the Cello Chemical Company, at or near Havre de Grace, MD, to Houston, TX, for 180 days. Supporting shipper(s): The Cello Chemical Company, 1354 Old Post Road, Havre de Grace, MD 21078. Send protests to: Mable E. Holston, Transportation Asst., Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 87103 (Sub-29TA), filed January 22, 1979. Applicant: MILLER TRANSFER & RIGGING CO., P.O. Box 6077, Akron, OH 44312. Representative: Edward P. Bocko (same address as applicant). (1) *Sheet steel, structural steel, tube steel and other articles of iron or steel manufacture and* (2) *equipment, materials and supplies* used or useful in the manufacture and production of the commodities named in (1) above (except commodities in bulk), between Pittsburgh, PA on the one hand, and on the other, points in the United States in and east of MN, IA, MO, AR and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tubular Goods, Inc., 5601 Grand Ave., Pittsburgh, PA 15225. Send protests to: Mary A. Wehner, District Supervisor, Interstate Commerce Commission, 1240 E. Ninth Street, Cleveland, OH 44199.

MC 90870 (Sub-20TA), filed January 31, 1979. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, Attorney, 1100 Des Moines Building, Des Moines, IA 50309. *Iron and Steel Articles*, from the facilities of Jones & Laughlin Steel Corp. in Putnam County, IL to points in Missouri and the Kansas City, MO commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corp., Hennepin, IL 61327. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 95876 (Sub-265TA), filed February 6, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., P.O. Box 1377, 203 Cooper Avenue, North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Aircraft ground support equipment (except commodities which by reason of size or weight require special equipment or handling)* from Fargo, ND, Litchfield, Glenwood and Eagan, MN to points in TX, OH, MI, MO, TN, CA, NC, PA, NY, WA and Miami, FL, Atlanta, GA, Newark, NJ, Boston, MA, Chicago, IL, New Orleans, LA, Mobile, AL, Jackson, MS, Richmond, VA, Columbia, SC, Windsor Locks, CT, Manchester, NH, Denver, CO, Salt Lake City, UT and Las Vegas, NV, for 180 days. Supporting shipper(s): Stinar Corporation, 3255 Sibley Hwy., St. Paul, MN 55121. Send protests to: Delores A. Poe, Trans. Asst., ICC, 414 Federal Bldg. & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 99653 (Sub-12TA), filed January 31, 1979. Applicant: VICTORY FREIGHT LINES, INC., P.O. Box 2254, Birmingham, AL 35201. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. *Gypsum wall board, lumber and plywood, treated lumber, posts, poles, pilings, cross ties, particle board, asphalt and composition board sheets, and lumber*, from the facilities of Weyerhaeuser Co., Inc., at Briar, Dierks, Pine Mountain, DeQueen, Murphreesboro, AR; Wright City and Craig, OK, to points in AL, KY, LA, MS, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weyerhaeuser Company, P.O. Box 1060, Hot Springs, AR 71901. Send protests to: Mabel E. Holston, Transportation Asst., Bureau of Operation, ICC, room 1616, 2121 Building, Birmingham, AL 35203.

MC 100666 (Sub-428TA), filed January 16, 1979. Applicant: MELTON TRUCK LINES, INC., 1129 Grimmett Drive, P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, suite 615, East, Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Applicant is seeking authority to operate as a common carrier over irregular routes in the transportation of (1) *zinc oxide, zinc dust, and slab zinc* from the facilities of St. Joe Zinc Company in Josephtown, PA to points in Al, AR, GA, IL, IA, KY, LA, MS, MO, NE, OK, TN, TX, and WI; and (2) *materials, equipment and supplies used in the manufacture or distribution of the commodities named in (1) above (except commodities in bulk)* from points in the destination states named in (1) above to the facilities of St. Joe Zinc Company in Josephtown, PA, for 180 days. Supporting shipper(s): St. Joe Zinc Company, Two Oliver Plaza, Pittsburgh, PA 15222. Send protests to: Connie A. Guillory, I.C.C., T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 106674 (Sub-358TA), filed January 11, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123 U.S. Hwy 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). (1) *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds*, (except commodities in bulk, in tank vehicles), and filters, from points in Warren Country, MS to points in and east of WI, IL, KY,TN, MS, and LA; and (2) *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, filters, materials, supplies, and equipment* as are used in the manufacture sale, and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), from points in AL, GA, IL, IN, KY, NY, OH, PA, RI, SC, VA, and WV to points in Warren County, MS, for 180 days; Restricted in (1) and (2) above to shipments originating at or destined to the facilities of Quaker State Oil Refining Corporation in Warren County, MS, for 180 days. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to : Beverly J. Williams, Trans. Asst., ICC, Rm. 429, 46 E. Ohio St., Indianapolis, IN 46204.

MC 111729 (Sub-753TA), filed February 5, 1979. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same as applicant). *Agricultural and industrial equipment parts*, between Memphis, TN, and Conyers, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Deere Company, 2001 Deere Drive, Conyers, GA. 30208. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 112595 (Sub-84TA), filed January 30, 1979. Applicant: FORD BROTHERS, INC., P.O. Box 727, Ironton, OH 45638. Representative: Jerry B. Sellman, suite 1815, 50 West Broad Street, Columbus, OH 43215. (1) *Crude light oil of coal tar, in bulk in tank vehicles*, from Hamilton and Middletown, OH to Catlettsburg

(Leach), KY; and (2) *Petroleum, petroleum products and petrochemicals, in bulk, in tank vehicles* from Catlettsburg (Leach), KY to points in IN and OH, for 180 days. Supporting shipper(s): Emil M. Sturzenagger, Traf. Mgr. Ashland Petroleum Co., Div. of Ashland Oil, Inc., P.O. 391, Ashland, KY 41101. Send protest to: Ruth F. Stark, Secy, Rm 3108 Federal Bldg., 500 Quarrier St., Charleston, WV 25301.

MC 112713 (Sub-246TA), filed February 2, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records (same as applicant). *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities of unusual value, and those requiring special equipment, serving Bristol, WI as an off-route point in connection with carrier's otherwise authorized operations, for 180 days. An underlying ETA is sought for 90 days. Supporting shipper(s): Charmglow Products, Bristol, WI; Illinois Range Co., Bristol, WI; and Branko Corp., Bristol, WI. Send protests to: DS John V. Barry, ICC, 600 Fed. Bldg., 911 Walnut, Kansas City, MO 64106.

MC 113158 (Sub-34TA), filed January 24, 1979. Applicant: TODD TRANSPORT CO., INC., Box 158, Secretary, MD 21664. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. Foodstuffs, except commodities in bulk, from the facilities of Gioia Macaroni Co., Inc., at Buffalo, NY, to Windsor Locks, CT, Chester and Mechanicsville, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gioia Macaroni Co., Inc., 1700 Elmwood Avenue, P.O. Box 237, Buffalo, NY 14207. Send protests to: Carol Rosen, TA, ICC, 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 115162 (Sub-453TA), filed January 31, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, P.O. Drawer 500, Evergreen, AL 36401. *Such commodities as are dealth in, or used by agricultural equipment, industrial equipment and lawn and leisure product dealers* (except commodities in bulk, in tank vehicles) from the facilities of Deere & Company located in Black Hawk, Dubuque, Polk, Scott and Wapello Counties, IA; Rock Island County, IL; and Dodge County, WI to VA; from the facilities of Deere & Company located in Black Hawk, Dubuque, Polk, Scott and Wapello Counties, IA; and Rock Island County, IL to NC, SC, and MS; and from the facilities of Deere & Company locted Black Hawk, Polk and Wapello Counties, IA to FL. Supporting shipper: Deere & Company; John Deere Road; Moline, IL 61265. Send protests to: Mable Holston, Transportation Assistant; 1616-2121 Building; 2121 Eighth Avenue, North; Birmingham, AL 35203.

MC 115162 (Sub-454TA), filed January 31, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). (1) *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds*, (except in bulk, in tank vehicles), *and filters* from points in Warren County, MS to all points in U.S. except AK and HI; and (2) *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, filters, materials supplies, and equipment as are used in the manufacture, sale, and distribution of the commodities named in (1) above*, (except in bulk, in tank vehicles) from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV to points in Warren County, MS. Restricted in (1) and (2) above to shipments originating at or destined to facilities of Quaker State Oil Refining Corporation in Warren County, MS, for 180 days. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: Mable E. Holston, Transportation Asst., Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35202.

MC 115570 (Sub-22TA), filed January 25, 1979. Applicant: WALTER A. JUNGE, INC., 3818 Southwest 84th Street, Tacoma, WA 98491. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Contract carrier:* irregular routes: *Paper and paper products*, from Seattle, Tacoma and the International Port of Entry at Blaine, WA to points in CA, ID, NV, MT, and UT, for the account of Powell River-Alberni Sales Corporation, for 180 days. Supporting shippers(s): Powell River-Alberni Sales Corporation, 1505 Peoples Bank Bldg., Seattle, WA. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 116474 (Sub-41TA), filed January 31, 1979. Applicant: LEAVITTS FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, OR 97477. Representative: David C. White, 2400 Southwest Fourth Avenue, Portland, OR 97201. *Contract carrier:* irregular routes: *Laminated wood products, prefabricated wooden timbers, trusses and beams, and accessories used in the erection, construction and completion of the foregoing commodities*, from the facilities of Duco-Lam, Inc., at Swisshome, OR to points in CA, NV, WA, and MT, under contract with Ducolam, Inc., for 180 days. Supporting shipper(s): Duco-Lam, Inc., P.O. Box 297, Drain, OR 97435. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 117119 (Sub-716TA), filed February 6, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same as applicant). *Electric fans* from Newark, NJ to the storage facilities of Wal-Mart Stores, Inc. at Springfield, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 117815 (Sub-306TA), filed January 29, 1979. Applicant: Pulley Freight Lines, Inc., 405 Southeast 20th Street, Des Moines, IA 50317. Representative: Michael L. Carter (same as applicant). *Such commodities as are dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business*, between points in KS, IL, IN, IA, MI, MN, MO, NE, OH, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 11 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 117892 (Sub-4TA), filed January 31, 1979. Applicant: THREE "T" TRUCK LINE, INC., P.O. Box 426, Bettendorf, IA 52722. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. *Aluminum*, from the facilities of Aluminum Company of America located at Riverdale, IA, to Adrian, Detroit, Dearborn, Battle Creek, Cadillac, Constantine, Deckerville, Lavonia, Lansing, Lincoln Park, Hazel Park, Madison Heights, Grand Blanc, Pontiac, Warren, Roseville, Flint, Troy, and Grosse Ile, MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Aluminum Company of America, 1501 Alcoa Building, Pittsburgh, PA 15219. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 118959 (Sub-198TA), filed February 1, 1979. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Salt and salt products* (except commodities in bulk) from (1) Avery Island, LA to MS, AL, GA, FL, NC, AR, SC and TN

and (2) from Cleveland, OH to IN, IL, MO, AR, KY, TN, MS, GA, FL, AL, NC and SC, for 180 days. Supporting shipper(s): International Sale Co., 1600 Tullie Circle, Suite 133, Atlanta, GA 30329. Send protests to: P. E. Binder, ADS, ICC, Rm 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 118959 (Sub-199TA), filed February 1, 1979. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. (1) *Paper and paper products* and articles distributed by manufacturers of paper and paper products (except commodities in bulk) from the facilities of The Procter & Gamble Co. at or near Albany, GA to points in TX, AR, and OK; and (2) *Materials, equipment and supplies* used in the manufacture, sale or distribution of paper and paper products (except commodities in bulk) from points in AR, OK and TX to the facilities of The Procter & Gamble Co. at or near Albany, GA, for 180 days. Supporting shipper(s): The Procter & Gamble Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: P. E. Binder, ADS, ICC, Rm 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 119090 (Sub-8TA), filed January 31, 1979. Applicant: THRUWAY FREIGHT LINES, INC., P.O. Box 567, Sparta, NJ 07871. Representative: Barry Finkle, (same address as applicant). *Paper and paper products*, from site of International Paper Company at or near Corinth, and Ticonderoga, NY to points in the New York, NY commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Paper Company, 220 E. 42nd St., New York, NY 10017. Send protests to: Joel Morrows, D/S, ICC, 9 Clinton St., Room 618, Newark, NJ 07102.

MC 119399 (Sub-92TA), filed 2/7/79. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: David L. Sitton (same as applicant). *Petroleum products, in packages*, from the facilities of Texaco, Inc. in Jefferson County, Texas, to points in AL, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, ND, OH, SD, TN, & WI for 180 days. A corresponding ETA for 90 days is being sought. Supporting Shipper(s): Texaco, Inc., Houston, TX. Send protests to: DS John V. Barry, ICC, 600 Fed Bldg., 911 Walnut, KC, MO 64106.

MC 120910 (Sub-18TA), filed January 31, 1979. Applicant: SERVICE EXPRESS, INC., PO Box 1009, Tuscaloosa, AL 35401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., PO Box 1240, Arlington, VA 22210. *Smelting compound* (except in bulk), from Tuscaloosa, AL, to points in VA, GA, MS, NC, SC, TN, MO, LA, AR and FL, for 180 days. Supporting Shipper(s): Southeastern Resources, PO Box 76143, Birmingham, AL 35223. Send protests to: Mabel E. Holston, Transportation Assistant, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 120910 (Sub-19TA), filed January 31, 1979. Applicant: SERVICE EXPRESS, INC., PO Box 1009, Tuscaloosa, AL 35401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., PO Box 1240, Arlington, VA 22210. *Smelting compound* (except in bulk), from Tuscaloosa, AL, to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Southeastern Resources, PO Box 76143, Birmingham, AL 35223. Send protests to: Mabel E. Holston, Transportation Assistant, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 123314 (Sub-25TA), filed January 30, 1979. Applicant: John F. Walter, Inc., P.O. Box 175, Newville, PA 17241. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. *Such merchandise* as is dealt in by wholesale, retail, chain grocery and feed business houses, from the facilities of Ralston Purina Company at or near Hampden Township, Cumberland County, PA., to points in NY south of Hwy I-84 and to points in NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ralston Purina Company, 6509 Brandy Lane, Mechanicsburg, PA 17055. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 126139 (Sub-5TA), filed January 31, 1979. Applicant: AARON SMITH TRUCKING CO., INC., P.O. Box 153, Dudley, NC 28333. Representative: John N. Fountain, P.O. Box 2246, Raleigh, NC 27602. *Canned and bottled foodstuffs* from the facilities of Bruce Foods Corporation at Wilson, NC to all points in CO, for 180 days. An underlying ETA was filed seeking 90 days authority. Supporting Shipper(s): Bruce Foods Corporation, P.O. Box 2043, Wilson, NC 27893. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, P.O. Box 26896, Raleigh, NC 27611.

MC 128095 (Sub-23TA), filed January 31, 1979. Applicant: IBCO TRUCK LINE, INC., P.O. Box 1402, Tupelo, MS 38801. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. *New furniture* from the facilities of Furniture Shippers Association at or near Hickory and High Point, NC to Memphis, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Furniture Shippers Association, P.O. Box 854, 121 S. Centennial, High Point, NC 27261. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 128095 (Sub-24TA), filed January 31, 1979. Applicant: IBCO TRUCK LINE, INC., P.O. Box 1402, Tupelo, MS 38801. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. *Household appliances and equipment, materials and supplies* used in the manufacture and distribution thereof (except commodities in bulk) from the facilities of the General Electric Company at Appliance Park, Louisville, KY to all points in the state of MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): General Electric Company, Appliance Park, Louisville, KY 40225. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 133959 (Sub-11TA), filed January 31, 1979. Applicant: LEWIS ALBAUGH AND MELVIN ALBAUGH d.b.a. ALBAUGH TRUCK LINE, 112 Main Street, Elkhart, IA 50073. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Contract carrier*—irregular routes. (1) *Trailers* from the facilities of The Fruehauf Corp. at Omaha, NE to points in AR, CO, IA, IL, KS, MN, MO, MI, MT, IN, OH, ND, OK, SD, TX, WI, and WY; (2) *Trailers in secondary movement and trailer equipment, materials and accessories between the facilities of The Fruehauf Corp.*, in AR, CO, IA, IL, IN, KS, MN, MO, ND, NE, MI, MT, OH, OK, SD, TX, WI, and WY under contract with The Fruehauf Corp. for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Fruehauf Corporation, P.O. Box 238, Detroit, MI 48232. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 134301 (Sub-7TA), filed January 22, 1979. Applicant: ATLANTIS TRANSPORTATION SERVICES INC., 753 Farewell Avenue, Oshawa, Ontario, Canada L1H 6N4. Representative: Miss Welhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *General Commodities (except commodities in bulk and Class A & B explosives) when moving in rollerbed equipment*, between ports of entry on the United States-Canada In-

ternational Boundary Line in MI and NY, on the one hand, and, on the other, O'Hare International Airport, Chicago, IL; Detroit Metropolitan Airport, Romulus MI; Willow Run Airport, Willow Run MI; Cleveland Hopkins Airport, Cleveland OH; Buffalo International Airport, Buffalo NY; Monroe County Airport, Rochester NY; LaGuardia International Airport, Flushing NY; J. F. Kennedy International Airport, Jamaica NY; Philadelphia International Airport, Philadelphia PA; and Newark Airport, Newark NJ. Restricted to the transportation of shipments having a prior or subsequent movement by air and moving to or from Toronto International Airport, Toronto, Ontario, Canada, for 180 days. Supporting Shipper(s): Swissair, 80 Bloor St., West, No. 1406, Toronto, Ontario; K.L.M., Royal Dutch Airlines, 335 Bay Street, Toronto, Ontario. Send protests to: I.C.C., 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 135874 (Sub-156TA), filed January 17, 1979. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A & C of Appendix I to the Report in Descriptions in Motor Carrier Certificates 61 MCC 209 & 766 (except hides and commodities in bulk)* from the facilities of Iowa Beef Processors, Inc. at or near Dakota City, NE and Sioux City, IA to points in MI, OH, PA, NY, NJ, WV, VA, DE, MD, DC, CT, RI, ME, NH, VT and MA. Restricted to traffic originating at the above named states or in foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Delores A. Poe, Trans. Asst., I.C.C., 414 Federal Bldg. & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 136553 (Sub-69TA), filed January 29, 1979. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, IA 52001. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Snow removal equipment from the facilities of Klauer Manufacturing Company* at Dubuque, IA to points in the U.S. except AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Klauer Manufacturing Company, 9th and Washington, Dubuque, IA 52001. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 138076 (Sub-11TA), filed January 23, 1979. Applicant: HEAVY HAULING, INC., 1100 West Grand, Salina, KS 67401. Representative: Clyde N. Christey, 1010 Tyler, Suite 110-L, Topeka, KS 66612. *Salvage Electrical Substations, Salvage Distribution Transformers and Salvage Electrical Wire* from points in AZ, AR, CO, IL, IN, IA, LA, MN, MO, NE, NM, ND, OK, SD, TX and WY to points in Dickinson and Saline Counties, KS. Reconditioned Electrical Substations, Reconditioned Distribution Transformers and Electrical Wire from points in Dickinson and Saline Counties, KS to AZ, AR, CO, IL, IN, IA, LA, MN, MO, NE, NM, ND, OK, SD, TX and WY, for 180 days. Supporting Shipper(s): Solomon Electric Supply, Inc., Box 245, Solomon, KS 67480. Send protests to: Thomas P. O'Hara, DS, ICC, 256 Federal Bldg., 444 S. E. Quincy, Topeka, KS 66683.

MC 138575 (Sub-9TA), filed Febraury 6, 1979. Applicant: GWINNER OIL CO., INC., Box 38, Gwinner, ND 58040. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. *Contract carrier:* irregular routes: (1)*Tires* from Akron, OH and Milwaukee and Eau Claire, WI; and (2) *Engines* from Milwaukee, WI; to the facilities of Clark Equipment Co., Melroe Division at or near Gwinner, ND, for 180 days. Supporting Shipper(s): Clark Equipment Co., Melroe Division, Box 38, Gwinner, ND 58040. Send protests to: Ronald R. Mau, DS, ICC, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 138875 (Sub-135TA), filed Febraury 2, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, Idaho 83705. Representative: F. L. Sigloh (same address as above). *Chemicals and prepared food and beverage mixes (except commodities in bulk)*, between points in CA, OR and WA, restricted to traffic originating at or destined to the facilities of Foremost-McKesson, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): McKesson Chemical Co., A Division of Foremost-McKesson, Inc., Crocker Plaza, One Post Street, San Francisco, CA 94104. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 138875 (Sub-136TA), filed Febraury 2, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID. 83705. Representative: F. L. Sigloh (same address as above). *Soda ash and sodium bicarbonate* (except commodities in bulk), from points in Sweet Water County, WY to the facilities of McKesson Chemical Co., a Division of Foremost-McKesson, Inc. located at or near Portland, OR and Seattle, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): McKesson Chemical Co., A Division of Foremost-McKesson, Inc., Crocker Plaza, One Post Street, San Francisco, CA 94104. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 138882 (Sub-213TA), filed January 31, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., PO Drawer 707, Troy, AL 36081. Representative: George A. Olsen, PO Box 357, Gladstone, NJ 07934.*Charcoal, charcoal briquets, hickory chips, charcoal lighter fluid, fireplace logs* (compressed sawdust) *related barbecue supplies*, from White City, OR, to AZ, CA, ID, MT, WA, WY, UT, NV, and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Husky Industries Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: Mabel E. Holston, Transportation Asst., Bureau of Operation, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-214TA), filed January 31, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC, P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Corroding grade lead* in pigs and blocks, from the facilities of Amaz Lead and Zinc, Inc. located at or near Boss and Buick, MO to the facilities of Daniell Battery Manufacturing Co., Baton Rouge, LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Deniell Battery Manufacturing Co., P.O. Box 15159, Baton Rouge, LA 70815. Send protests to: Mabel E. Holston, Transportation Asst., Bureau of Operation, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-215TA), filed January 31, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC, P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Smelting compound* (except in bulk), from the facilities of Southeastern Resources located at Tuscaloosa, AL to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Southeastern Resources, P.O. Box 76143, Birmingham, AL 35223. Send protests to: Mabel E. Holston, Transportation Asst., Bureau of Operation, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 139006 (Sub-6TA), filed January 30, 1979. Applicant: RAPIER SMITH, R.R. 5, Loretto Road, Bardstown, KY 40004. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. *Wooden barrels*, (1) between Pekin, IL, and its commercial zone, and Overpeck, OH and its commercial

zone, (2) from Lebanon, KY, and its commercial zone, to Tullahoma, TN, and its commercial zone, and (3) from Tullahoma, TN, and its commercial zone, to points in KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): James Maier, Production-Sales Coordinator, P.O. Box 8275, Louisville Cooperage Company, Louisville, KY 40208. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 140829 (Sub-183TA), filed February 7, 1979. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. *Water treating and industrial process products, in vehicles equipped with temperature controls,* from the facilities of Nalco Chemical Company, at or near Chicago, IL, to points in CO, IA, KS, MO, NE, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Joseph C. Naso, Nalco Chemical Company, 2901 Butterfield Road, Oak Brook, IL 60521. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140829 (Sub-184TA), filed February 7, 1979. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. *Dry beverage preparations and dessert preparations. liquid,* from the facilities of the Jel Sert Company, at or near West Chicago, IL, to points in IA, KS, MO, NE, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Joseph Stalec, The Jel Sert Company, Hwy 59 and Conde St., West Chicago, IL 60185. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St, Omaha, NE 68102.

MC 140849 (Sub-18TA), filed January 29, 1979. Applicant: ROBERTS TRUCKING CO., INC., U.S. Highway 271 South, P.O. Drawer G, Poteau, OK 74953. Representative: Prentiss Shelley (same as applicant). Contract carrier, irregular routes: 1. *Materials, equipment and supplies* used in the manufacture of products of the Kellwood Company, 2. *Products* manufactured by the Kellwood Company in shipper owned or carrier owned vehicles (except commodities in bulk in tank vehicles or shipments, because of size or weight require special equipment), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Kellwood Company, 200 Sears Road, Perry, Georgia 31069. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 140869 (Sub-11TA), filed January 29, 1979. Applicant: KERRI TRUCKING, INC., 240 South River Street, Hackensack, NJ 07601. Representative: David Olsen, 116 Williams Avenue, Old Tappan, NJ 07675. Contact carrier, irregular routes, *flour, prepared edible and grain, beverage preparations, bread crubs, syrups, advertising material* and *equipment* and *supplies* used in the manufacturing of these products from Evansville, IN to points in the United States in and east of WI, IL, KY, TN, MS, and LA; for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Modern Maid Food Products, 200 Garden City Plaza, Garden City, NY 11530. Send protests to: Joel Morrows, DS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 141804 (Sub-171), filed January 31, 1979. Applicant: WESTERN ESPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Fixtures for retail stores,* from Omaha, NE to points in AZ, CA, ID, NV, OR, and UT. Restricted to traffic originating at or destined to the facilities of Lozier Corp. for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): S. L. Yarbrough, Vice President, Lozier Corp., 8901 E. Arrow Route, Rancho Cucamonga, CA 91370. Send protests to: Irene Carlos, TA, 300 North Los Angeles St., Room 1321, Los Angeles, CA 90012.

MC 141187 (Sub-5TA), filed January 29, 1979. Applicant: BLUFF CITY TRANSPORTATION, INC., 2877 Farrisview Road, P.O. Box 18391, Memphis, TN 38118. Representative: James N. Clay, III, 2700 Sterick Building, Memphis, TN 38103. *Contract Carrier:* irregular routes: (1) *Cast iron pipe fittings and rough iron castings* from Clito, GA to points in the United States (except AK and HI) and *materials, supplies and machinery used in the production and distribution of cast iron pipe fittings and rough iron castings* (except commodities in bulk and those which because of size or weight require the use of special equipment) from points in the United States (except AK and HI) to Clito, GA; (2) *Iron pipe fittings and hangers and wrought iron pipe* from Henderson, TN to points in the United States (except AK and HI), and *materials, supplies and machinery used in the production and distribution of iron pipe fittings and hangers and wrought iron pipe* (except commodities in bulk and those which because of size or weight require the use of special equipment) from points in the United States (except AK and HI) to Henderson, TN; and (3) *Iron pipe fittings and iron and steel pipe* from Princeton, KY to points in the United States (except AK and HI) and *materials, supplies and machinery used in the production and distribution of iron pipe fittings and iron and steel pipe* (except commodities in bulk and those which because of size or weight require the use of special equipment) from points in the United States (except AK and HI) to Princeton, KY, for 180 days. RESTRICTION: Restricted to a service to be performed under contract with ITT Grinnell Corporation. Supporting Shipper(s): (1) ITT Grinnell Corporation, P.O. Box 427, Statesboro, GA 30458. (2) ITT Grinnell Corporation, 260 West Exchange Street, Providence, RI 02901. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 143436 (Sub-26TA), filed January 16, 1979. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. *Such merchandise as is dealt in by wholesale and retail grocery houses, retail chain department stores and drug stores in vehicles equipped with mechanical refrigeration,* from the facilities of Boyle-Midway at or near Chicago, IL to points in IN, KY and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Boyle-Midway, 5151 W. 73rd St., Chicago, IL 60638. Send protests to: Beverly J. Williams, Trans. Asst., I.C.C., Room 429, 46 E. Ohio St., Indianapolis, IN 46204.

MC 143436 (Sub-27TA), filed January 9, 1979. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. *Paint, paint racks and miscellaneous items* used in the sale, distribution and application of paint, from the facilities of United Coatings, Inc. at or near Chicago, IL to points in IN, KY, MI, OH and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: United Coatings, Inc., 3050 N. Rockwell, Chicago, IL 60618. Send protests to: Beverly J. Williams, Trans. Asst., I.C.C., Room 429, 46 E. Ohio Street, Indianapolis, IN 46204.

MC 143552 (Sub-8TA), filed January 30, 1979. Applicant: CELEWEND ASSOCIATES, INC., 1 Whitfield Street, Caldwell, NJ 07006. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Contract carrier; ir-

regular routes. *Foodstuffs* (except commodities in bulk), from the facilities of the Paramount Marcaroni Co. located at or near Deer Park, Long Island, NY to Bridgeport, CT; Chicago and West Chicago, and Galesburg, IL; Buffalo, NY; Fostoria, OH; Mechanicsburg, PA; Chattanooga, TN; and Dallas, TX. Under a continuing contract or contracts with the Paramount Macaroni Co. of Deer Park, Long Island, NY for 180 days. Supporting Shipper: Paramount Macaroni Co., 325 Marcus Blvd., Deer Park, Long Island, NY. Send protests to: Joel Morrows, D/S, ICC, 9 Clinton St., Room 618, Newark, NJ 07102.

MC 143621 (Sub-8TA), filed January 31, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave. North, Nashville, TN 37219. Representative: Sidney T. Stanley, 901 5th Ave. North, Nashville, TN 37219. *Lumber* from the facilities of Norvell & Wallace, Nashville, TN to points in Ky and AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Norvell & Wallace Inc., 701 Hamilton Ave., Nashville, TN 37203. Send protests to: Glenda Kuss, TA, ICC, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143687 (Sub-8TA), filed February 7, 1979. Applicant: DAVID DALE TRANSPORT, INC., 2 Franklin Street, West Medway, MA 02053. Representative: Weiner and Chused, 15 Court Square, Boston, MA 02108. Contract carrier—irregular routes. *Plastic articles* (except in bulk) from Frankfort and Joliet, IL to points in IN, OH, MI, KY, PA, TX, and WV., for 180 days. Supporting shipper(s): 1. Mobil Chemical Co., Plastics Division, Macedon, NY 14502. 2. Sentinel Foam Products, Inc., Hyannis, MA. Send protests to: Glenn A. Eady, Transportation Specialist, Interstate Commerce Commission, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 143815 (Sub-5TA), filed January 31, 1979. Applicant: R & D TRUCKING COMPANY, INC., Church Road, Lauderdale Industrial Park, Florence, AL 35630. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Contract, irregular: *Heating equipment, fireplaces, stoves, incinerators, parts and accessories* therefor, from the facilities of Martin Industries, Inc., at or near Athens, Huntsville, Sheffield, AL, and Americus, GA, to points in the U.S. (excluding AK, CA, IL, IN, KY, MI, MN, OH, TN, TX, and WI), under a continuing contract or contracts with Martin Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Martin Industries, Inc., PO Box 128, Florence, AL 35630. Send protests to: Mabel E. Holston, Transportation, Asst., Bureau of Operation, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 145243 (Sub-4TA), filed January 31, 1979. Applicant: REDBIRD DEVELOPMENT, INC., 1018 Whitlock Road, Rochester, NY 14609. Representative: S. Michael Richards, P.O. Box 225—44 North Avenue, Webster, NY 14580. *Contract carrier;* irregular routes: *Scrap metal,* from Rochester, NY to all points in NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lyell Metal Co., Inc., Stuart Bobry, President, 1510 Lyell Ave., Rochester, NY 14606. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St.—Room 1259, Syracuse, NY 13260.

MC 145411 (Sub-3TA), filed January 30, 1979. Applicant: WILLIAM V. THOMAS, P.O. Box 554, Ojo Caliente, NM 87549. Representative: Roger V. Eaton, P.O. Drawer 965, Albuquerque, NM 87103. *Contract carrier:* irregular routes: *Wallboard,* from Rosario, NM, to Phoenix and Tucson, AZ, for the account of Western Gypsum Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Western Gypsum Co., P.O. Box 2636, Santa Fe, NM 87501. Send protests to: District Supervisor, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 145441 (Sub-19TA), filed February 2, 1979. Applicant: A. C. B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey, (Same as applicant). Alcoholic beverages (in bulk), from Sonoma, CA to points in CT, DE, IL, IN, KY, MD, MA, MI, NY, OH, PA, RI and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Sebastiani Vineyards, P.O. Box AA, 389 Fourth Street East, Sonoma, CA 95476. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145648 (Sub-2TA), filed January 31, 1979. Applicant: DUDLEY TRUCKING, INC., P.O. Box 1651, Tacoma, WA 98401. Representative: Michael B. Crutcher, 2000 IBM Building, Seattle, WA 98101. *Iron and steel articles and pipe,* between points in WA and OR, on the one hand, and, on the other, points in ID and MT, for 180 days. Supporting Shipper(s): There are 25 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 145668 (Sub-1TA), filed January 30, 1979. Applicant: DACA, INC., 19450 No. Highway 99, Acampo, CA 95220. Representative: Fred H. Mackensen, 9454 Wilshire Blvd., Ste. 400, Beverly Hills, CA 90212. Contract carrier, irregular routes: *meats, meat products and meat byproducts and such commodities as used by meat packers in the conduct of their business when destined to and for use by meat packers,* as described in sections A and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Harlan, IA and Omaha, NE to Lodi, CA, and from Lodi, CA to Waterloo, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Goehring Meat, Inc., P.O. Box 147, Lodi, CA 95240. Send protests to: District Supervisor A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 145829 (Sub-2TA), filed January 18, 1979. Applicant: ETI Corp., P.O. Box 549, Linden, NJ 07036. Representation: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier* irregular routes; *Paper and paper products, and materials, equipment, and supplies used in the manufacture and distribution thereof* (except commodities in bulk), between the facilities of the Union Camp Corporation located at or near Tifton and Savannah, GA on the one hand, and on the other, points in the States of CT, DE, MD, MA, NH, NJ, NY, PA, and RI. Under a continuing contract or contracts with the Union Camp Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: Robert E. Johnston, District Supervisor, INTERSTATE COMMERCE COMMISSION, 9 Clinton Street, Newark, New Jersey 07102.

MC 145842 (Sub-1TA), filed January 17, 1979. Applicant: SUNDERMAN TRANSFER INC., Box 63, Windom, MN 56101. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Meat, meat products, meat by-products and articles distributed by meat packinghouses, and described in Sections A, B and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61, M.C.C. 290 and 766 (except commodities in bulk)* from the facilities of John Morrell & Co. at Sioux Falls, SD, Estherville and Sioux City, IA, to Chicago and E. St. Louis, IL and their commercial zones, and to St. Louis, MO and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): John Morrell & Co., 208 South La Salle St., Chicago, IL 60604.

SEND PROTESTS TO: Delores A. Poe, Trans. Asst., I.C.C., 414 Federal Bldg. & U.S. Courthouse, 110 South 4th St., Minneapolis, MN 55401.

MC 145979 (Sub-1TA), filed January 31, 1979. Applicant: CALIFORNIA EXPRESS, LTD., 100 Beta Drive, P.O. Box 756, Franklin, TN 37064. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Chemicals, cleaning, scouring and washing compounds, plastic liquids and sheeting, ink, defoaming compounds, laminating machinery, laminating machinery parts, solvents, pallets and containers, in mechanically refrigerated equipment,* between the facilities of Thiokel/Dynachem Corporation at or near Tustin, CA, on the one hand, and on the other, Woburn and South Hadley Falls, MA, Herndon, VA, Elmhurst, IL, Matthews, NC, Tampa, FL, and Detroit, MI, for 180 days. Restricted against the transportation of commodities in bulk. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Thiokel/Dynachem Corporation, P.O. Box 12047, Santa Ana, CA 92711. Send protests to: Glenda Kuss, TA, ICC, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 145981 (Sub-3TA), filed January 18, 1979. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Wall paper and wall coverings, and materials, equipment, and supplies used in the manufacture and sale of wall paper and wall coverings (except commodities in bulk),* from the facilities of J. Josephson, Inc., located at or near South Hackensack, NJ, to Atlanta, GA, Chicago, IL, Dallas, TX, Denver, CO, Detroit, MI, Ft. Wayne, IN, Greenville, SC, Los Angeles, CA, Miami, FL, Milwaukee, WI, St. Paul, MN, and Pittsburgh, PA. Restricted to shipments originating at the above origins and destined to the above destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): J. Josephson, Inc., 35 Empire Blvd., S. Hackensack, NJ 07606. Send protests to: Robert E. Johnston, District Supervisor, INTERSTATE COMMERCE COMMISSION, 9 Clinton Street, Newark, New Jersey 07102.

MC 140768 (Sub-31TA), filed January 29, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. *Alumina tri-hydrate, except in bulk,* from South Plainfield, NJ to Willow Grove, PA, Fitchburg and Leominster, MA, Newburgh, Utica and Hicksville, NY, Bridgeport, CT, Bow and Contocook, NH, Martinsburg, WV, and Wilmington, DE, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Great Lakes Minerals Company, 2855 Coolidge Highway, Troy, MI 48084. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, New Jersey 07102.

MC 146015 (Sub-1TA), filed February 1, 1979. Applicant: MUMMA FREIGHT LINES, INC., 575 South Front Street, Steelton, PA 17113. Representative: G. Thomas Roberts, 2320 North Second Street, Harrisburg, PA 17110. Such merchandise as is dealt in by wholesale, retail, chain grocery and feed business houses, manufactured or handled by the shipper's plant at or near Hampden Township, Cumberland County, PA, (No authority to transport commodities in bulk is being sought) from the Ralston Purina Company at or near Hampden Township, Cumberland County, Pennsylvania, to various points in New York (south of Highway 84) and New Jersey, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869 Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 146040 (Sub-1TA), filed January 30, 1979. Applicant: THOMAS L. McDOWELL AND BETTY McDOWELL D/B/A, McDOWELL TRUCKING, Route 2, Michie, TN 38357. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, Tennessee 38103. *Sand, gravel, limestone and crushed stone* from the plantsite or quarry of Clyde Owens Sand and Gravel near Shilo, TN to the TVA project at Yellow Creek, Tishomingo County, MS at or near Iuka, MS, for 180 Days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Clyde Owens Sand and Gravel, Collierville, TN 38017. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Street, 100 North Main Building—Suite 2006, Memphis, TN 38103.

MC 146084 (Sub-1TA), filed January 19, 1979. Applicant: THOMAS R. GOLTZ, d.b.a. Goltz Trucking, Box 91, Young America, IN 46998. Representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Contract carrier:* irregular routes: *Salt and salt products (sodium chloride),* except commodities in bulk, from the plantsite of Hardy Salt Company at Manistee, MI, to points in IL, IN and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hardy Salt Company, P.O. Drawer 449, St. Louis, MO 63166. Send protests to: Beverly J. Williams, Transportation Assistant, I.C.C., Room 429, 46 E. Ohio Street, Indianapolis, IN 46204.

MC 146164 (Sub-1TA), filed February 6, 1979. Applicant: HI-WAY MOTOR EXPRESS, INC., 4823 W. 63rd St., Chicago, IL 60638. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Contract carrier:* irregular routes: *Printed matter,* from Chicago and West Chicago, IL, and Pewaukee, WI, to Jonesboro, AR; Lancaster, PA, and Bristol and Old Saybrook, CT, under continuing contract or contracts with Newsweek Incorporated, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Newsweek Incorporated, 1224 W. Van Buren St., Chicago, IL. Send protests to: TA Annie Booker, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 146209 (Sub-1TA), filed February 5, 1979. Applicant: EARL L. HENDERSON, R.R. No. 1, Box 118, Salem IL 62881. Representative: Robert T. Lawley, Attorney, 300 Reisch Building, Springfield, IL. 62701. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Printed matter,* from Kokomo, IN and Effingham, and Sparta, IL to Phoenix, AZ, Los Angeles, Oakland, San Diego, CA, Denver, CO, Butte, MT, Las Vegas, Reno, NV, Portland, OR, Salt Lake City, UT, Seattle, WA, Dallas and Houston, TX, under a continuing contract with World Color Press, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): World Color Press, Inc., Box 1248, Effingham, IL 62401. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-7084 Filed 3-7-79; 8:45 am]

[7035-01-M]

[Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241; Revised Exemption No. 156]

CAR SERVICE RULES

To all railroads: *It appearing,* That the railroads named below own numerous sixty-foot plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to

the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owner; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, sixty-foot plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a) and 2(b).

Providence And Worcester Company
Reporting Marks: PW
East Camden & Highland Railroad Company [1]
Reporting Marks: EACH

Effective March 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., February 26, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-7087 Filed 3-7-79; 8:45 am]

[1] Addition.

[7035-01-M]

[Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241; Second Revised Exemption No. 141]

CAR SERVICE RULES

To all railroads: It appearing, That the railroads named below own numerous plain gondola cars less than 61-ft.; that under present conditions there are surpluses of these cars on its lines; that return of these cars to the owner would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owner; and that compliance with Car Service Rules 1 and 2 prevents such use of these cards, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars, less than 61-ft. in length, described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "GB", which are less than 61-ft. in length, and which bear the reporting marks listed below, may be used without regard to the requirements of Car Service Rules 1 and 2.

Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP-CWP&S
Louisiana Midland Railway Company [1]
Reporting Marks: LOAM
Maryland and Delaware Railroad
Reporting Marks: MDDE

Effective March 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., February 26, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-7089 Filed 3-7-79; 8:45 am]

[1] Addition.

[7035-01-M]

[Exception No. 3 to Revised Service Order No. 1312]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Because of extreme cold weather and heavy snow, a movement of fifty (50) empty covered hopper cars has been seriously delayed in returning to the Chicago and North Western Transportation Company at Omaha, Nebraska, for a unit-train movement from Omaha, Nebraska, to Martins Creek, Pennsylvania. ConAgra Corporation of Omaha, Nebraska, desires to ship a fifty (50) car unit-grain-train of wheat to Martins Creek. Less than the required number of covered hopper cars are available for movement at this time. Section (a) of Revised Service Order No. 1312 authorizes any railroad which is unable to supply the number of covered hopper cars required by its tariffs to transport unit-grain-trains of fewer cars in accordance with the scale in Section (b).

Pursuant to the authority vested in the Director, Bureau of Operations, by Section (h) of Revised Service Order No. 1312, Chicago and North Western Transportation Company is authorized to operate a fifty (50) car unit-grain-train from Omaha, Nebraska, to Martins Creek, Pennsylvania, comprised of fifty (50) covered hopper cars, on a one trip basis, with a minimum of 25 loaded cars operated in the first movement, and the remaining cars of the unit-grain-train operated together in the final movement of this unit-grain-train. The total tariff minimum weight will be transported as required except if the railroad is unable to move all of the empty covered hoppers to the loading point on the final movement, the train can be reduced by the allowable number of cars or allowable weight percentage, as set forth in Section (b) of this Service Order.

This exception applies to privately owned and railroad owned covered hopper cars.

The bills of lading and waybills shall bear the following endorsement: "Unit-grain-train of ( ) tons or ( ) cars. Partial movement of ( ) tons or ( ) cars forwarded authority Exception No. 3 to ICC Revised Service Order No. 1312. ( ) tons or ( ) cars to follow".

Demurrage rules will be treated as if each of the movements of the unit-train is a complete movement in itself.

Effective February 22, 1979.

Expires 11:59 p.m., March 9, 1979.

Issued at Washington, D.C., February 22, 1979.

JOEL E. BURNS,
Director,
Bureau of Operations.

[FR Doc. 79-7088 Filed 3-7-79; 8:45 am]

[7035-01-M]

EXCEPTION NO. 12 UNDER SECTION (a), PARAGRAPH (1), PART (v), SECOND REVISED SERVICE ORDER NO. 1332; AMDT. NO. 4

To: All railroads.

By the Board: Upon further consideration of Exception No. 12 and good cause appearing therefor:

It is ordered: Exception No. 12 to Second Revised Service Order No. 1332 is amended to:

Expire March 9, 1979.

Issued at Washington, D.C., February 23, 1979; decided February 23, 1979.

JOEL E. BURNS,
Chairman,
Railroad Service Board. [1]

[FR Doc. 79-7091 Filed 3-7-79; 8:45 am]

[1] Members: Joel E. Burns, Robert S. Turkington, and John R. Nichael.

[7035-01-M]

EXCEPTION NO. 16 UNDER SECTION (A), PARAGRAPH (1), PART (V) SECOND REVISED SERVICE ORDER NO. 1332

To: Southern Pacific Transportation Company; By the Board: Because of adverse weather conditions and a shortage of power, on the Southern Pacific Transportation Company (SP), the SP is temporarily unable to forward all cars within 60 hours as required by Section (a)(4)(i) of Second Revised Service Order No. 1332.

It is ordered, Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332, the

SP is required to forward loaded cars or empty foreign or private cars from the points named below within 72 hours.

SP

Roseville, California
Los Angeles, California
West Colton, California
El Paso, Texas
Eugene, Oregon

Effective February 22, 1979; decided February 22, 1979.

Expires 11:59 p.m., March 15, 1979.

JOEL E. BURNS,
Chairman,
Railroad Service Board.[1]

[FR Doc. 79-7095 Filed 3-7-79; 8:45 am]

[7035-01-M]

[ICC Order No. 27; Under Service Order No. 1344]

REROUTING TRAFFIC

To: Green Bay and Western Railroad Company, Ann Arbor Railroad System, Michigan Interstate Railway Company, Operator.

In the opinion of Joel E. Burns, Agent, the Ann Arbor Railroad System, Michigan Interstate Railway Company, Operator is unable to transport traffic offered for movement over its line between Kewaunee, Wisconsin, and Frankfort, Michigan, via carferry, because of adverse weather conditions and the icing over of Lake Michigan.

It is ordered, (a) *Rerouting traffic.* The Ann Arbor Railroad System, Michigan Interstate Railway Company, Operator, and Green Bay and Western Railroad Company, being unable to transport traffic offered for movement over its lines between Kewaunee, Wisconsin, and Frankfort, Michigan, via carferry, because of adverse weather conditions and the icing over of Lake Michigan, are authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers, or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:00 a.m., February 22, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 26, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the order shall be filed with the Director, Office of the FEDERAL REGISTER.

Issued at Washington, D.C., February 22, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-7090 Filed 3-7-79; 8:45 am]

[7035-01-M]

[Amdt. No. 1 to Revised ICC Order No. 16; Under Service Order No. 1344]

REROUTING TRAFFIC

To all railroads: Upon further consideration of Revised I.C.C. Order No. 16, and good cause appearing therefor:

It is ordered, Revised I.C.C. Order No. 16 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 9, 1979, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., February 23, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be file with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 23, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-7092 Filed 3-7-79; 8:45 am]

[7035-01-M]

[AMDT. NO. 2 TO ICC ORDER NO. 11 UNDER SERVICE ORDER NO. 1344]

REROUTING TRAFFIC

To all railroads: Upon further consideration of ICC No. 11 (Louisville and Nashville Railroad Company), and good cause appearing therefor:

It is ordered, ICC Order No. 11 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., April 30, 1979, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., February 28, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 26, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-7086 Filed 3-7-79; 8:45 am]

[7035-01-M]

[Amdt. No. 2 to Revised I.C.C. Order No. 21; Under Service Order No. 1344]

REROUTING TRAFFIC

To: Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

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[1] Members: Joel E. Burns, Robert S. Turkington, and John R. Michael.

Upon further consideration of Revised I.C.C. Order No. 21, and good cause appearing therefor:

It is ordered, Revised I.C.C. Order No. 21 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 9, 1979, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., February 23, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the FEDERAL REGISTER.

Issued at Washington, D.C., February 23, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-7093 Filed 3-7-79; 8:45 am]

[7035-01-M]

[ICC Order No. 26; Under Service Order No. 1344]

REROUTING TRAFFIC

To: Soo Line Railroad Company.

In the opinion of Joel E. Burns, Agent, the Soo Line Railroad Company is unable to deliver traffic to the Michigan Northern Railway Company (MN) at St. Ignace-Mackinaw City, Michigan, because of disrupted train operations on the MN caused by heavy snow and the icing over of Lake Michigan.

It is ordered, (a) *Rerouting traffic.* The Soo Line Railroad Company, being unable to deliver traffic to the Michigan Northern Railway Company (MN) at St. Ignace-Mackinaw City, Michigan, because of disrupted train operations on the MN caused by heavy snow and the icing over of Lake Michigan is authorized to divert or reroute such traffic over any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers, or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4:00 p.m., February 22, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 28, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C. February 22, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-7094 Filed 3-7-79; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[6351-01-M]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., March 16, 1979.

PLACE: 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-458-79 Filed 3-6-79; 3:24 pm]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., March 13, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Application of the Chicago Mercantile Exchange for designation as a contract market in four-year U.S. Treasury Notes.

Raising reporting levels in specific commodities.

Proposed FEDERAL REGISTER release proposing amendments to sections 1.11 and 1.13 of the Regulations (review of refunding registration fee policy).

Amended petition of Valeurs White Weld S.A. for waivers of certain requirements of Commission rule 32.12.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-456-79 Filed 3-6-79; 2:33 pm]

[6351-01-M]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m., March 13, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters/public administrative proceedings.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-457-79 Filed 3-6-79; 2:33 pm]

[6355-01-M]

4

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: Commission Meeting/Briefing, Thursday, March 1, 1979, 9:30 a.m., 2:00 p.m.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Part open, part closed.

OPEN TO THE PUBLIC (9:30 A.M.)

1. *Possible substantial product hazard: Telesensory Systems, Inc. Optacon battery charger, ID 78-118.* The staff has recommended that the Commission accept and monitor the corrective action plan which this firm has implemented to deal with a possible shock hazard associated with a battery charger for a reading device for the blind. Telesensory Systems has sent a replacement charger to all known owners.

2. *Possible substantial product hazard: Cleanweld Products, Inc. CleanBurn fuel cylinder, ID 78-114 (#636).* The staff has recommended that the Commission accept and monitor the corrective action plan which this firm has implemented to deal with a possible fire hazard associated with certain fuel cylinders for portable torches Cleanweld has recalled the suspect cylinders.

3. *Glazed panel provisions of architectural glazing standard.* The Commission will consider a draft FEDERAL REGISTER document which would revoke the Safety Standard for Architectural Glazing as it applies to "glazed panels." Through the document, the Commission would also seek public comment on other possible actions on glazed panels.

4. *Cellulose insulation: Proposed Amendment, Proposed Certification Rule.* The Commission will consider a proposed amendment to the Interim Safety Standard for Cellulose Insulation, as well as a proposed Certification Rule for that amendment. The staff briefed the Commission on the Certification Rule at the February 26 Commission Briefing.

CLOSED TO THE PUBLIC (2 P.M.)

5. *Briefing on carcinogen policy court case.* The staff will brief the Commission on issues related on this case (*Dow Chemical* v. *CPSC*, Civil Action 78-1166 W.D. La., 1979) (Closed under exemption 10: litigation).

Agenda approved February 22. Agenda revised February 28, by deleting former Item 4 (Tap Water Scalds—to be considered March 8) and by adding current Item 5 (Carcinogen Policy Case). In voting to add item 5 the Commission determined that agency business requires considering this matter without seven days advance notice.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone (202) 634-7700.

[S-450-79 Filed 3-6-79; 1:49 pm]

[6355-01-M]

5

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: Commission Briefing, Wednesday, March 7, 1979, 1 p.m.

LOCATION: Eighth floor conference room, 1111 18th Street NW., Washington, D.C.

STATUS: Closed to the public.

MATTER TO BE DISCUSSED:

Briefing on carcinogen policy litigation. The staff will brief the Commission on issues related to this case, Dow Chemical v. *CPSC*, Civil Action #78-1166, W.D. La., 1979. The staff and Commission previously discussed this case March 1. (Closed under exemption 10: litigation).

Agenda approved March 2, 1979. In voting to schedule this meeting, the Commission determined that agency

business requires holding the meeting without seven days notice.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone (202) 634-7700.

[S-451-79 Filed 3-6-79; 1:49 pm]

[6355-01-M]

6

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: Commission Meeting/Briefing, Thursday, March 8, 1979, 9:30 a.m.

LOCATION: Third floor hearing room, 1111-18th Street NW., Washington, D.C.

STATUS: Open to the Public:

1. *Possible substantial product hazard: Rinehart Manufacturing Co., "Miti-Mite" electric immersion water heater, ID 78-74.* The staff has recommended that the Commission accept and monitor the corrective action plan which Rinehart has implemented to deal with shock hazards associated with these heaters. The firm will recall and stop manufacturing and distributing the heaters.

2. *CB antenna standard.* The Commission will consider options related to a possible standard to address electrocution hazards associated with Citizen's Band base station antennas and television antennas. In June, 1978, the Commission issued labeling regulations for these antennas. The staff briefed the Commission on a possible standard at the February 28 Briefing.

3. *Tap water scalds petition, CP 78-15.* The Commission will consider a petition on tap water scalds, from Your Seattle City Light. The Commission previously considered and deferred action on this petition in November, 1978, and was briefed by the staff on February 28.

4. *briefing on tetrachlorethylene (perchloroethylene).* the staff will brief the Commission on information with the staff has on tetrachloroethylene, and on possible alternatives for Commission action on products containing this chemical

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone (202)634-7700.

[S-452-79 Filed 3-6-79; 1:49 pm]

[6355-01-M]

7

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: Commission Briefing, Wednesday, March 14, 1979, 10 a.m.

LOCATION: Room 456 Westwood Towers, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE DISCUSSED:

1. *Briefing on coal- and wood-burning stoves petition, AP 77-2.* The staff will brief the Commission on a petition in which Adam Paul Banner of Midland, Michigan, asks the Commission to issue a labeling rule for coal- and wood-burning appliances, stoves and free-standing fireplaces. The Commission plans to vote on the petition at the March 22 Meeting.

2. *Briefing on power mowers.* The staff will brief the Commission on two issues related to power lawn mowers: the status of the Outdoor Power Equipment Institute's effort on hand probes, and the status of the staff's work on thrown objects.

3. *Briefing on upholstered furniture flammability.* The staff will present a status report on information which has been submitted concerning upholstered furniture flammability.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone (202)634-7700.

[S-453-79 Filed 3-6-79; 1:49 pm]

[6355-01-M]

8

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: Commission Meeting, Thursday, March 15, 1979, 9:30 a.m.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTER TO BE DISCUSSED:

1. *Exemption of betamethasone (celestone) from child-resistant packaging.* In May, 1976, the Commission proposed to exempt this drug from child-resistant packaging requirements of the Poison Prevention Packaging Act. At this meeting the Commission will consider a draft FEDERAL REGISTER document granting final exemption.

2. *Tetrachloroethylene (perchloroethylene).* The Commission will consider options for action on hazards associated with this chemical. The staff briefed the Commission on tetrachloroethylene at the March 8 Meeting/Briefing.

3. *EDF petition on carcinogens, AP 78-4.* The Commission will consider a petition in which the Environmental Defense Fund (EDF) has asked the Commission to take several actions concerning identification and testing of certain chemical ingredients which may present a carcinogenic risk to consumers. The staff briefed the Commission on the petition at the February 28 Briefing.

Agenda approved March 2, 1979.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone (202) 634-7700.

[S-454-79 Filed 3-6-79; 1:49 pm]

[6740-02-M]

9

MARCH 2, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 2 p.m., March 12, 1979.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Docket No. RM79-22, Indefinite Price Escalator Clauses.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone (202) 275-4166.

[S-448-79 Filed 3-6-79; 10:43 am]

[6820-12-M]

10

MARCH 5, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., March 9, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

2. *Adkins and Hunt v. Deskins Branch Coal Co.*, Pike 76-66, IBMA 77-13.

It was determined by unanimous vote of the Commissioners that Commission business required that this item be added to the March 9 agenda and that no earlier announcement of the change was possible.

CONTACT PERSON FOR MORE INFORMATION:

Joanne Kelley, 202-6553-5632.

[S-446-79 Filed 3-6-79; 10:43 am]

[6820-12-M]

11

MARCH 5, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., March 12, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTER TO BE CONSIDERED: Proposed Rules of Procedure.

If this matter is not concluded on this date, this meeting may be recessed to a date and time to be announced.

CONTACT PERSON FOR MORE INFORMATION:

Joanne Kelley, 202-653-5632.

[S-447-79 Filed 3-6-79; 10:43 am]

[7545-01-M]

12

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 2 p.m., Wednesday, March 14, 1979.

PLACE: Board Conference Room, sixth floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Selection of Regional Director for Region 31, Los Angeles, California.

CONTACT PERSON FOR MORE INFORMATION:

William A. Lubbers, Executive Secretary, Washington, D.C. 20570, telephone (202) 254-9430.

Dated: Washington, D.C., March 6, 1979.

By direction of the Board:

GEORGE A. LEET,
Associate Executive Secretary, National Labor Relations Board.

[S-455-79 Filed 3-6-79; 1:49 pm]

[3210-01-M]

13

OVERSEAS PRIVATE INVESTMENT CORPORATION.

TIME AND DATE: Meeting of the OPIC Board of Directors, Tuesday, March 13, 1979, at 9 a.m. (closed portion); 11:30 a.m. (open portion).

PLACE: Offices of the Corporation. Seventh (7th) floor Board Room, 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9 a.m. to 11:30 a.m. will be closed to the public. The open portion of the meeting will start at 11:30 a.m.

MATTERS TO BE CONSIDERED: Closed to the public 9 a.m. to 11:30 a.m.

1. Personnel Matters.
2. Insurance Project in Middle East Country.
3. Insurance Project in African Country.
4. Insurance Project in Central American Country.
5. Loan Guaranty Project in Asian Country.
6. Loan Guaranty Project in Latin American Country.
7. Claims Report.
8. Information Reports.

FURTHER MATTERS TO BE CONSIDERED: Open to the public 11:30 a.m.

1. Approval of the Minutes of the Previous Board Meeting.
2. Confirmation of Scheduled Board Meetings.
3. Insurance for Investments in Projects Involving Host Government Ownership or Guaranties.
4. Agribusiness Council; Status Report.
5. Reimbursable Development Programs.
6. Information Reports.

CONTACT PERSON FOR MORE INFORMATION:

Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 632-1839.

ELIZABETH A. BURTON,
Corporate Secretary.

MARCH 6, 1979.

[S-449-79 Filed 3-6-79; 10:43 am]

federal register

THURSDAY, MARCH 8, 1979

PART II

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

■

CRYOGENIC LIQUIDS

Notice of Proposed Rulemaking and Public Hearing

[4910-60-M]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 171, 172, 173, 174, 176, 177, 178, 179]

[Docket No. HM-115; Notice No. 79-3]

CRYOGENIC LIQUIDS

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Materials Transportation Bureau (MTB) proposes to amend the Hazardous Materials Regulations (49 CFR Parts 170-189) by establishing requirements for the transportation of certain cryogenic liquids. Key provisions of this rulemaking would relate to flammable or pressurized cryogens and would (1) provide a DOT specification for a cargo tank for these liquids; (2) authorize the rail carriage of ethylene, cryogenic liquid, in addition to hydrogen, cryogenic liquid; (3) establish maintenance and use requirements for the containers used to transport these liquids; and (4) for flammable cryogens, expand the scope of the regulations to encompass the transportation of these materials in intrastate commerce by highway, require DOT registration of certain shippers and carriers of these materials, and require the training of drivers. It is also proposed that nonflammable, nonpressurized cryogenic liquids, currently not generally subject to the Hazardous Materials Regulations, be made specifically subject to certain regulations due to the hazard presented by their extremely low temperatures. In addition to cryogenic liquids, this notice proposes to authorize the bulk transportation of ethane and hydrogen chloride, anhydrous. Finally, due to substantial interest in the subject matter, this notice schedules a public hearing on the proposed rule.

DATES: *Comments:* Comments must be received by June 28, 1979. *Hearing:* A hearing will be held on April 17, 1979 from 9:00 a.m. to 5 p.m. Any person wishing to present an oral statement at the hearing must notify the Docket Branch at the address below prior to April 10, 1979. Each request must identify the speaker; organization represented, if any; daytime phone number; and the length of the presentation, not to exceed ten minutes.

ADDRESSES: *Comments:* Comments should be addressed to the Dockets Branch (HM-115), Information Services Division, Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted. *Hearing:* The hearing will be held in Room 3201 of the Trans Point Building, 2100 2nd Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Paul H. Seay, Jr., Office of Hazardous Materials Regulation, 2100 Second St. SW., Washington, D.C. 20590, (202) 755-4906.

SUPPLEMENTARY INFORMATION: The generation of cryogenic, or extremely low temperature, materials on a commercial scale began in the late 1920's and production has steadily increased since that time. Recent increases in shipments have been sharper due to the use of cryogens as an energy source and in new scientific and industrial processes. While in large part cryogens are either used at the generation point or are converted and moved as gas via pipeline, significant amounts are transported in packages. Transporting gases in cryogenic form allows for the movement of large quantities of product in a relatively small space since a liquefied gas occupies only approximately 1/600th the volume of the atmospheric pressure gas. And using the maintenance of low temperature rather than high pressure to keep a gas liquefied allows for significant weight reduction in the container.

ADVANCE NOTICE OF PROPOSED RULEMAKING

To date the regulation of cryogenic liquids under the Hazardous Materials Regulations has been done on a piecemeal basis that has resulted in a lack of completeness and uniformity. In 1974, to begin the process of rectifying this situation, MTB's predecessor issued an advance notice of proposed rulemaking (ANPRM) pertaining to the transportation of cryogenic liquids (39 FR 7950, March 1, 1974; 39 FR 32624, September 10, 1974). The ANPRM provided for packaging, shipping and carriage requirements applicable to flammable or pressurized cryogenic liquids. This notice of proposed rulemaking continues many of the provisions contained in the ANPRM, incorporates some changes made as a result of comments to the ANPRM and, in several areas, extends the scope of the ANPRM.

Under present regulations those cryogens that are flammable or pressurized cannot be transported in bulk (with the exception of hydrogen in tank cars) except when under an exemption issued by DOT. Also, nonflammable, nonpressurized cryogenic liquids, which make up the vast majority of container shipments are presently not regulated under the Hazardous Materials Regulations, except in the water mode.

Under this notice, the general scheme of regulation proposed in the ANPRM for flammable or pressurized cryogens is continued, with significant changes noted in this preamble. Additionally, this notice goes beyond the ANPRM in several areas, most notably in the following proposals:

1. The extension of jurisdiction to encompass bulk transportation of flammable cryogenic liquids in intrastate commerce by highway;
2. The requirement that shippers of flammable cryogenic liquids in portable tanks, cargo tanks or tank cars and carriers of flammable cryogenic liquids in cargo tanks by highway, file registration statements with DOT.
3. The provision for rail shipment of ethylene in the cryogenic form;
4. The requirement that drivers of vehicles used to transport flammable cryogenic liquid by cargo tanks be provided specific training.
5. The imposition of regulatory requirements on the transportation of nonflammable, nonpressurized cryogenic liquids.

A total of 46 comments to the ANPRM were received. The comments were generally favorable to the concept of a rulemaking with regard to cryogenic liquids, but the various comments took issue with aspects of the ANPRM. The significant comments and their resolution are discussed below.

COMMENTS ON OTHER THAN THE CARGO TANK SPECIFICATION

Comments were received suggesting various changes to the definition of "cryogenic liquids." After a thorough search of available technical materials, the MTB has determined that there is no single, universally-accepted, definition of the term. The MTB is concerned with transportation safety which does not necessarily require using definitions that are the most scientifically accurate. In addressing safety concerns, however, it was determined that a modification of the ANPRM definition of "cryogenic liquid" was appropriate. Whereas the ANPRM defined the term relative to the temperature of the material at the time of loading and used the relatively high temperature of −40°F. as cutoff, this notice defines "cryogenic liquid" in terms of the boiling point of the material and uses −130°F. as a cutoff. This accomplishes the following:

1. Carbon dioxide, nitrous oxide and vinyl fluoride, whose bulk shipment is presently provided for as liquefied gases, are excluded from the definition;
2. Ethane and hydrogen chloride, anhydrous, while currently authorized

for bulk shipment only under exemption, have physical properties similar to carbon dioxide, nitrous oxide and vinyl fluoride and are not cryogens under this notice. This notice proposes to allow their bulk shipment in insulated, non-cryogenic tank cars and cargo tanks.

3. The ANPRM specifically proposed to except nonflammable, nonpressurized cryogens from regulation. That exception is deleted in this notice. While proposed section 173.320 exempts these materials from some of the requirements applicable to other cryogenic liquids, the MTB is proposing that certain requirements apply due to the extreme thermal hazard these low temperature materials pose to human tissue and, in the case of vessels, to shipboard structures.

In response to comments received, the MTB has further refined and clarified the filling densities and design pressures for DOT 4L cylinders. The new proposal provides more flexibility in filling depending on the maximum start-to-discharge pressure and also provides for some increase in fill density to more accurately reflect the satisfactory results of current practice. However, the MTB does not agree that data applicable to 4L cylinders is also applicable to larger containers such as the proposed MC338 cargo tank. This is primarily due to the fact that the cargo tank is not designed to vent. The filling densities in the ANPRM for the cargo tank have been reviewed, but only minor modifications have been made, as appropriate.

Some commenters wanted the references in section 173.316 of the ANPRM to the cryogenic liquid at the time when it is offered for transportation or when transporation begins to instead refer to the liquid at the time the container is filled. While there is usually no distinction in the meanings of the various terms in relation to the condition of the material inside the container, this is not the case with cryogenic liquids. MTB agrees with the comments when cryogenic liquids are being considered in terms of holding time and has made the necessary changes reflected in sections 173.318 and 173.319 of this notice.

The MTB received comments requesting that the so-called atmospheric gases (i.e. nitrogen oxygen, argon and helium) in the form of pressurized cryogens be permitted to vent from cargo tanks during transportation. Some commenters compared these gases to the exhaust gases of the tractor unit and also pointed out the fact that the air we breathe is composed of 79% nitrogen and 21% oxygen. The MTB, however, is desinclined to permit promiscuous venting of pressurized cryogens. The design of the cargo tanks for these commodities is predicated on a holding time value that precludes the need for venting. These same design parameters determine the filling density of the tank. In the past, the great preponderance of these nonflammable cryogens have been transported by rail and highway in a nonpressurized, and hence nonregulated, form. This notice proposes to allow the venting of the atmospheric gases and helium, during transportation as a cryogen, if the venting occurs at pressures less than 25.3 psig.

Several commenters questioned the ANPRM requirement that cargo tanks be subjected to periodic retests at a pressure of 1.5 times the design pressure of the tank. The commenters felt that that pressure is unsafe and that the ratio of test pressure to design pressure should be 1.25 in order to avoid cyclic failure of the inner tank. The MTB firmly believes, however, that the 1.5 ratio retest pressure is necessary to establish the continued integrity of the cargo tank, and that pressure vessels designed and built according to the proposed DOT specification (which closely follows the ASME Code) will not experience cyclic failure at this pressure. It is possible that the data supplied by these commenters related only to non-ASME Code vessels. It should be noted that tank cars are not subject to this type of retest requirement. This is because of the required presence of a high grade vacuum (75 microns or less of mercury) at the time the tank car is offered for transportation. Since the vacuum is checked before each trip a constant log will indicate any leakage in the inner tank or outer jacket. Cargo tanks may or may not be vacuum insulated, thus there is no similar requirement for shipments in cargo tanks and greater reliance must be placed on the pressure integrity of the containment vessel.

Comments on the Cargo Tank Specification

The new specification for a cargo tank for use in transporting cryogenic liquids, DOT specification MC 338, was proposed in the ANPRM. Numerous comments were received in response to this specification, and certain revisions have been made. While most of the proposed revisions are for the purpose of clarification and consistency, others are more substantive and are addressed in the following paragraphs.

A suggestion was made by a commenter that the simple combustion test is sufficient for determining the combustion-sustaining characteristics of insulation for cargo tanks used to transport oxygen. The MTB agrees with this suggestion and has incorporated it into this notice.

Some commenters stated the insulation on cargo tanks often is covered by a metal jacket that is lapped, but not sealed, and that this construction has given satisfactory service on cargo tanks where an inner material is used to seal the insulation. The MTB agrees with this position and has allowed for it in the proposal.

Comments were received recommending the deletion of the requirement that mixing devices be installed for venting cargo tanks transporting flammable ladings. It was pointed out that such devices have always been optional equipment and are available only for hydrogen. The MTB agrees that this deletion can be made, since the restrictions imposed on cargo tank loading and one way travel time provided adequate assurance that venting will not take place during transportation.

The Hazardous Materials Regulations require impact tests to be performed on many packaging materials and the MTB believes that they should be required for packaging materials used in cargo tanks where the lading temperature is extremely cold. However, because of available data on the high ductile strength of aluminum at cold temperatures, the MTB proposes to exclude it from the required impact tests.

This notice incorporates a change suggested by one commenter that all tank nozzle-to-shell and nozzle-to-head welds have full penetration. The MTB believes that this is a reasonable requirement that will contribute to the safety of the tank.

The Compressed Gas Association recommended that certain packaging materials be excluded from the requirement for manholes. They pointed out that both stainless steel and aluminum, in extensive low-temperature service, have demonstrated significant corrosion resistance. The added heat leak and other difficulties associated with manways outweigh, in their judgement, any safety benefits or convenience resulting from their use with these packaging materials. The MTB agrees with the recommendation in part, and has specified the packaging materials to be used in the construction of cargo tanks for which manways are not required. In addition, for the purpose of clarification, the manholes or manways which are required are proposed to be located at the rear, or on the rear, or on the rear head of the tank.

The MTB agrees with the suggestion of numerous commenters that any liquid connection to a pressure building coil should be required to have a shut-off valve, and has made this change to increase safety and reliability.

Some commenters suggested that other cryogens in addition to nitrogen be authorized for use in the holding time tests. The MTB can see no reason for restricting these tests to the use of nitrogen only and proposes to authorize that the tests be performed using any cryogenic liquid having a boiling point at atmospheric pressure equivalent to the coldest design service temperature of the tank.

The Compressed Gas Association requested that the holding time marked on the tank be permitted to be less than that to which the tank is actually rated by test under section 178.338-9. Such a practice could be economically beneficial if a tank with a long rated holding time is used on short hauls. By allowing a marked rated holding time less than the rated holding time, maintenance of thermal integrity costs could be reduced without compromising safety. MTB is proposing to include this suggestion in section 178.338-9.

The proposed MC 338 specification anticipates two basic designs. The first design encompasses an inner tank that not only contains the cargo, but also acts as the main structural member of the tank. The insulation in this design is affixed to the inner tank and shrouded with a metal jacket. The second design encompasses an inner tank supported within an outer tank that provides a vacuum envelope and the main structural strength of the assembled cargo tank. In both designs the structural members must be designed to withstand identical "g" loadings, with identical safety factors. And in the second design this is true for both the inner tank and outer tank structural members. A number of comments were directed to this second design and pointed out that in an accident the outer tank will be able to contain the inner tank because the insulation material between the two tanks will absorb some of the energy of any acceleration forces, and therefore the inner tank structural members should be permitted to be designed to lower "g" loadings. The commenters suggested that the inner tank members be designed, with a safety factor of four, to 1½ "g" in the vertical upward, longitudinal and lateral directions and 2 "g" in the vertical downward direction versus the ANPRM's proposed 2 "g" longitudinal and lateral and 3 "g" vertical. This notice continues to propose the higher values for "g" loadings.

The Compressed Gas Association recommended that appropriate gauging devices be authorized as a primary control for filling cargo tanks. They stated that certain gauging devices have proven safe and accurate for large containers and are often the only means available to accurately determine fill level. The MTB concurs in this opinion, and has removed the mandatory verification by weight requirement for cargo tanks from this notice.

Based on a recommendation by the Compressed Gas Association, the MTB proposes to require each MC 338 tank vehicle owner to obtain photographs, pencil rubs, or other facsimiles of the required cargo tank nameplates. In support of their recommendation, the Association maintained that it is both advisable and customary in the industry for the owner to obtain this information.

Aluminum Cargo Tanks in Oxygen Service

Until recently the MTB has prohibited the use of aluminum in certain packages that come in contact with cryogenic oxygen. At one time this prohibition extended to gaseous oxygen. Several years ago, however, aluminum high pressure cylinders under exemption were permitted to contain gaseous oxygen and certain clean bore, portable tanks have been permitted to transport oxygen under an exemption. Also, there are many aluminum cargo tanks currently in use transporting nonpressurized, thus nonregulated, cryogenic oxygen.

In the past MTB has stated, in response to public queries, that the general prohibition on aluminum use in cryogenic oxygen service is not due to any inherent incompatibility between aluminum and oxygen. Rather, it is based on concern regarding the potential hazard resulting from the mixture of contaminants with oxygen in an aluminum cargo tank either designed in such a way as to allow for areas of contaminant entrapment, or improperly cleaned of contaminants after manufacture and prior to use, or both.

The National Aeronautics and Space Administration has collected and published standards for oxygen equipment cleaning procedures. Similarly, the Compressed Gas Association has developed a new standard for oxygen service cleaning equipment.

The proposals contained in the ANPRM prohibited the use of aluminum for an inner vessel used to transport oxygen. Numerous comments opposed this position pointing to the relatively successful industry use of large aluminum tanks in oxygen applications under exemption and in nonregulated use. Commenters also discussed the refined cleaning procedures currently available.

In view of these past applications and the recently developed cleaning standards promulgated by the Compressed Gas Association, the MTB is proposing in this notice to allow the use of aluminum for MC 338 tanks in oxygen service. By making this proposal, MTB is able to show the public what specific regulatory controls may be used to permit the use of aluminum in the containment of oxygen, cryogenic liquid. Based on comments received MTB will decide whether or not to go forward with this proposal.

MTB is interested in public comment on this proposal reflecting on whether aluminum tanks should be permitted for cryogenic oxygen service at all and, if this practice can be safely permitted, whether the proposed regulatory controls are adequate. MTB is particularly interested in comments on CGA Pamphlet G-4.1, "Cleaning Equipment for Oxygen Service," which is incorporated into the cleanliness standard proposed in section 178.338-15, and its adequacy for aluminum tanks in oxygen service. A copy of this publication is available for review in the public docket. Besides the cleanliness standard in section 178.338-15, the important sections of the proposal relating to the use of aluminum tanks in oxygen service are 178.338-16(d), which requires that after inspection and testing the interior cleanliness of the tank must be verified, 178.338-1(c), which requires that the tank be designed and constructed so as to preclude the entrapment of foreign material, and 178.338-16(b), which prohibits the use of certain weld inspection methods for tanks intended for oxygen service.

Economic Considerations

While many special permits (now called exemptions) for the bulk transportation of pressurized cryogenic liquids were in effect prior to 1979, the terms of these exemptions were not uniform, and to a certain extent were incomplete. Since 1970, however, the regulatory thrust, has been to enhance and standardize these terms and conditions. As a result of this, design features and performance requirements have been more closely delineated and quantified, with resulting modifications and redesign of such cargo tanks.

Since all shippers and carriers involved with the transportation of flammable or pressurized cryogenic liquids are legally required to be operating under exemption procedures, and since these exemptions generally reflect the scope and nature of the regulations set forth in this notice, the MTB has determined: (1) that the economic costs of complying with the proposed specification requirements have been or should have been already incurred; and (2) that consequently the economic impact does not represent a net significant impact on industry. The MTB also concludes that the proposed regulations covering the transportation of nonflammable, nonpressurized cryogenic liquids will have no measurable impact on shipper/carrier

operating revenues or profit margins, or an end-use cost to consumers.

However, in response to several commenters who stated that potentially severe economic impacts may be sustained by individual firms—especially small, marginal operators—in complying with this revised proposal, the MTB invites, and will seriously consider, the views and comments of all interested parties as to how their revisions will affect phases of their operating and investment cost schedules, utilization of equipment, and all other relevant expense categories.

The MTB wishes to emphasize, however, that this information will not be considered as a basis for providing exemptions or relief from any subsequent or final regulations that may be promulgated. The purpose of the requested information is to enable the MTB to set in perspective the nature and extent of the expected improvement in public safety which this proposal is designed to achieve.

There are approximately 52 exemptions for cryogenic cargo tanks and tank cars currently in effect. There are approximately 22 exemptions for portable tanks. This notice does not cover the portable cryogenic cargo tanks. The current exemptions will continue to remain in effect until the petitioner allows them to expire. All original exemptions authorized within the last 30 months or so for cargo tanks and rail cars should comply fully with the proposal contained in this notice. Exemptions which originated prior to this time would be in varying degrees of compliance with the proposals contained in this notice and the feasibility of modifying the container to conform would have to be ascertained on an individual basis. This is provided for in this notice.

Impact of Notice on Existing Exemptions

This notice contains some proposed relaxed requirements and specifications that are at variance with current exemptions in some cases. Such proposals originated in large part as a result of the exemption appeal process, but were not resolved in that forum. Rather, these issues, raised in the exemption process, were determined by the Associate Director for Hazardous Materials Regulation to be matters of such general applicability and future effect as to warrant being made the subject of rulemaking. Therefore, in accordance with 49 CFR 107.109(e) the issues have been incorporated in this rulemaking. No further action on these matters will be accomplished in the exemption process.

Review by Sections.

The following is an analysis and explanation, by section, of the more significant features of this regulatory proposal.

Section 171.1. This section would be amended to clarify the scope of the Department's regulations and to make them applicable to the bulk transportation of flammable cryogenic liquids in intrastate commerce by highway. The authority for this extension of regulatory jurisdiction is found in sections 103 and 105 of the Hazardous Materials Transportation Act (49 U.S.C. 1802, 1804). The Department may issue regulations for the safe transportation in commerce of hazardous materials and "commerce" includes any trade, traffic, commerce, or transportation that affects interstate trade, traffic, commerce, or transportation. Bulk quantities of flammable cryogenic materials, when transported by motor vehicle in intrastate commerce, affect interstate trade, traffic, commerce, or transportation because of the inherent risk presented by such material to people and property in interstate commerce on the same highways.

Section 171.7. This section incorporates certain industry publications by reference, most importantly for the purposes of this rulemaking a Compressed Gas Association pamphlet entitled "Cleaning Equipment for Oxygen Service."

Section 171.8. Defines "filling density" and "SCF" (standard cubic foot). For "filling density" the existing locations of the definitions for compressed gases in various containers are noted, as are the locations of the definitions proposed in this notice applicable to cryogenic liquids in various containers. The proposed definitions of filling density for cryogenic liquids reflect the need to allow for shrinkage in cargo tank and tank car capacity resulting from cryogenic temperatures.

Section 172.101. It is proposed that the Hazardous Material Table be revised to reflect the definition of a cryogenic liquid to be established in this rulemaking. All "cryogenic liquids" would have that term reflected in their proper shipping names. Additionally an entry in the Table would be provided for ethane-propane mixtures and the hydrogen chloride entry would become hydrogen chloride, anhydrous.

For the cryogenic liquids, the proposed additions and changes to this section prescribe maximum quantity limitations for the air mode and various other restrictions for water shipments. The weight limitations for aircraft shipments were determined based on the properties of each material. Relatively inert materials are authorized on both passenger and cargo aircraft, but in differing amounts depending on the material and type of aircraft. Flammables and oxidizers are forbidden on both classes of aircraft. Substantive comments are solicited on the proposed weight limits and restriction.

Section 172.203. A notation is proposed for the shipping papers for DOT 113 tank cars indicating that these cars may not be humped or cut off while in motion.

Section 172.328. The word "compressed" would be deleted from paragraph (c) to ensure that cargo tank marking requirements would apply to non-pressurized cryogens.

Section 172.504. Table 2 of the general placarding requirements would be amended by correcting the existing reference to "Nonflammable gas (fluoride)" to "Nonflammable gas (fluorine)." Also, the reference to oxygen would be changed to reflect the "cryogenic liquid" terminology in this docket and the present Note 2 to the Table would be deleted to reflect the fact that the placarding requirement must be complied with under this proposal whether the oxygen, cryogenic liquid is pressurized or not.

Section 173.5. It is proposed to require that shippers of flammable cryogenic liquids in portable tanks, cargo tanks or tank cars file registration statements with MTB. This proposal implements the authority provided in section 106(b) of the Hazardous Materials Transportation Act (49 U.S.C. 1805(b)), and consistent with that provision a registration statement would only be required once every two years, beginning in 1980, and a "registration window" of two months duration would be provided. The information obtained through the registration statements would enable MTB to ascertain who is shipping these materials, the location of facilities, warranting periodic inspections, and the number and types of portable tanks, cargo tanks and tank cars used.

Section 173.29. An addition would be made to this section covering empty packagings previously used to ship flammable cryogenic liquids. All residual cryogenic liquid would be required to be removed. This requirement would not apply to DOT 4L cylinders.

Section 173.31. Paragraph (a) of this section would be revised to provide for tank cars now transporting cryogenic liquids under exemption to be examined to see if the appropriate DOT specifications are or can be met. If not, MTB must be notified. Since only one additional cryogenic liquid, ethylene, could be transported by rail under this proposal, only tank cars currently carrying ethylene under exemption would be affected by this provision. This section also requires the monitoring of the daily pressure rise in Class 113 cars and if certain limits are exceeded requires the successful completion of one of two alternative retests prior to

the next shipment. The reference in Retest Table 1 to the DOT-113A175W car would be deleted since this car is no longer used, the Table provisions for the DOT-113A60W car would be made consistent with the requirements in this section, and the DOT-113C120W car would be added to the Table.

Section 173.33. The primary changes proposed for this section involve the inclusion of cargo tanks used to carry cryogenic liquids into the existing provisions in this section. A provision, like that in 173.31, would require holders of exemptions permitting cargo tanks to carry cryogenic liquids to attempt to bring the tanks into compliance with the new DOT MC 338 specification. This would include performing a holding time test. A provision in paragraph (d) would required that a MC 338 tank be examined after each shipment to determine that "the actual holding time is not significantly different from the marked rated holding time."

Section 173.300. A definition would be added for "cryogenic liquid" and the definition of "filling density" would be amended to indicate the different sections that apply to cryogenic liquids.

Section 173.304. Atmospheric cryogens would be removed from this section (they are proposed to be placed in § 173.316) and the redesignation of hydrogen chloride to hydrogen chloride, anhydrous would be reflected.

Section 173.314. Hydrogen chloride, anhydrous would be added as an authorized compressed gas for shipment by tank car. This material may currently be shipped by tank car only under DOT exemption. The entry for vinyl fluoride inhibited in the Table in paragraph (c) has been revised to provide a range of allowable filling densities. The maximum density has been increased from that currently permitted, based on proven safe practice under exemption, and the safety provided by the new special requirements paragraph in this section and in section 179.102-4. Note 17 to the Table in paragraph (c) of this section has been revised. The existing note 17 improperly addresses construction requirements in a part directed towards shippers. Proposed paragraph (g) would establish special requirements for hydrogen chloride, anhydrous and vinyl fluoride, inhibited applicable to shippers. The material in current Note 17 applicable to tank construction would be addressed for vinyl fluoride, inhibited within proposed section 179.102-4.

Section 173.315. The proposals would provide for the shipment of ethane, ethane-propane mixtures and hydrogen chloride, anhydrous in insulated MC-331 cargo tanks. These materials can presently be shipped in cargo tanks only under exemption. Proposed revisions to paragraphs (c) and (h) establish outage and gauging device requirements for tanks containing these materials.

Section 173.316. This section would be extensively revised. Presently it applies only to liquefied hydrogen and to shipments in both tank cars and cylinders. As proposed this section would provide requirements for all cryogenic liquids permitted to be shipped in cylinders, i.e., argon, nitrogen, oxygen and hydrogen. Various paragraphs in this section would establish general requirements, requirements for pressure controlling valves, and specification cylinder requirements and filling limits for each commodity. A range of fill densities for all the commodities except hydrogen would be permitted, based on various pressure control valve settings.

Section 173.318. This totally new section proposes shipper requirements for cryogenic liquids in cargo tanks. Many of the provisions in this section are the result of successful past practices with shipments under exemption, other reflect requirements applicable to existing nonregulated cryogenic cargo tanks. The provisions in this section establish general requirements; safety relief device requirements; weight of lading requirements (to be established either by weighing or by the use of authorized gauging device); a two percent outage requirement; a temperature of lading requirement to ensure that the tank will not vent within its marked holding time; and maximum permitted filling densities. Argon, helium, nitrogen, oxygen, carbon monoxide, hydrogen, methane and natural gas would be authorized for shipment in an MC 338 cargo tank and a range of maximum permitted filling densities is provided depending on the setting of a pressure control device.

Section 173.319. This new section proposes requirements for cryogenic liquids in tank cars. Currently section 173.316(a)(1) sets forth shipper requirements for hydrogen, the only cryogenic liquid now authorized by regulation for shipment in tank cars. It is proposed to move the current 173.316 requirements for hydrogen to this section, and to authorize the tank car shipment of ethylene. This section would (1) set forth general requirements primarily involving loading, (2) require at least 0.5 percent outage and an absolute pressure in the annular space of less than 75 microns of mercury, (3) require the temperature of the cryogenic liquid at the time of filling be such that the tank will not vent in less than the holding time established pursuant to section 179.400-4, and (4) establish the maximum permitted filling density and maximum start-to-discharge pressure for the two commodities.

Section 173.320. Argon, helium, nitrogen and oxygen transported in packages such that the pressure will not exceed 25.3 psig (i.e. nonpressurized) are proposed to be excepted from the packaging requirements of the Hazardous Materials Regulations applicable to cryogenic liquids. This section sets out the general exception and then indicates those requirements from which these materials are not excepted.

Section 174.25. A minor change is proposed to reflect the new term "oxygen, cryogenic liquid."

Section 174.67. Paragraph (a) would be amended to correct a mistake. Currently only section 174.200 is referenced whereas all of subpart F of Part 174 should be.

Section 174.83. Paragraph (b) would be revised to add tank cars carrying flammable cryogens to those transporting explosive A or poison gas and which may not be cut off in motion, coupled with excessive force or struck by any car moving under its own momentum.

Section 174.204. It is proposed to extend the existing delivery requirements applicable to tank cars containing anhydrous ammonia, liquefied hydrocarbon gas and liquefied petroleum gas to apply to cars containing cryogenic liquids as well.

Section 176.76. Paragraph (h) would be added to require that a cryogenic liquid in a cargo tank aboard a vessel must be in Specification MC 338 tank, even if the cryogenic liquid is nonflammable and nonpressurized and generally excepted from container requirements by section 173.320. Also valves, fittings or piping (exclusive of the tank itself) which come in contact with lading would not be allowed to be made of aluminum on an MC 338 tank carrying any cryogenic liquid aboard a vessel. Finally, this provisions requires the time between loading and unloading of the cargo tank to not exceed the marked rated holding time calculated pursuant to section 178.338-9(c).

Section 177.816. The MTB is proposing that the driver of each vehicle used to transport a flammable cryogenic liquid in a cargo tank receive formal training at least every 24 months. Included would be training pertaining to requirements of the Hazardous Materials Regulations applicable to flammable cryogenic liquids; requirements of the Federal Motor Carrier Safety Regulations applicable to drivers; the properties and potential hazards of the flammable cryogenic liquids being transported; instructions on the operating characteristics, emergency features and loading limitations of the transport vehicle; and the procedures to be followed in case of acci-

dent or other emergency. It is proposed that written records of training be kept and that the driver by issued a certificate of training. Recognizing the potential risks presented by flammable cryogenic liquids when they are transported in large quantities in cargo tanks, the MTB believes the proposed training requirements are appropriate and necessary.

Section 177.818. For the same reasons stated in section 177.816, the MTB is proposing that special instruction be carried with the shipping papers on each vehicle transporting a flammable cryogenic liquid in a package exceeding 125 gallons water capacity. The special instructions would include general precautions, manual venting instructions, emergency procedures, and the names and telephone numbers of persons to be contacted in case of emergency or accident.

Section 177.824. Paragraph (e) would be revised to cover the MC 338 cargo tank in this retest requirements section. The proposal references the detailed testing requirements set forth in the MC 338 specification.

Section 177.825. A registration requirement for carriers of flammable cryogenic liquids is proposed, similar to that proposed in section 173.5 for shippers of flammable cryogenic materials. The reasons and authority for the proposed registration requirements are the same for both sections.

Section 177.840. This section would be revised to provide carrier requirements for the transportation of cryogenic liquids. Paragraph (h) would require drivers to be knowledgeable in the handling of the cryogenic material being transported, to manually vent under certain conditions, and to log, for each shipment, the cargo tank pressure at various specified times. Paragraph (i) would require the time between loading and unloading of the tank at its intended delivery point to not exceed the one-way travel time calculated under section 178.338-9(c) and for distribution service modified by paragraph (j) of this section. Paragraph (j) would explain how to determine one-way travel time for cargo tanks in distribution service. Paragraph (k) would set out the requirements that must be met before a cryogenic cargo tank would be considered empty. Paragraph (1) would require a specified breathing apparatus for drivers of vehicles transporting carbon monoxide, cryogenic liquid.

Section 178.57-13. This section would be revised to reference paragraphs (b) and (c) of section 173.316. This corrects the present situation under which pressure controlling valve requirements in 173.316 are not referenced in the 41 specification and also reflects the fact that the requirements in present paragraph (b)(2) of section 173.304 are proposed to be incorporated in section 173.316.

Section 178.337-11. It is proposed to have the existing MC 331 discharge opening requirements applicable to flammable liquids, flammable compressed gas and anhydrous ammonia made applicable to hydrogen chloride, anhydrous for which bulk shipment would be authorized under this notice.

Section 178.338. This section proposes a cargo tank specfication, MC 338, for the carriage of cryogenic liquids. This specification was also contained in the ANPRM in substantially the same form in which it is presently presented. The following paragraphs explain how the tank specification that appears in this notice differs from the one that appeared int he ANPRM.

Section 178.338-1 is reworded to provide a more orderly description of the cargo tank and its design factors and form. Insulation requirements are now described in terms of a performance standard.

Aluminum is now excluded from the requirement for impact testing in section 178.338-2 due to its ductility at low temperatures.

In section 178.338-3, Note 1 of paragraph (b) has been deleted and its contents are now part of the text of paragraph (b).

Paragraph (f) of Section 178.338-4 requires full penetration on nozzle to shell and nozzle to head welds.

There has been only minor rewording of section 178.388-5 and a change to note a referenced section's new location in this proposal.

Tanks constructed of certain materials are excepted from the manhole requirement in section 178.338-6. Also, this section now specifies a location requirement for the manhole.

Paragraph (a) of section 178.338-7 limits the product drainage requirements to tanks intended to carry products that are flammable. The rest of the section is reworded for clarity.

In Section 178.338-8, the wording is clarified and various section number references have been corrected. Also, for a pressure-building coil, this section now requires that a valve at the liquid connection to the coil must be provided.

In section 178.338-9, devoted to holding time, a number of changes have taken place. The use of a cryogenic liquid other than nitrogen is now allowed in performing the holding time test. An optional holding time test is permitted for tanks made to the same design as a tank that has been subjected to the full holding time test. The term "marked rated holding time" is introduced, which permits a tank, based on its intended use and possible economic benefits to the operator, to have its specification plate marked with a lesser holding time than the tank is successfully tested for. A revised and more relaxed one-way travel time definition is provided for tanks with a marked rated holding time in excess of 72 hours.

Paragraph (d) is added to section 178.338-10 and requires that every part of the loaded cargo tank must be at least 14 inches above level ground (exclusive of wheel assemblies).

The reference in paragraph (c) of section 178.338-11 to poisonous ladings has been removed since none of the cryogens proposed to be authorized for the MC 338 tank are poisonous.

There is only minor rewording to section 178.338-12.

Paragraph (f) of section 178.338-13 in the ANPRM, which referenced section 178.338-18(c) regarding design weight of lading used in determining loadings, is deleted.

In section 178.338-14, the ANPRM requirement in the second sentence of paragraph (a)(4) is removed since it merely describes how to carry out the first sentence and is unnecessary. The second sentence of paragraph (c) in the ANPRM is now contained in section 178.338-7(b).

The cleanliness standard in section 178.338-15 now requires that tanks constructed for oxygen service be cleaned in accordance with Compressed Gas Association Pamphlet G-4.1 entitled "Cleaning Equipment for Oxygen Service."

The ANPRM's restriction on the use of the pneumatic test to certain applications is removed from section 178.338-16. Also, for tanks constructed in accordance with Part UHT of the ASME Code, it is now required for pneumatic test, as well as hydrostatic tests, that the test pressure be twice the design pressure. The ANPRM's provision for weld inspection using specified nondestructive testing other than radiography is removed. It is proposed that all welds on the cargo tank shell or heads be radiographed.

Corrections are made to the references in section 178.338-17.

Section 178.338-18 is reworded to more clearly establish the separate nameplate and specification plate requirements.

Section 178.338-19 now requires that the manufacturer furnish, beside the tank manufacturers data report, a photograph, pencil rub or other facsimile of the nameplate and specification plate. The section is also reworded to more clearly indicate the requirements if a tank is manufactured in two or more stages.

Section 179.102. This section sets forth special commodity requirements for pressure tank car tanks.

Section 179.102-4 deals with vinyl fluoride, inhibited and the proposed changes would incorporate construc-

tion details now improperly in Note 17 to the Table in section 173.314, establish a cold temperature requirement for cars to be used to transport this material, require specific types of steel and impact tests for construction, raise the lowest possible pressure setting of the safety vent, require certain specified appurtenances and finally, have the adequacy of the insulation determined on performance oriented basis rather than solely on an engineering standard basis.

Section 179.102-7. This new section sets forth special commodity requirements for hydrogen chloride, anhydrous. Presently, this material cannot be shipped in bulk, except under exemption. This section would be based on the requirements currently in the exemptions. Many of the requirements would be similar to those proposed for vinyl fluoride, inhibited.

Section 179.400. This section would be restructured to be more performance standard oriented rather than engineering standard oriented and rearranged in logical sequence to progress from the conception of the tank to final construction.

Section 179.401. This section would be revised to delete the DOT 113A175-W car which is believed to be obsolete and to add the DOT 113C120-W car. This section also incorporates the use of the DOT 113C120-W car for ethylene service. Heretofore cryogenic ethylene has only been permitted to be shipped in bulk under exemption.

Primary drafters of this document are A. J. Mallen, A. I Roberts, P. H. Seay, Jr., of the Materials Transportation Bureau; D. W. Morrison and D. B. Goodman of the Bureau of Motor Carrier Safety, Federal Highway Administration; W. H. Black of the Federal Railroad Administration; and D. G. Ortez of the Office of Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, it is proposed to amend Parts 171, 172, 173, 174, 176, 177, 178, and 179 of Title 49 Code of Federal Regulations as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. § 171.1 would be revised to read as follows:

§ 171.1 Purpose and Scope.

This subchapter prescribes the requirements of the Department of Transportation governing—

(a) The transportation of hazardous materials by, and their offering to—

(1) Carriers by rail car, aircraft and vessel;

(2) Interstate or foreign carriers by motor vehicle; and

(3) Intrastate carriers by motor vehicle so far as this subchapter relates to—

(i) Flammable cryogenic liquids in portable tanks and cargo tanks.

(b) The manufacture, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold for use in such transportation as specified in paragraph (a) of this section.

2. In § 171.7 paragraph (d)(2) would be revised; and paragraphs (d)(3)(vi), (d)(5)(viii) would be added to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(2) AAR Specifications for Tank Cars means the 1977 edition of the "Association of American Railroads Specification for Tank Cars."

(3) * * *

(iv) CGA Pamphlet G-4.1 is titled, "Cleaning Equipment for Oxygen Service," 1977 edition.

* * * * *

(5) * * *

(viii) Book of ASTM Standards, Part 4, entitled "ASTM Standards and Tentatives Relating to Structural Steel Concrete Reinforcing Steel, Pressure Vessel Plate, Steel Rails, Wheels, and Tires; Bearing Steel; Steel Forgings," 1978 edition.

* * * * *

3. In § 171.8 definitions for "filling density" and "standard cubic foot" would be added in alphabetical sequence to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

"Filling density" has the following meanings:

(1) For compressed gases in cylinders, see § 173.304(a)(2), Table Note 1.

(2) For compressed gases in tank cars, see § 173.314(c), Table Note 1.

(3) For compressed gases in cargo tanks and portable tanks, see § 173.315(a)(1), Table Note 1.

(4) For cryogenic liquids in cylinders, see § 173.316(c)(1).

(5) For cryogenic liquids in cargo tanks, see § 173.318(f)(1)

(6) For cryogenic liquids in tank cars, see § 173.319(d)(1).

* * * * *

"SCF" (standard cubic foot) means one cubic foot of gas measured at 60° F. and 14.7 psia.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

4. In § 172.101 the Hazardous Materials Table would be amended as follows:

[4910-60-C)

§ 172.101 Hazardous Materials Table.

§ 172.101

(1)	(2)	(3)	(4)	(5) Packaging		Maximum net quantity in one package		(7) Water shipments		
*/ W/ A	Hazardous materials descriptions and proper shipping names	Hazard class	Labels(s) required (if not excepted)	(a) Exception	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirement
	(Delete)									
	Argon, liquid pressurized	Nonflammable gas	Nonflammable gas	none	173.304	Forbidden	300 pounds	1, 3	1, 3	
	Hydrogen, Liquefied	Flammable gas	Flammable gas	none	173.316	Forbidden	Forbidden			Forbidden
	Hydrogen chloride	Nonflammable gas	Nonflammable gas	173.306	173.304	Forbidden	300 pounds	1	4	
	Nitrogen, pressurized Liquid	Nonflammable gas	Nonflammable gas	none	173.304	Forbidden	300 pounds	1, 3	1, 3	
	Oxygen, pressurized liquid	Nonflammable gas	Oxidizer	none	173.304	150 pounds	300 pounds	1, 2	1, 2	Stow separate from acetylene. Do not overstow with other cargo.
	(Change)									
	Ethane	Flammable gas	Flammable gas	173.306	173.304 173.315	Forbidden	300 pounds	1, 2	4	Stow away from living quarters.
	Hydrochloric acid; anhydrous. See Hydrogen chloride, anhydrous.									

(1)	(2)	(3)	(4)	(5) Packaging		Maximum net quantity in one package		(7) Water shipments		
*/ */	Hazardous materials descriptions and proper shipping names	Hazard class	Labels(s) required (if not excepted)	(a) Exception	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirement
	(AAA)									
	Argon, cryogenic liquid	Nonflammable gas	Nonflammable gas	173.320	173.316 173.318	100 pounds	300 pounds	1	1	
	Carbon monoxide, cryogenic liquid	Flammable gas	Flammable gas	None	173.318	Forbidden	Forbidden	1	5	Stow away from living quarters.
	Ethane- propane mixtures	Flammable gas	Flammable gas	None	173.315	Forbidden	Forbidden	1	5	Stow away from living quarters.
	Ethylene, cryogenic liquid	Flammable gas	Flammable gas	None	173.318 173.319	Forbidden	Forbidden	1	5	Stow away from living quarters
	Helium, cryogenic liquid	Nonflammable gas	Nonflammable gas	173.320	173.318	100 pounds	300 pounds	1	1	
	Hydrogen, cryogenic liquid	Flammable gas	Flammable gas	None	173.316 173.318 173.319	Forbidden	Forbidden	5	5	
	Hydrogen chloride, anhydrous	Nonflammable gas	Nonflammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1	4	Stow away from foodstuffs and living quarters.
	Methane, cryogenic liquid	Flammable gas	Flammable gas	None	173.318	Forbidden	Forbidden	1	5	Stow away from living quarters.
	Natural gas, cryogenic liquid.	Flammable gas	Flammable gas	None	173.318	Forbidden	Forbidden	1	5	Stow away from living quarters.
	Nitrogen, cryogenic liquid	Nonflammable gas	Nonflammable gas	173.320	173.316 173.318	100 pounds	300 pounds	1	1	
	Oxygen, cryogenic liquid	Nonflammable gas	Oxidizer	173.320	173.316 173.318	Forbidden	Forbidden	1	5	Stow separate from flammables. Do not overstow with other cargo.

[4910-60-M]

5. In § 172.203 paragraph (g)(3) would be added to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(g) * * *

(3) The shipping paper for each class DOT 113 tank car must contain the notation "DOT 113A" or "DOT 113C" as appropriate and the statement, "DO NOT HUMP OR CUT OFF CAR WHILE IN MOTION."

* * * * *

§ 172.328 [Amended]

5a. In § 172.328 the introductory text of paragraph (c) would be amended by removing the word "compressed" in the third line.

6. In § 172.504(a) Table 2 would be revised as follows:

§ 172.504 General placarding requirements.

(a) * * *

TABLE 2

If the motor vehicle, rail car, of freight container contains a material classed (described) as	The motor vehicle, rail car, or freight container must be placarded on each side and each end
Class C explosives	Flammable.[1]
Nonflammable gas	Nonflammable gas.
Nonflammable gas (Chlorine)	Chlorine.[6]
Nonflammable gas (Fluorine)	Poison.
Nonflammable gas (Oxygen, cryogenic liquid)	Oxygen.
Flammable gas	Flammable gas.
Combustible liquid	Combustible.[2 3]
Flammable liquid	Flammable.
Flammable solid	Flammable solid[4]
Oxidizer	Oxidizer.
Organic peroxide	Organic peroxide.
Poison B	Poison.
Corrosive material	Corrosive.[5]
Irritating material	Dangerous.

[1] Applies only to a Class C explosive required to be labeled with an EXPLOSIVE C label.

[2] COMBUSTIBLE placard required only when a material classed as a combustible liquid is transported in a packaging having a rated capacity of more than 110 gallons, a cargo tank, or a tank car.

[3] A FLAMMABLE placard may be used on a cargo tank and portable tank during transportation by highway and vessel.

[4] Except when offered for transportation by vessel, FLAMMABLE placard may be displayed in place of a FLAMMABLE SOLID placard except when a DANGEROUS WHEN WET label is specified for the material in § 172.101. (See Table 1 this section).

[5] See § 173.245(b) of this subchapter for authorized exceptions.

[6] CHLORINE placard required only for a packaging having a rated capacity of more than 110 gallons; the NON-FLAMMABLE GAS placard for packagings having a rated capacity of 110 gallons or less.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

7. The Table of Sections to Part 173 would be amended by revising the entry for § 173.316; and adding entries for §§ 173.5, 173.318, 173.319 and 173.320 to read as follows:

* * * * *

173.5 Shippers registration statement; flammable cryogenic liquids.
173.316 Cryogenic liquids in cylinders.
173.318 Cryognic liquids in cargo tanks.
173.319 Cryogenic liquids in tank cars.
173.320 Exceptions for certain cryogenic liquids in cylinders, portable tanks, cargo tanks and tank cars.

* * * * *

8. § 173.5 would be added to read as follows:

§ 173.5 Shippers Registration Statement; Flammable Cryogenic Liquids.

(a) No person may offer a flammable cryogenic liquid for transportation in a portable tank, cargo tank or a tank car after the dates and under the conditions specified in paragraph (b) of this section unless he has on file a registration statement with, and has received an acknowledgement thereof from, the Office of Operations and Enforcement, Materials Transportation Bureau. The registration statement must contain the following:

(1) Name of shipper.

(2) Principal place of business.

(3) Location where flammable cryogenic liquids are offered for transportation including transportation by private carriage.

(4) The name and principal place of business of each initial carrier used to transport flammable cryogenic liquids and the name of each flammable cryogenic liquid the carrier is offered for transportation.

(5) The serial number of each portable tank, and the reporting mark and number of each tank car, owned, leased, or otherwise controlled by the shipper and used to offer a flammable cryogenic liquid for transportation.

(b) A registration statement containing the information required by paragraph (a) of this section must be filed:

(1) Initially between January 1 and February 28, 1980, and

(2) Between January 1 and February 28 of each even year after 1980.

The initial statement is not required to contain information relative to operations that occurred more than 90 days prior to the date of the statement. Operations initiated between the filing intervals specified in this paragraph are not subject to the registration requirements of this section until the end of the next required filing period.

* * * * *

9. In § 173.29 paragraph (f)(3) would be added to read as follows:

§ 173.29 Empty packagings, portable tanks, cargo tanks, and tank cars.

* * * * *

(f) * * *

(3) Except for certain tank cars the quantity of any remaining gas, other than an atmostpheric gas, in a tank previously used to transport a cryogenic liquid, may not vent under normal conditions of transportation (see § 179.400-4(a)(2)).

10. In § 173.31 paragraphs (a)(6) and (c)(13) would be added; Retest Table I which appears after paragraph (d)(4), would be amended and moved to immediately follow paragraph (c)(13); footnotes to Retest Table I would be revised to read as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

(a) * * *

(6) Each holder of an exemption issued before (effective date of amendment), that authorizes the transportation of a cryogenic liquid in a tank car, shall examine the tank car to determine if it meets the requirements of the appropriate class DOT-113 car and, if practicable, modify, re-rate, and re-mark the tank car according to the proper specification before (date—2 years from the effective date of the amendment). If a tank car currently in use under exemption cannot be modified to specification requirements, the exemption holder shall advise the Associate Director for Hazardous Materials Regulation before (date 12 months from the effective date of the amendment), giving the reasons why the tank car cannot be so modified.

* * * * *

(c) * * *

(13) *Special retest requirements for class DOT-113 tank car tanks.*

(i) The pressure retest of the Class 113A car is not required, however, each shipment must be monitored to determine the average daily pressure rise in the tank. If the average daily pressure rise during any shipment exceeds 3 psi per day in the tank the car must be retested prior to any subsequent shipment.

(ii) When a retest is performed, the absolute pressure in the annular space of a loaded car may not exceed 75 microns of mercury at the beginning of the retest, and may not increase more than 25 microns during the 24 hour period of the following alternative retests:

(A) *Pressure rise retest:* The pressure rise in the tank may not exceed 5 psi.

(B) *Evaporation rate retest:* The evaporation rate determined by test of a loaded car may not exceed 120 percent of the maximum heat transfer

specified in § 179.401-1 of this subchapter.

(iii) A car must be removed from service and corrective action taken if any one of the retest results is not in accordance with the requirements of paragraph (c)(13)(ii) of this section.

(iv) Each frangible disc must be replaced every 12 months and the replacement date stenciled on cars near the safety relief valve information.

(v) An alternate safety relief valve must be retested at the same time interval prescribed for the required safety relief valve. The start to discharge pressure and vapor tight pressure requirements for the alternate safety relief valve must be as shown in § 179.401-1 of this subchapter.

RETEST TABLE I

Specification	Retest interval years					Retest pressure p.s.i.	
	Tank and interior heater systems					Safety relief valve	
	Up to 10 years	Over 10 to 22 years	Over 22 years	Safety relief valve	Tank	Start to discharge	Vapor tight
Delete							
DOT-113A60W	(a)	(a)	(a)	5	(a)	30	24
DOT-113A175W	(a)	(a)	(a)	5	(a)	115	95
Add							
DOT-113A60W	(*)	(*)	(*)	5	(*)	(*)30	(*)24
DOT-113C120W	(*)	(*)	(*)	5	(*)	(*) 75	(*) 60

* * * * *

*See paragraph (c)(13) of this section for retest requirements for Class DOT-113 cars.

* * * * *

11. In § 173.33 paragraphs (a) and (b) would be revised; paragraphs (d) would amended to read as follows:

§ 173.33 Qualification, maintenance, and use of cargo tanks.

(a) *General:* Unless otherwise provided in this Part, every cargo tank (or compartment) used for transportation of hazardous materials must be an authorized packaging. Such authorized packaging shall comply with requirements as set forth in this section in addition to those regulations applicable for the transportation of the particular material. For the purposes of this Part, whenever reference is made to a Specification MC 338 insulated cargo tank the definitions in § 178.338-1(a) and (b) apply.

A cargo tank is authorized for shipment of a hazardous material by vessel when in conformance with the requirements of Part 176 of this subchapter and the following limitations:

(1) On carfloats or trailerships if the material is permitted aboard a cargo vessel by § 172.101 of this subchapter, or

(2) On passenger ferry vessels or railroad car ferry vessels if the material is permitted aboard a passenger vessel by § 172.101 of this subchapter.

(b) Cargo tank qualification as authorized packaging requires compliance with the applicable specification MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, MC 312, MC 330, MC 331, or MC 338, (§§ 178.341, 178.342, 178,343, 178,337, 178.338 of this subchapter), with this section, and with the inspection, retests, and marking requirements of § 177.824 of this subchapter.

(1) A cargo tank of the specification listed in column 1, may be used when authorized in this Part provided the tank construction began before the date in Column 2.

Column 1	Column 2
MC 300	September 2, 1967
MC 301	June 12, 1961
MC 302, MC 303, MC 304, MC 305, MC 310, MC 311	September 2, 1967
MC 330	May 15, 1967

(2) Each holder of an exemption issued before (effective date of amendment), that authorized the transportation of a cryogenic liquid in a cargo tank, shall examine the cargo tank to determine if it meets the requirements of Specification MC 338 and, if practical, modify, re-rate, and re-mark the tank according to this specification before (date—two years from the effective date of this amendment).

(i) The holding time must be determined as required in § 178.338-9 of this subchapter on each cargo tank or on at least one cargo tank for each design. Subsequent cargo tanks manufactured to the same design if not individually tested must have the optional test regimen (see § 178.338-9(b)(1)) of this subchapter performed during the first shipment. For the purpose of performing the holding time test, same design means: cargo tanks having the same manufacturer; same drawings; same dimensions of length, diameter, and volume; same materials of construction; and the same insulation system.

(ii) The holding time determined by test for one authorized hazardous material may be used to establish an equivalent holding time for other authorized hazardus materials.

(iii) If a cargo tank covered by an exemption cannot be modified to specification requirements, the exemption holder shall advise the Associate Director for Hazardous Materials Regulation before (date 12 months from the effective date of the amendment), giving the reasons why the cargo tank cannot be so modified.

* * * * *

(d) A Specification MC 330, MC 331, or MC 338 (§§ 178.337, 178.338 of this subchapter) cargo tank may not be used unless it meets the following requirements, as applicable:

(1) Each cargo tank must be tested and inspected at least once every 5 years in accordance with paragraphs (d)(2), (3), (4), (10), (11), and (12) of this section.

(i) The tank and each safety relief valve of any cargo tank used for the transportation of chlorine must be tested at least once every 2 years.

(ii) Each cargo tank used to transport a cryogenic liquid must be examined after each shipment to ascertain that the actual holding time is not significantly different from the marked rated holding time shown on the certification plate. The record required by § 177.840(h) of this subchapter may be used for this determination. If the examination indicates that the actual holding time is less than 90 percent of the marked rated holding time shown on the specification plate (§ 178.338-18(b) of this subchapter), the tank may not be refilled with any cryogenic liquid until it is repaired to restore it to the marked rated holding time value or it is marked with the current value of the rating holding time.

(iii) For a cargo tank in distribution service of a cryogenic liquid, see § 177.840(k) of this subchapter.

(2) Each tank (less fittings) must be subjected to an internal pressure of at least one and one-half times the design pressure (maximum allowable working pressure or re-rated pressure) of the tank. The internal pressure may

be hydraulically or pneumatically generated. If a pneumatic test is used, the entire surface of all joints under pressure must be coated with a solution of soap and water, or other suitable material for the purpose of detecting leaks through the presence of foaming or bubbling. Other equally sensitive methods for determining leaks may be used. When a pneumatic test is performed, suitable safeguards should be provided to protect employees and other persons should a failure occur.

* * * * *

(4) When testing cargo tanks the insulation and jacketing need not be removed unless it is otherwise impossible to reach test pressure and maintain a condition of pressure equilibrium after test pressure is reached, or the vacuum integrity cannot be maintained in the insulation space.

* * * * *

12. In § 173.300, paragraphs (f), (g) and (h) would be redesignated paragraphs (g), (h) and (i) respectively; a new paragraph (f) would be added; redesignated paragraph (h) would be revised to read as follows:

§ 173.300 Definitions.

* * * * *

(f) *Cryogenic liquid.* A "cryogenic liquid" is a refrigerated liquefied gas having a boiling point colder than −130° F. (−90° C.) and other than a gas offered for transportation and transported as a compressed or liquefied compressed gas in accordance with this subchapter.

* * * * *

(h) *Filling density.* The term "filling density" shall designate the percent ratio of the weight of gas in a container to the weight of water that the container will hold at 60° F. (One pound of water equals 27.737 cubic inches at 60° F.)

For example, for a liquefied petroleum gas of 0.504/0.510 specific gravity, a 100-pound cylinder holds 238.1 pounds of water and the filling density is 42 percent; therefore the amount of gas permitted is 0.42X238.1 or 100 pounds. For cryogenic liquids, the definition of filling density in § 173.316(c)(1) applies to a cylinder; the definition in § 173.318(f)(1) applies to a cargo tank; and the definition in § 173.319(d)(1), applies to a tank car.

* * * * *

13. In § 173.304 the text of paragraph (a)(2) preceding the table, would be revised; paragraph (a)(2) table would be amended by deleting the entries: "Argon, pressurized liquid," "Nitrogen, pressurized liquid" and "Oxygen, pressurized liquid;" and changing the entry: "Hydrogen chloride" to "Hydrogen chloride, anhydrous;" the introductory text of paragraph (b) would be revised as follows:

§ 173.304 Charging of cylinders with liquefied compressed gas.

(a) * * *

(2) The following requirements must be complied with for the gases named (for cryogenic liquids, see § 173.316):

Kind of gas	Maximum permitted filling density (see Note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34(a),(b), § 173.301(j) (see notes following table)
(Delete)		
Argon, pressurized liquid	115	DOT-4L200.
Nitrogen, pressurized liquid	68	DOT-4L200.
Oxygen, pressurized liquid	96	DOT-4L200.
Hydrogen chloride	65	DOT3A1800; DOT3AA1800, DOT3AX1800; DOT3AAX1800, DOT3, DOT3T1800; and DOT3E1800.
(Add)		
Hydrogen chloride, anhydrous.	65	DOT3A1800; DOT3AA1800; DOT3AX1800; DOT3AAX1800; DOT3; DOT3T1800; and DOT3E1800.

(b) *Filling limits.* (See § 173.301(f)). For a liquefied compressed gas the liquid portion of the contents at 130° F. must not completely fill the container.

* * * * *

4. In § 173.314 paragraph (c) preceding the table would be revised; the table in paragraph (c) would be amended; note 17 to the table in paragraph (c) would be revised; paragraph (g) would be redesignated paragraph (h); a new paragraph (g) would be added to read as follows:

§ 173.314 Requirements for compressed gases in tank cars.

* * * * *

(c) *Authorized gases, filling densities, tank cars.* A compressed gas being transported in a tank car must be loaded and transported in accordance with paragraphs (b) and (h) of this section, § 173.432, and the following table. (For cryogenic liquids, see § 173.319):

Kind of gas	Maximum permitted filling density, Note 1	Required tank car, see § 173.31(a)(2) and (3)
(Add)		
Hydrogen chloride, anhydrous	89.0 maximum to 80.1 minimum at maximum 80 psig, when offered for transportation.	DOT-105A600W, Note 17.
(Revise)		
Vinyl fluoride, inhibited	59.6 maximum to 53.6 minimum at maximum 105 psig, when offered for transportation.	DOT-105A600W, Note 17.

* * * * *

NOTE 17: See paragraph (g) of this section.

* * * * *

(g) *Special requirements for hydrogen chloride, anhydrous and vinyl fluoride, inhibited.*

(1) The shipper shall notify the Bureau of Exposives whenever a car is not received by the consignee within 20 days from the date of shipment.

(2) Prior to the release of an "empty" car for transportation, the pressure in the car may not exceed 70 psig.

(3) Tank cars containing hydrogen chloride, anhydrous must have the auxiliary valve closed during transportation of the tank car (see § 179.102-17(d)).

* * * * *

15. In § 173.315 the text of paragraph (a) would be revised; the table in paragraph (a) would be amended; Note 11 to the table in paragraph (a), and paragraph (c) would be revised; the table in paragraph (h) would be amended to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

(a) *A compressed gas* to be offered for transportation in a cargo tank or a portable tank must be prepared in accordance with this section (for cryogenic liquids, see § 173.318); and may only be shipped in a cargo tank or a portable tank as provided in §§ 173.32 and 173.33 and this section (for marking requirements see §§ 172.326 and 172.328(d) of this subchapter) as follows:

Kind of gas	Maximum permitted filling density		Specification container required		Pounds per square inch gage[1]
	Percent by Weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design pressure (psig)	
Ethane	51	See par. (c) of this section	MC-331	100 (See Note 11)	20
	50	do	do	100 (See Note 11)	40
	49	do	do	100 (See Note 11)	70
	47	do	do	100 (See Note 11)	
Ethane-propane, mixtures		See par. (c) of this section	MC-331	275 (See Note 11)	
Hydrogen chloride, anhydrous	10.3	See Note 7	MC-331	100 (See Note 11)	
	91.6	do	do	300 (See Note 11)	
	86.7	do	do	450 (See Note 11)	

[1] Pressure control valve setting. Maximum start-to-discharge pressure.

NOTE 11: MC 330 or MC 331 cargo tanks must be insulated. Cargo tanks must meet all of the following requirements. Each tank must be designed for a service temperature no warmer than the liquefaction temperature of the hazardous material to be shipped herein and must comply with the low-temperature requirements of the ASME Code. The maximum allowable transportation distance before venting will occur, must be that normally accomplished within the holding time of the cargo tank as loaded with an added margin of 100 percent of the normal travel time. However, if the normal travel time exceeds 24 hours, the maximum allowable transportation distance before venting will occur may be that normally accomplished within the holding time of the cargo tank with an added margin of 24 hours. Before transportation in an empty condition each cargo tank having previously transported a hazardous material must have been drained and vented or blown down sufficiently so that there will be no venting during movement of the empty tank.

* * * * *

(c) The loading of liquefied gases into a cargo tank or a portable tank shall be determined by weight or by a suitable liquid level gauging device. The liquid portion of the gas shall not fill the tank at 105 degees F. if the tank is lagged, nor at 115 degrees F. if the tank is unlagged, except that this requirement shall be waived for:

(1) Tanks containing carbon dioxide or nitrous oxide which are required to be equipped with suitable pressure controlling devices may be loaded to a level corresponding to 95 percent of the volumetric capacity of the tank, or

(2) Tanks containing ethane; ethane-propane, mixtures; or hydrogen chloride, anhydrous filled to allow at least two percent outage below the inlet of the safety relief valve or pressure controlling valve under conditions of incipient opening, with the tank in a level attitude.

(h) * * *

Kind of gas	Permitted gauging device
(Add)	
Ethane	Rotary tube; adjustable slip tube; fixed length dip tube.
Ethane-propane, mixtures.	Rotary tube; adjustable slip tube; fixed length dip tube.
Hydrogen chloride, anhydrous.	None.

* * * * *

16. § 173.316 would be revised to read as follows:

§ 173.316 Cryogenic liquids in cylinders.

(a) *General requirements.*

(1) A cylinder may not be loaded with a cryogenic liquid colder than the design service temperature of the packaging.

(2) A cylinder may not be loaded with any material which may combine chemically with any residue in the packaging to produce an unsafe condition.

(3) The jacket covering the insulation on a cylinder used to transport oxygen or any flammable lading must be made of steel.

(4) A valve or fitting with internal moving or abrading parts that may come in contact with oxygen in the cryogenic liquid form or any flammable cryogenic liquid may not be made of aluminum.

(5) Each cylinder must be provided with one or more safety relief devices which must be installed and maintained in compliance with the requirements of this subchapter.

(6) Each safety relief device must be installed and located so that the cooling effect of the contents will not prevent effective operation of the device.

(7) The weight of lading in a cylinder may not exceed the design weight marked on the cylinder.

(b) *Pressure controlling valves.* Each cylinder containing a cryogenic liquid must have a pressure controlling valve that is:

(1) Sized and set to limit the pressure in the cylinder to no more than one and one-fourth times the marked service pressure, if the insulation provided is other than a vacuum,

(2) Sized and set to limit the pressure in the cylinder to at least 15 psi lower than one and one-fourth times the marked service pressure, if the insulation provided is a vacuum,

(3) Designed and installed so that accumulation of frost will not prevent its operation, and

(4) Designed and installed so that it will prevent the cylinder from becoming liquid full.

(c) *Specification cylinder requirements and filling limits.*

Specification 4L (§ 178.57 of this subchapter) cylinders are authorized for the shipment of the following named cryogenic liquids:

(1) For purposes of this section "filling density" is defined as the percent ratio of the weight of lading in a container to the weight of water that the container will hold at 60° F. (1 lb. of water=27.737 cubic inches at 60° F.).

(2) *Argon, nitrogen or oxygen* must be loaded and shipped in accordance with the following table:

Pressure control valve setting	Maximum permitted filling density (Percent by weight)		
Maximum start to discharge pressure(psig)	Argon	Nitrogen	Oxygen
45	133	76	108
75	130	74	105
105	127	72	103
170	122	70	100
230	119	69	98
295	115	68	96
360	113	65	93

(3) *Hydrogen (minimum 95 percent parahydrogen)* must be loaded and shipped as follows:

Column 1	Column 2
Service temperature	minus 423° F. or colder.
Maximum filling density based on cylinder capacity at minus 423° F.	6.7 percent.
The pressure controlling valve must be designed and set to limit the pressure in the cylinder to not more than.	17 psig.

(i) Each cylinder must be constructed, insulated, and maintained so that during transportation the total rate of venting shall not exceed 30 SCF of hydrogen per hour.

(ii) In addition to the marking requirements in § 178.57-20 of this subchapter, the total rate of venting in SCF per hour (SCFH) shall be marked on the top of each head or valve protection band in letters at least one-half inch high as follows: "VENT RATE* *SCFH" with the stars repalced by figures signifying the SCF of hydrogen venting rate per hour.

(iii) Carriage by highway is subject to the conditions specified in § 177.840(a) of this subchapter.

17. § 173.318 would be added to read as follows:

§ 173.318 Cryogenic liquids in cargo tanks.

(a) *General requirements.*

(1) A cargo tank may not be loaded with a cryogenic liquid colder than the design service temperature of the packaging.

(2) A cargo tank may not be loaded with any material that may combine chemically with any residue in the packaging to produce an unsafe condition.

(3) The jacket covering the insulation on a tank used to transport a cryogenic liquid must be:

(i) Made of steel if the cryogenic liquid is to be transported by vessel (See § 173.320(d) and § 176.76(h)(1) of this subchapter); or

(ii) Made of steel if the cryogenic liquid is oxygen or a flammable material.

(4) A valve or fitting with moving or abrading parts or any piping, that may come in contact with oxygen in the cryogenic liquid form or any flammable cryogenic liquid may not be made of aluminum.

(b) *Safety relief devices.*

(1) *General requirements.*

(i) Each tank must be protected by a primary system of one or more spring loaded safety relief valves, and except for carbon monoxide service, by a secondary system of one or more frangible discs arranged to discharge upward and unobstructed to the outside of the protective housing in such a manner as to prevent impingement of gas upon the jacket of any structural part of the vehicle. For carbon monoxide service the secondary system must be comprised of one or more safety relief valves in place of the frangible discs.

(ii) The rated relieving capacity for each safety relief valve and each frangible disc must be as determined by the flow formulas contained in paragraphs 4.3.4 of CGA Pamphlet S-1.2.

(iii) Each safety relief valve must be designed and located so as to minimize the possibility of tampering. If the pressure setting or adjustment is external to the valve, the valve adjustment must be sealed.

(iv) Each safety relief device must be installed to have direct communication with the vapor space of the tank, at the midlength of the top centerline.

(v) Each connection to a safety relief device must be of sufficient size to provide the required rate of discharge through the safety relief device.

(vi) No shut-off valve may be installed between a safety relief device and the tank, except when two or more safety relief values or two or more frangible discs are installed on the same tank. In that case, one or more shut-off valves may be so installed if the installation is arranged to provide the required relief capacity through at least one safety relief valve and at least one frangible disc at all times.

(vii) any shut-off valve or device that interferes with the pressure control valve must be designed so that the cargo tank may not be operated for transportation purposes when the pressure control valve is inoperative.

(viii) Each safety relief device must be arranged or protected to prevent the accumulation of foreign material between the relief valve and the atmospheric discharge opening in any relief piping. The arrangement or protection must not impede flow through the device.

(ix) Each safety relief device must be so installed and located that the cooling effect of the contents will not prevent effective operation of the device.

(2) *Capacity and performance.*

(i) The minimum total capacity of the required primary system of safety relief valves and the minimum total capacity of the specified secondary system of relief devices must be as prescribed in section 4 of CGA Pamphlet S-1.2 for a bare tank unless the insulation remains in place and effective under accident-fire conditions in which case the insulation space is considered to be saturated with the gaseous lading at atmospheric pressure.

(ii) The primary safety relief valves must have the minimum total capacity specified in paragraph (b)(2)(i) of this section, at a tank pressure not exceeding 120 percent of the tank design pressure.

(iii) The secondary system of frangible discs or the required additional safety relief valves must have the minimum total capacity specified in paragraph (b)(2)(i) of this section, at a tank pressure not exceeding 150 percent of the tank design pressure.

(iv) The primary system of safety relief valves must have a liquid flow capacity equal to or exceeding the maximum rate at which the tank is to be filled at a tank pressure not exceeding 120 percent of the tank design pressure.

(v) Each primary safety relief valve must be set to start-to-discharge at a pressure no higher than 110 percent of the tank design pressure.

(vi) The secondary system of safety relief devices must be designed to commence functioning at a pressure no lower than 130 percent and no higher than 150 percent of the tank design pressure.

(3) *Safety relief devices for piping, hose and vacuum insulated jackets.*

(i) Each portion of connected liquid piping or hose that can be closed at both ends must be provided with either a hydrostatic safety relief valve, without an intervening shut-off valve, or a check valve permitting flow from the pipe or hose into the tank. If used, the relief valve must be located so as to prevent its discharge from impinging on the tank, piping, or operating personnel.

(ii) On a vacuum-insulated cargo tank the jacket must be protected by a suitable relief device to release internal pressure. The discharge area of this device must be at least 0.00024 square-inches per pound of water capacity of the tank. This relief device

must function at a pressure not exceeding the internal design pressure of the jacket, calculated in accordance with the ASME Code, or 25 psig, whichever is less.

(4) *Optional safety relief devices and pressure controlling devices.*

(i) In addition to the required safety relief devices, a cargo tank may be equipped with one or more pressure controlling devices.

(ii) In addition to the required safety relief devices, a cargo tank may be equipped with one or more frangible discs set to function at a pressure not over two times nor less than one and one half times the design pressure of the tank.

(5) *Tank inlet, outlet and safety relief device markings.*

(i) Each tank inlet and outlet, except safety relief devices, must be permanently marked to designate whether it communicates with vapor or liquid when the tank is filled to the maximum permitted filling density.

(ii) Each safety relief valve must be plainly and permanently marked with the pressure in psig at which it is set to discharge, the actual rate of discharge of the device in SCF per minute (SCFM), and the manufacturer's name or trade name and catalog number. The marked start-to-discharge pressure valve must be visible with the valve in its installed position. The rated discharge capacity of the device must be determined at a pressure of 120 percent of the design pressure of the tank.

(c) *Weight of lading requirements.* The maximum weight of a cryogenic liquid in the tank must be determined by weighing or by use of liquid level gauging devices authorized in § 178.338-14(a) of this subchapter and may not exceed the lesser of:

(1) The weight of lading in the tank based on the water capacity stamped on the nameplate (§ 178.338-18(a)(6) of this subchapter), and the appropriate maximum permitted filling density in paragraph (f) of this section, or

(2) The maximum weight of lading for which the cargo tank was designed, as marked on the specification plate (see § 178.338-18(b) of this subchapter).

(d) *Outage.* When a cargo tank is offered for transportation, at least two percent outage must be provided below the inlet of the safety relief valve or pressure controlling valve under conditions of incipient opening, with the tank in a level attitude.

(e) *Temperature.* A cryogenic liquid must be loaded into a cargo tank at a temperature sufficiently cold that the lower pressure setting of the pressure control valve or the required safety relief valve will not be reached in less time than the marked rated holding time specified in § 178.338-9(c) of this subchapter.

(f) *Specification MC 338 (§ 178.338 of this subchapter) tank motor vehicle* is authorized for the shipment of the following cryogenic liquids subject to the following additional requirements:

(1) For purpose of this section "filling density" is defined as the percent ratio of the weight of lading in the tank to the weight of water that the tank will hold at the design service temperature (one pound of water = 27.737 cubic inches at 60° F. or one gallon = 231 cubic inches at 60° F. and weighing 8.32828 pounds).

(2) *Argon, helium, nitrogen, or oxygen* must be loaded and shipped in accordance with the following table:

PRESSURE CONTROL VALVE SETTING OR RELIEF VALVE SETTING

Maximum start—to discharge pressure (psig)	Maximum permitted filling density (percent by weight)			
	Argon	Helium	Nitrogen	Oxygen
26		12.5		
30	129	do	74	105
40		do		
50		do		
55	125	do	71	102
60		do		
80		do		
85	121	do		99
100		do		
105		do	67	
120		do		
140		do		
145	115	do	64	94
180		do		
200	110	do	61	91
250	106	do	57	87
275	105	do	56	86
325	101		53	83
Design service temperature	-320(F)	-452F	-320F	-320F

(3) *Carbon monoxide, hydrogen (minimum 95 percent parahydrogen), ethylene, methane or natural gas* must be loaded and shipped in accordance with the following table:

PRESSURE CONTROL VALVE SETTING OR RELIEF VALVE SETTING

Maximum start—to discharge pressure (psig)	Maximum permitted filling density (percent by weight)			
	Carbon monoxide	Ethylene	Hydrogen	Methane or natural gas
13			6.6	
15	75.0		6.6	40.5
17	74.0		6.5	
20		53.5		40
25	73.0			
30	72.0	52.7	6.3	39.1
35				
40		52.0		38.6
45	71.5			
50		51.4	6.0	38.2

PRESSURE CONTROL VALVE SETTING OR RELIEF VALVE SETTING—Continued

Maximum start—to discharge pressure (psig)	Maximum permitted filling density (percent by weight)			
	Carbon monoxide	Ethylene	Hydrogen	Methane or natural gas
55				
60		50.8		
70		50.2	5.7	37.5
90		49.2		
95				
100		48.4	5.4	36.6
115		48.2		
125			5.0	
175	62.5	45.8		
285	56.0			
Design service temperature	-320F	-155F	-423F	-320F

18. § 173.319 would be added to read as follows:

§ 173.319 Cryogenic liquids in tank cars.

(a) *General requirements.*

(1) A tank car containing a cryogenic liquid may not be shipped unless it was loaded by or with the consent of the owner of the tank car.

(2) The amount of cryogenic liquid loaded into a tank car must be determined either by direct measurement or by calculation based on weight to verify that the tank has not been filled to a level beyond the limits specified by paragraph (b)(2) of this section. In either case the weight must also be checked by use of proper scales after disconnection of the loading line.

(3) Whenever a tank car containing any cryogenic lading is not received by the consignee within 20 days after shipment, the shipper of the lading must notify the Bureau of Explosives.

(4) A tank car may not be loaded with any cryogenic liquid

(i) that may combine chemically with any residue in the tank to produce an unsafe condition,

(ii) that is colder than the design service temperature of the tank,

(iii) if the average daily pressure rise in the tank exceeded 3 psi during the prior shipment (see § 173.31(c)(13) of this Part).

(iv) unless it is marked with the name of contents (§ 172.101 of this subchapter) in accordance with the requirements of § 172.330 of this subchapter or as otherwise approved by the Department.

(b) When a tank car is offered for transportation:

(1) at least 0.5 percent outage must be provided below the inlet of the safety relief or pressure controlling valve at the start-to-discharge pressure setting of the valve with the tank car in a level attitude, and

(2) the absolute pressure in the annular space must be less than 75 microns of mercury.

(c) *Temperature.* A cryogenic liquid must be loaded into a tank car at a temperature sufficiently low that the lower pressure setting of the pressure control valve or the required safety relief valve will not be reached in less than the time determined under in § 179.400-4(a) of this subchapter.

(d) A Class 113 tank car is authorized for the shipment of the following cryogenic liquids subject to the following additional requirements:

(1) For purposes of this section "filling density" is defined as the percent ratio of the weight of lading in the tank to the weight of water that the tank will hold at the design service temperature (one pound of water=27.737 cubic inches at 60° F. or one gallon=231 cubic inches at 60° F. and weighing 8.32828 pounds).

(2) Ethylene or hydrogen (minimum 95 percent parahydrogen) must be loaded and shipped in accordance with the following table:

PRESSURE CONTROL VALVE SETTING OR RELIEF VALVE SETTING

Maximum start—to discharge pressure (psig)	Maximum permitted filling density (Percent by weight)	
	Ethylene	Hydrogen
17	6.6	
75	51.5	
Maximum pressure when offered for transportation	10 psig	
Design service temperature	−260 F	−423 F
Specification	113 C120 W	113A60 W

19. § 173.320 would be added to read as follows:

§ 173.320 Cryogenic liquids; exceptions.

Argon, helium nitrogen and oxygen, cryogenic liquids, in cylinders, portable tanks, cargo tanks, and tank cars, constucted and thermally protected so that the pressure in such packagings will not exceed 25.30 psig under ambient temperature conditions during transportation (exluding loading and unloading operations), are not subject to the requirements of this subchapter except:

(a) Sections 171.15 and 171.16 pertaining to the reporting of incidents. The release of a material covered by this section is not a reportable incident if the release is through a pressure controlling device installed on a:

(1) Specification 4L cylinder and set at a pressure in accordance with section 173.316(b)(2); or a

(2) Portable tank, cargo tank, and tank car and set at pressure no higher than 25.30 psig;

(b) Part 172;

(c) Section 173.6 and Part 175 pertaining to transportation on board aircraft; and

(d) Part 176 pertaining to transportation on board vessels (see section 176.76(h)).

PART 174—CARRIAGE BY RAIL

20. The Table of Sections to Part 174 would be amended by revising the entry for § 174.204 as follows:

(Sec. 174.204 Tank car delivery of gases, including cryogenic liquids.

21. In § 174.25(a), the table would be amended by changing the entry: "Oxygen (liquefied)" to "Oxygen, cryogenic liquid" as follows:

§ 174.25 Additional information of way bills, switching orders and other billings.

(a) * * *

Hazardous material or class	Placard notation	Placard endorsement
(Deleted)		
Oxygen (liquefied)	Placarded OXYGEN.	Dangerous.
(Add)		
Oxygen, cryogenic liquid.	Placarded OXYGEN.	Dangerous.

22. § 174.67 the introductory test of paragraph (a) would be revised to read as follows:

§ 174.67 Tank car unloading.

(a) In unloading tank cars, the following rules must be observed (see also subpart F of this Part for gases):

* * * * *

23. In § 174.83 paragraph (b) would be revised to read as follows:

§ 174.83 Switching of cars containing hazardous materials.

* * * * *

(b) Any Class DOT 113 tank car placarded "FLAMMABLE GAS" and any car placarded "EXPLOSIVE A" or "POISON GAS" may not be:

(1) Cut off while in motion,

(2) Coupled into with more force than is necessary to complete the coupling, or

(3) Struck by any car moving under its own momentum.

24. In § 174.204 the heading, and paragraph (a)(2) would be revised to read as follows:

§ 174.204 Tank car delivery of gases, including cryogenic liquids.

(a) * * *

(2) Except for DOT-106A or 110A type cars (§ 179.300 or § 179.301 of this subchapter), a tank car containing anhydrous ammonia, liquefied hydrocarbon gas or liquefied petroleum gas and having interior pipes for liquid and gas discharge valves equipped with check valves, or a tank car containing a flammable cryogenic liquid, may not be delivered and unloaded on carrier tracks, unless the lading is piped directly from the car to permanent storage tanks of sufficient capacity to receive the entire contents of the car. Such cars may also be stored on a private track or on carrier tracks designated by the carrier for such storage (see § 171.8 of this subchapter).

PART 176—CARRIAGE BY VESSEL

25. In § 176.76, paragraph (h) would be added to read as follows:

§ 176.76 Highway vehicles, railroad vehicles, freight containers, and portable tanks containing hazardous materials.

* * * * *

(h) *Cryogenic liquids.* For shipment of cryogenic liquids on board a vessel the packaging must be designed and filled so that:

(1) Any cryogenic liquid being transported in a cargo tank on board a vessel, regardless of the pressure in the package, must be contained in a steel jacketed Specification MC 338, (§ 178.338 of this subchapter) insulated cargo tank. In addition, the requirements of § 173.318(a)(4) of this subchapter apply to a cargo tank containing any cryogenic liquid.

(2) The elapsed time between the loading of a cargo tank with a cryogenic liquid and the subsequent unloading of the cryogenic liquid from the cargo tank at its final destination may not exceed the marked rated holding time (MRHT) as calculated in § 178.338-9(c) of this subchapter.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

26. In Part 177 Table of contents, §§ 177.816 and 177.840 would be revised; and §§ 177.818 and 177.825 would be added to read as follows:

Sec.
177.816 Training.

* * * * *

177.818 Special instructions; cryogenic liquids.

* * * * *

177.825 Carrier's registration statement; flammable cryogenic liquids.

* * * * *

177.840 Compressed gases including cryogenic liquids.

27. In Part 177, Section 177.816 would be added to read as follows:

§ 177.816 Training.

(a) *Applicability.* No person may transport a flammable cryogenic liquid in a cargo tank on a public highway unless the person has provided, and the driver has received, the training specified in this section.

(b) *Training required.* Each person subject to paragraph (a) of this section must—

(1) Provide the required training in written form;

(2) Provide the required training at the time of initial employment of the driver and on a recurrent basis at least once every 24 months;

(3) Include in the training program instructions pertaining to—

(i) Requirements in the Subchapter applicable to cryogenic liquids;

(ii) Requirements in the Federal Motor Carrier Safety Regulations, Parts 390-397 of this title, applicable to drivers;

(iii) The properties and potential hazards of the material being transported;

(iv) The operation of the type cargo tank the driver will be operating including its handling characteristics, emergency features and loading limitations; and

(v) Procedures to be followed in case of accident or other emergency including unanticipated pressure increase or decrease.

(c) *Record of training.* A record of the training and certificate of training required by this section shall be retained in the drivers qualification file (see § 391.51 of this title) for as long as the driver is employed by that person and for three years thereafter. A person using a driver who is not a regularly employed driver for that person (see § 395.2(f) of this title) shall retain a copy of that driver's certificate of training as prescribed in paragraph (d) of this section.

(d) *Certificate of training.* Each person providing the training required by this section shall complete in duplicate a certificate of training. The copy of the certificate shall be retained in the driver's qualification file and the original shall be furnished to the driver. The driver shall have the certificate on his person while operating a motor vehicle subject to this section. The certificate of training shall include the following information—

(1) The driver's name and operators license number;

(2) The date the driver was provided the training and the due date for recurrent training;

(3) The name and address of the person providing the training; and

(4) The hazard class and proper shipping name of material for which the training was provided.

28. In part 177, § 177.818 would be added to read as follows:

§ 177.818 Special instructions; cryogenic liquids.

A driver of a motor vehicle transporting a cryogenic liquid in a package exceeding 125 gallons water capacity, and each carrier using such a vehicle shall ensure that written instructions containing the following information are carried with the required shipping papers:

(1) General precautions.

(2) Manual venting instructions,

(3) Emergency procedures, and

(4) The names and telephone numbers of persons to be contacted in case of emergency or accident.

29. In § 177.824 paragraph (a)(1) would be amended by changing the first two lines to read, "Each cargo tank, except Specification MC 330, MC 331, and MC 338 cargo tanks". . . ; paragraph (e) would be revised to read as follows:

§ 177.824 Retesting and inspection of cargo tanks.

* * * * *

(e) *Compressed gas and cryogenic liquid cargo tanks, specifications MC-330, MC-331, and MC-338.*

(1) *Specification MC-330 and MC-331.* Each cargo tank constructed in compliance with specification MC-330 and MC-331 (§ 178.337 of this subchapter) must be inspected and tested in accordance with § 173.33 of this subchapter.

(2) *Specification MC-338 insulated cargo tanks.* Each insulated cargo tank constructed in compliance with specification MC-338 (§ 178.338 of this subchapter) must be tested in accordance with § 178.338-16(a) of this subchapter and be in compliance with § 173.33 of this subchapter.

30. § 177.825 would be added to read as follows:

§ 177.825 Carrier's registration statement; flammable cryogenic liquids.

(a) No carrier may transport a flammable cryogenic liquid in a portable tank or a cargo tank after the dates and under the conditions specified in paragraph (b) of this section unless he has on file a registration statement with, and has received an acknowledgement thereof from, the Office of Operations and Enforcement, Materials Transportation Bureau. The registration statement must contain the following:

(1) Name of carrier.

(2) Principal place of business.

(3) Locations where cargo tanks used to transport flammable cryogenic liquids are domiciled.

(4) A listing, by name of manufacturer and vehicle identification number, of each cargo tank used by the carrier to transport flammable cryogenic liquids and the name of each flammable cryogenic liquids transported in the cargo tank.

(b) A registration statement containing the information required by paragraph (a) of this section must be filed:

(1) Initially between January 1 and February 28, 1980, and

(2) Between January 1 and February 28 of each even year after 1980.

The initial statement is not required to contain information relative to operations that occurred more than 90 days prior to the date of the statement. Operations initiated between the filing intervals specified in this paragraph are not subject to the registration requirements of this section until the end of the next required filing period.

31. In § 177.840 the heading and paragraph (a)(2) would be revised; paragraphs (h), (i), (j), (k) and (l) would be added to read as follows:

§ 177.840 Compressed gases; cryogenic liquids.

(a) * * *

(2) *Cylinders for hydrogen, cryogenic liquid.* Specification DOT-4L cylinders containing hydrogen, cryogenic liquid must be transported on a motor vehicle with an open body which is equipped with a suitable rack or support having a means to hold the cylinder upright when subjected to an acceleration of at least 2 "g" in any horizontal direction.

(i) The combined total of the hydrogen venting rates as marked on the cylinders on one motor vehicle must not exceed 60 SCF per hour.

(ii) Any motor vehicle transporting a cylinder containing hydrogen, cryogenic liquid may not enter a tunnel.

(iii) Highway transportation is limited to private and contract carriage and to direct movement from origin to destination.

* * * * *

(h) The driver of a motor vehicle transporting a cryogenic liquid in a package exceeding 125 gallons of water capacity shall be knowledgeable in the handling of that specific lading. He shall take precautions to avoid delay during transportation that could cause an excessive pressure rise or other undesirable condition. If unforeseen conditions cause an excessive pressure rise, he shall manually vent the tank at a remote and safe location. For each shipment, the driver shall record the cargo tank pressure at the start of each trip, immediately before and after any manual venting, at least once every five hours, and at the destination point for the lading.

(i) Except for a cargo tank in distribution service (peddle run), the elapsed time required between the loading of a cargo rank with a cryogenic liquid and the subsequent un-

loading of that tank at its intended delivery point may not exceed the one-way travel time calculated in accordance with § 178.338-9(c) of this subchapter.

(j) For a cargo tank in distribution service (peddle run), the one-way travel time computed in accordance with § 178.338-9(c) of this subchapter, must be reduced by one-half.

(k) Each cargo tank containing a cryogenic liquid (other than of atmospheric gas) except one in use in distribution service, must be completely drained of liquid contents at destination and must be vented to atmospheric pressure before it is considered empty and not subject to the regulations for a cargo tank transporting a cryogenic liquid.

(l) A carrier of carbon monoxide as a cryogenic liquid must provide each driver with a National Institute of Occupational Safety and Health approved self-contained air breathing apparatus catalogue number 461704 Model 401 air mask, pressure demand type manufactured by the Mine Safety Appliance Co., or equivalent.

PART 178—SHIPPING CONTAINER SPECIFICATIONS

32. The Table of Sections to Part 178 would be amended by adding an entry for § 178.338 to read as follows:

Sec. 178.338 Specification MC 338; insulated cargo tank.

33. Paragraph (a) of § 178.57-13 would be revised to read as follows:

§ 178.57-13 Safety devices and pressure control valves.

(a) Each cylinder must be equipped with safety devices and pressure control valves as prescribed in § 173.34(d), and paragraphs (b) and (c) of § 173.316 of this subchapter as appropriate.

34. § 178.337-11 the introductory text of paragraph (c) would be revised to read as follows:

§ 178.337-11 Emergency discharge control.

* * * * *

(c) *Liquid or vapor discharge openings.* Except for an engine fuel line on a truck-mounted tank, of not over 3/4 inch diameter and equipped with a valve having an integral excess flow valve, each liquid or vapor discharge opening in a tank used for a flammable liquid, flammable compressed gas, anhydrous ammonia or hydrogen chloride, anhydrous must be equipped with a remotely controlled internal shut-off valve. However, on any liquid or vapor discharge opening of less than 1-1/4 inches diameter, an excess flow valve together with a manually operated external valve may be used in place of a remotely controlled internal shut-off valve. Each remotely controlled internal valve must be in conformance with the following requirements:

* * * * *

35. § 178.338 would be added to read as follows:

§ 178.338 Specification MC 338; insulated cargo tank.

§ 178.338-1 General requirements.

(a) For the purposes of this section—

(1) *"Design pressure"* means the "maximum allowable working pressure" as used in the ASME Code, and is the gauge pressure at the top of the tank.

(2) *"Design service temperature"* means the coldest temperature for which the tank is suitable. (See § 173.318(f) of this subchapter.)

(b) Each cargo tank must consist of a suitably supported welded inner vessel enclosed within an outer shell or jacket with insulation between the inner vessel and outer shell or jacket and having piping, valves, supports and other appurtenances as specified in this subchapter. For the purpose of this specification "tank" means inner vessel, and "jacket" means either the outer shell or insulation cover.

(c) Each tank must be designed and constructed to meet the requirements of the ASME Code.

(1) The design pressure of the tank must not be less than 25 psig nor more than 500 psig. To determine the permissable thickness of the parts of the tank the static head of the lading shall be added to the design pressure. If the jacket is evacuated, the tank must be designed for a pressure of 15 psi plus the lading static head, higher than its "design pressure." The jacket must be designed in accordance with paragraph (e) or (f) of this section, as appropriate.

(2) The design service temperature of the tank, piping and valves may not be warmer than the liquefaction temperature of the lading to be transported (see § 173.318 of this subchapter).

(3) Design and construction details of the tank interior may not allow collection and retention of cleaning materials or contaminants. To preclude the entrapment of foreign material, the design and construction of the cargo tank must allow washing of all interior surfaces by the normal sloshing of the lading during transportation.

(d) The exterior surface of the tank must be insulated with a material compatible with the lading.

(1) Each cargo tank must have an insulation system that will prevent the tank pressure from exceeding the safety relief valve set pressure within the specified holding time when the tank is loaded with the specific cryogenic liquid at the design conditions of:

(i) the specified temperature and pressure of the cryogenic liquid, and

(ii) the exposure of the filled cargo tank to an average ambient temperature of 85°F.

(2) For a cargo tank used to transport oxygen, the insulation may not sustain combustion in a 99.5 percent oxygen atmosphere at atmospheric pressure when contacted with a continuously heated glowing platinum wire. A cargo tank which is so insulated must be marked, "INSULATION FOR OXYGEN SERVICE" in accordance with § 178.338-18(b) when it is used to transport oxygen.

(3) Each vacuum-insulated cargo tank must be provided with a connection for a vacuum gauge to indicate the absolute pressure within the insulation space.

(e) The insulation must be completely covered by a metal jacket. The jacket or the insulation must be so constructed and sealed as to prevent moisture from coming into contact with the insulation (see § 173.318(a)(3) of this subchapter). Minimum metal thicknesses are as follows:

Type metal	Jacket evacuated	Jacket not evacuated
Stainless Steel	18 gauge	20 gauge.
Low Carbon Mild Steel.	12 gauge	14 gauge.
Aluminum	0.125 inch	0.100 inch.

(f) An evacuated jacket must be in compliance with the following requirements:

(1) The cylindrical portion of the jacket between stiffening rings must have a critical collapsing pressure of at least 30 psi as determined by the formula:

$$P_c = 2.6E(t/D^{2.5})/(L/D) - 0.45(t/D)^{0.5}$$

where:

P_c = Critical collapsing pressure, in psi;
E = Modulus of elasticity of jacket material, in psi;
t = Minimum thickness of jacket material, in inches.
D = Outside diameter of jacket, in inches; and
L = Distance between stiffening ring centers, in inches. The heads are considered as stiffening rings located one-third the head depth from the head tangent line.

(2) If stiffening rings are used in designing the cylindrical portion of the jacket for external pressure, each ring must be attached to the jacket by fillet welds on each side of the ring. Outside stiffening ring attachment welds must be continuous. Inside ring attachment welds may be intermittent. When intermittent welds are used, the total length of welds on each

side of the ring must be at least one-third of the jacket circumference. Where a closed section is used, it must be continuously welded on the outside of each leg. A portion of the jacket may be included when calculating the moment of inertia of the ring. The effective width of jacket plate, W, on each side of the attachment to the ring is given by the formula:

$$W=0.78(Rt)^{0.5}$$

where:

R=Outside radius of the jacket, in inches, and
t=Plate thickness of the jacket, in inches.

(i) Where a stiffening ring consists of a closed section having two webs attached to the jacket, the jacket plate between the webs may be included up to the limit of twice the value of W as defined above. The flange of the section is subject to the same limitation, with W based on R and t of the flange. Where two separate members, such as two angles, are located less than 2W apart they may be treated as a single stiffening ring, (the maximum width of jacket plate which may be considered effective is 4W).

(ii) Each stiffening ring must have a minimum moment of inertia as determined by either of the following formulae:

$$I=1.05D^2L/E$$
$$I'=1.38D^2L/E$$

where:

I=Required moment of inertia of the stiffener itself about a centroidal axis parallel to the jacket axis, in inches to the fourth power;
I'=Required moment of inertia of the combined section of stiffener and effective width of jacket plate about a centroidal axis parallel to the jacket axis, in inches to the fourth power;
D=Outside diameter of the jacket, in inches;
L=One-half the distance from the centerline of the stiffening ring to the next line of support on one side, plus one half the distance from the centerline of the stiffening ring to the next line of support on the other side of the stiffening ring, both measured parallel to the axis of the jacket, (a line of support is either a stiffening ring meeting the requirements of this paragraph or a circumferential line on a head at one-third the depth of the head from the head tangent line), in inches; and
E=Modulus of elasticity of the stiffener material, in psi.

(3) The jacket head, shell and ring thickness must be based on a 7.5 psi minimum external design pressure per paragraph UG-33 of the ASME Code.

(4) If the jacket also supports additional loads such as the weight of the tank and lading, the combined stress, computed according to the formula in § 178.338-3(b), may not exceed 25 percent of minimum specified tensile strength.

§ 178.338-2 Material.

(a) All material used in the construction of a tank and its appurtenances that may come in contact with the lading must be suitable for use with the lading to be transported. All material used for tank pressure parts, including evacuated jackets, must conform with the requirements of the ASME Code.

(b) All tie-rods, mountings, and other appurtenances within the jacket and all piping, fittings, and valves must be of material suitable for use at the lowest temperature to be encountered.

(c) Impact tests are required on all tank materials, except aluminum, and must be performed as required by Section VIII of the ASME Code.

(d) The direction of final rolling of the shell material must be the circumferential orientation of the tank shell.

(e) Each tank constructed in accordance with Part UHT of the ASME Code. must be postweld heat treated as a unit after completion of all welds to the shell and heads. Other tanks must be postweld heat treated as required by the ASME Code. The method must be as prescribed in the ASME Code. Welded attachments to pads may be made after postweld heat treatment.

(f) The fabricator shall record the heat and slab numbers and the certified Charpy impact values of each plate used in the tank on a sketch showing the location of each plate in the shell and heads of the tank. A copy of the sketch must be provided to the owner of the cargo tank and a copy retained for at least five years by the fabricator and made available to any representative of the Department of Transportation.

§ 178.338-3 Metal thickness.

(a) The metal thickness of the tank must be as required by the ASME Code and paragraph (b) of this section. Metal thickness less than 3/16 inch may not be used for the shell or heads of a tank unless the tank is enclosed in an evacuated or load-bearing jacket. Metal thickness less than 1/8 inch may not be used for the shell or heads of the tank under any circumstances.

(b) The minimum thickness of metal in the shell (cylindrical portion) of the tank must be such that at no point will the stress on a plane normal to the longitudinal axis exceed 25 percent of the minimum specified tensile strength of the metal. The forces, loads, and stresses considered in this requirement must take into account the weight of the tank itself, its maximum weight of contents, and articles supported by the tank, not including the weight of structures supporting the tank in normal conditions The stresses involved are not all uniform through the length of the tank. For purposes of this requirement, calculation must be made by the following formula:

$$S=T/2+(T^2/4+S_s^2)^{0.5}$$

where, at any point under consideration and for the worst combination of loadings:

S = Effective stress as limited by this requirement, in psi;
T = The sum of the longitudinal tensile stress due to external vacuum and internal pressure and other causes including direct tensile stress due to a rearward acceleration force equal to twice the static weight; tensile stress due to the bending moment of a rearward acceleration force equal to twice the static weight applied at the road surface, and tensile flexure stress due to three times the static weight, in psi; and
S_s = The vectorial sum of the shear stresses in the plane in question, including direct vertical shear due to three times the static vertical loading, direct lateral shear due to a lateral accelerative force equal to twice the static weight, and torsional shear due to a lateral accelerative force equal to twice the static weight, applied at the road surface, in psi.

(c) Maximum stress concentrations that may be created at supports due to shear, bending, and torsion must be calculated in accordance with Appendix G of the ASME Code.

(d) Where a tank support is attached to any part of a tank head, the stresses imposed on the head must be in accordance with the requirements in paragraphs (b) and (c) of this section.

§ 178.338-4 Joints.

(a) All joints in the tank, and in the jacket if evacuated, must be as required by the ASME Code, with all undercutting in shell and head material repaired as specified therein.

(b) Welding procedure and welder performance tests must be made annually, in accordance with Section IX of the ASME Code. In addition to the essential variables set forth therein, the following must also be considered: number of passes, thickness of plate, heat input per pass, and manufacturer's identification of rod and flux. The number of passes, thickness of plate, and heat input per pass may not vary more than 25 percent from the procedure for welder qualification. Records of the qualification must be retained for at least five years by the tank manufacturer and be made available upon request to representatives of the Department of Transportation or the owner of the cargo tank.

(c) All longitudinal welds in tanks and load bearing jackets must be located so as not to intersect nozzles or supports other than load rings and stiffening rings.

(d) Substructures must be properly fitted before attachment, and the

welding sequence must minimize stresses due to shrinkage of welds.

(e) Filler material containing more than 0.05 percent vanadium may not be used with quenched and tempered steel.

(f) All joints must be in accordance with Part UW of the ASME Code, except that a butt weld with one plate edge offset is not authorized. All tank nozzle to shell and nozzle to head welds must be full penetration welds.

§ 178.338-5 Stiffening rings.

(a) A tank is not required to be provided with stiffening rings except as provided in the ASME Code.

(b) If a jacket is evacuated, it must be constructed in compliance with § 178.338-1(f). Stiffening rings may be used to meet these requirements.

§ 178.338-6 Manholes.

With the exception of tanks constructed of SA-240 series 300 stainless steel; SB-209 series 3,000 and series 5,000 aluminum; or SA-353, SA-535 Type I, nickel alloy steels, each tank constructed in accordance with Part UHT of the ASME Code and any tank of greater than 3,500 gallons water capacity must be provided with a manhole conforming to paragraph UG-46 (g)(1) and other requirements of the ASME Code. The jacket must either be provided with means of entrance and exit through the manhole, or marked to indicate the manway location on the tank. The location of the manhole must be at the rear or on the rear head of the tank.

§ 178.338-7 Openings.

(a) The liquid product discharge opening of each tank intended for flammable ladings must provide for complete drainage of the liquid contents.

(b) With the exception of gauging devices; thermometer wells; and safety relief, manual vent, and pressure control valves or devices; each opening in the tank must be closed at or inside the jacket or within the protective housing prescribed in § 178.338-10(b) with a plug, cap, bolted flange, or plate; or provided with a valve conforming to the requirements of §§ 178.338-b and 178.338-11, as appropriate.

(c) If the leakage of a single valve, except a safety relief valve, pressure control valve, full trycock or gas phase manual vent valve, would permit loss of flammable material, an additional closure that is leak tight at tank design pressure must be provided outboard of such valve.

§ 178.338-8 Safety relief devices, piping, valves, and fittings.

(a) *Safety relief devices.* Each tank safety relief device must be designed, constructed, and marked for a rated pressure equal to or exceeding the tank design pressure at the coldest temperature expected to be encountered (see § 173.318(b) of this subchapter).

(b) *Piping, valves, and fittings.*

(1) All piping, valves, and fittings shall be as prescribed in §§ 178.33(f) and 173.318(b) of this subchapter.

(2) Each valve must be designed, constructed, and marked for a rated pressure equal to or exceeding the tank design pressure, at the coldest temperature expected to be encountered.

(3) All fittings must be rated for the maximum pressure and suitable for the coldest temperature to which they will be subjected in actual service.

(4) All piping and fittings must be grouped and protected from damage as required by § 178.338-10.

(5) When a pressure-building coil is used on a tank designed to handle oxygen or flammable ladings, the vapor connection to that coil must be provided with a valve as close to the tank as practicable to prevent the loss of vapor in case of damage to the coil. The liquid connection to that coil must also be provided with a valve.

§ 178.338-9 Holding time.

(a) Holding time is the time, as determined by testing, that will elapse before the pressure of the contents, under equilibrium conditions, reaches the level of the lowest pressure control valve setting.

(b) The test to determine holding time must be performed by charging the tank with a cryogenic liquid having a boiling point at atmospheric pressure equivalent to the coldest design service temperature of the tank. The tank must be charged to its maximum permitted filling density with that liquid at a temperature corresponding to its boiling point at atmospheric pressure. The cargo tank together with its contents must then be exposed to ambient temperature.

(1) *Optional test regimen.* If more than one cargo tank is made to the same design, only one cargo tank must be subjected to the full holding time test at time of manufacture. However, subsequent cargo tanks made to the same design must be performance tested during the first trip. The results of this test must agree within 10 percent of the original test. This performance test must be performed in accordance with §§ 173.33(d)(1)(ii) and 177.840(h) of this subchapter.

(2) *Same design.* The term "same design" as used in this section means cryogenic cargo tanks made:

(i) by the same manufacturer,

(ii) to the same engineering drawings, and calculations,

(iii) to the same dimensions of length, diameter, and volume,

(iv) of the same materials of construction, and

(v) with the same insulation system.

(c) The tank pressure and ambient temperature must be recorded at 3-hour intervals, until the pressure level of the contents reaches the pressure at which the lowest pressure relieving device is set to open. This total time lapse in hours shall be noted "measured holding time at —° F. average temperature." The measured holding time must be adjusted to an equivalent holding time for the intended commodity at an average ambient temperature of 85° F. to establish the rated holding time (RHT). The marked rated holding time (MRHT) may not exceed the established RHT. The MRHT is converted to the "one-way travel time" (OWTT) by the formulae:

(1) OWTT=MRHT-24 equal to 72 hours.
(2) OWTT=MRHT-48 for tanks with an MRHT greater

where:

OWTT=One-way travel time, in hours, and
MRHT=Marked rated holding time, in hours.

§ 178.339-10 Collision damage protection.

(a) All valves, fittings, safety relief devices, and other accessories to the tank proper must be installed within the motor vehicle framework or within a suitable collision resistant guard or housing, and appropriate ventilation must be provided. Safety relief devices must be protected so that in the event of the upset of the vehicle onto a hard surface, their opening will not be prevented and their discharge will not be restricted.

(b) The protective devices or housings and their attachments to the vehicle structure must be designed to withstand static loading in any direction in which they may be loaded as a result of front, rear, side, or sideswipe collision, or the overturn of the vehicle. The static loading shall equal twice the weight of the tank and attachments, when the tank is filled with the lading. A safety factor of four, based on the ultimate strength of the material, shall be used. The protective device or the housing must be made of metal at least 3/16-inch thick or other material of equivalent strength.

(c) Each tank motor vehicle must be provided with at least one rear bumper designed to protect the tank and piping in the event of a rear end collision. The bumper design must transmit the force of the collision directly to the chassis of the vehicle. The rear bumper and its attachments to the chassis must be designed to withstand a load equal to twice the weight of the

loaded tank and attachments, using a safety factor of four based on the ultimate strength of the materials used, with such load being applied horizontally, and parallel to the major axis of the tank or within 30 horizontal degrees thereof. The rear bumper dimensions must meet the requirements of § 393.86 of this title and must extend vertically to a height adequate to protect all valves and fittings located at the rear of the tank from damage that could cause loss of lading.

(d) Every part of the loaded cargo tank and any associated valve or pipe, enclosure, or protective device or structure (exclusive of wheel assemblies) must be at least 14 inches above level ground.

§ 178.338-11 Discharge control devices.

(a) Excess-flow valves are not required.

(b) Each filling and discharge line must be provided with a shu-off valve located as close to the tank as practicable. Unless this valve is manually operable at the valve, the line must also have a manual shut-off valve.

(c) Each filling and discharge line on a cargo tank intended for service transporting a flammable lading must be provided with a remotely controlled shut-off valve normally operated by air, gas or hydraulic pressure, or mechanical means. If pressure from a reservoir or from an engine-driven pump or compressor is used for opening this valve, the control must be of fail-safe design, spring-biased to stop the admission of such pressure. Unless the jacket is evacuated, the seat of the valve must be inside the tank, in the opening nozzle or flange, or in a companion flange bolted to the nozzle or flange. If the jacket is evacuated, the seat of the valve must be inside the jacket, in the jacket opening, nozzle or flange, or in a companion flange bolted to the nozzle or flange.

(1) On a cargo tank with a capacity in excess of 3,500 gallons of water, each internal shut-off valve must be provided with remote means of automatic closure, both mechanical and thermal, installed at the ends of the cargo tank in at least two diagonally opposite locations. Fusible elements may not have a melting point exceeding 250° F. One means may be used to close more than one remotely controlled valve.

(2) On a cargo tank with a capacity of 3,500 gallons of water or less, each internal shut-off valve must be provided with at least one remote control station on the end of the cargo tank opposite the main control station. The remote control station must contain manual means, and may also contain thermal means, for closing the remote controlled shut-off valves. One means may be used to close more than one remotely controlled valve.

§ 178.338-12 Yield section.

The design or installation of each valve, damage to which could result in loss of liquid or vapor, must incorporate a yield section or breakage groove adjacent to and outboard of the valve. The section or groove must yield or break under strain without damage to the valve that would allow the loss of liquid or vapor. The protection specified in § 178.338-10 is not a substitute for a yield section or breakage groove.

§ 178.338-13 Supports and anchoring.

(a) A cargo tank that is not permanently attached to or integrated with a vehicle chassis must be secured by turnbuckles or other equally efficient devices that will draw the cargo tank down tight on the frame without introducing any undue concentration of stresses. Anchors, stops, or other means must be provided to prevent relative motion between the cargo tank and the vehicle chassis when the vehicle is in operation, and must be installed so as to be readily accessible for inspection and maintenance.

(b) A tank motor vehicle constructed so that the cargo tank constitutes, in whole or in part, the structural members used in place of a motor vehicle frame must have the tank or the jacket supported by external cradles or by load rings. A cargo tank with a load-bearing jacket mounted on a frame must be supported by external cradles, load rings, or longitudinal members. If cradles are used, they must subtend at least 120 degrees of the cargo tank circumference. The design calculations for the supports and load-bearing outer shells, and cargo tank support attachments to an outer shell head, must include beam stress, shear stress, torsion stress, bending moment, and acceleration stress for the loaded vehicle as a unit, using a safety factor of four based on the ultimate strength of the material and a 2 "g" longitudinal and lateral loading and three times the static weight in vertical loading (see Appendix G of the ASME Code). The effects of fatigue must be considered in the calculations.

(c) When a cargo tank support is attached to the head of a tank or jacket the stresses imposed on the head must be provided for as required in paragraph (b) of this section.

(d) All attachments of supports and bumpers to tanks and to load-bearing jackets must be made by means of pads of material similar to that of the tank or jacket, by load rings, or by bosses designed or gusseted to distribute the load. The pad thickness must be at least ¼-inch, or the thickness of the tank or jacket material if less, and shall, in any case, be no thicker than that of the tank or jacket material. Each pad must extend at least four times its thickness, in each direction, beyond the weld attaching the support or bumper. Each pad must be performed to an inside radius no greater than the outside radius of the tank or jacket at the place of attachment. Each pad corner must be rounded to a radius at least one-fourth the width of the pad and no greater than one-half the width of the pad. If weep holes or telltale holes are used, they must be drilled or punched before the pads are attached. Each pad must be attached to the tank or jacket by continuous fillet welding using filler material having properties conforming to the recommendations of the manufacturer of the tank or jacket material.

(e) When a tank is supported within the jacket by structural members, these members must be designed to withstand minimum static loadings of one and one-half vertical upward, two lateral and longitudinal, and three vertical downward times the weight of the tank, under any condition of loading, using a safety factor of four, based on the ultimate strength of the material used at the coldest temperature to which the members will be subjected. When load rings in the jacket are used for supporting the tank, they must be designed to carry the fully loaded tank at the above specified static loadings, plus external pressure.

§ 178.338-14 Gauging devices.

(a) *Liquid level gauging devices.*

(1) Unless a cargo tank is intended to be filled by weight, it must be equipped with one or more gauging devices which accurately indicate the maximum permitted liquid level in accordance with the loading pressure, to provide a minimum of two percent outage below the inlet of the pressure control valve or safety relief valve at the condition of incipient opening of that valve. A fixed-length dip tube, a fixed trycock line, or a differential pressure liquid level gauge may be used as a primary control for filling; other gauging devices, except gauge glasses, may be used but not as a primary control for filling.

(2) The design pressure of each liquid level gauging device must be at least that of the tank.

(3) If a fixed length dip tube gauging device or trycock line is used, it must consist of a pipe or tube of smaller diameter equipped with a valve at or near the jacket, and extending into the cargo tank to a specified filling height. The fixed height at which the tube ends in the cargo tank must be such that the device will function when the liquid reaches the maximum level permitted in loading. The setting (percent outage) must be indicated in

a visible location at or adjacent to the valve.

(4) The liquid level gauging device used as a primary control for filling must be designed and installed to accurately indicate the maximum filling level, at the point midway of the tank both longitudinally and laterally.

(b) *Pressure gauges.* Each cargo tank must be provided with a suitable pressure gauge indicating the lading pressure and located on the front of the jacket so it can be read by the driver in the rear view mirror. Each gauge must have a reference mark at the cargo tank design pressure or the start-to-discharge pressure of the safety relief valve or pressure control valve, whichever is less.

(c) *Orifices.* All openings for dip tube gauging devices, trycock lines, and pressure gauges must be restricted at or inside the jacket by orifices no larger than 0.060-inch diameter.

§ 178.338-15 Cleaniness.

A cargo tank constructed for oxygen service must be thoroughly cleaned to remove all foreign material in accordance with CGA Pamphlet G 4.1. All loose particles from fabrication such as weld beads, dirt, grinding wheel debris, and other loose contaminants must be removed prior to final closure of the manway or the tank. Chemical or solvent cleaning with a material compatible with the intended lading must be performed to remove any contaminants likely to react with the lading.

§ 178.338-16 Inspection and testing.

(a) *General.* The material of construction of a cargo tank, its appurtenances, and the jacket if evacuated, must be inspected for compliance with the ASME Code. The tank must be subjected to either a hydrostatic or pneumatic test in accordance with the following:

(1) *Hydrostatic test.* The hydrostatic test pressure must be one and one-half times the sum of the design pressure, plus static head of lading, plus 14.7 psi if subjected to external vacuum, except that for tanks constructed in accordance with Part UHT of the ASME Code the test pressure must be twice the design pressure.

(2) *Pneumatic test.* The pneumatic test may be used in place of the hydrostatic test. Due regard for protection of all personnel should be taken due to the potential hazard involved in a pneumatic test. The pneumatic test pressure must be one and one-half times the sum of the design pressure, plus static head of lading, plus 14.7 psi if subjected to external vacuum, except that for tanks constructed in accordance with Part UHT of the ASME Code, the test pressure must be twice the design pressure. The pneumatic test pressure in the vessel must be reached by gradually increasing the pressure to one-half of the test pressure. Thereafter, the test pressure must be increased in steps of approximately one-tenth of the test pressure until the required test pressure has been reached. Then the pressure must be reduced to a value equal to four-fifths of the test pressure and held for a sufficient time to permit inspection of the cargo tank for leaks.

(b) *Weld inspection.* All welds in or on the cargo tank shell or heads shall be radiographed in accordance with the ASME Code. A tank which has been subjected to examination by the magnetic particle method, the liquid penetrant method, or any method involving a material deposit on the interior tank surface may not be used for oxygen service.

(c) *Defect repair.* All cracks and other defects found must be repaired in accordance with the repair procedures prescribed by the ASME Code. The welder and the welding procedure must be qualified in accordance with the ASME Code. If any cutting is done by other than mechanical means, the cutter, the welder, and the combination of cutting and welding must be so qualified. After repair, the tank must again be post-weld heat-treated, if such heat treatment was previously performed, and the repaired areas must again be tested.

(d) A verification must be made of the interior cleanliness of a tank constructed for oxygen service by means that assure that all contaminants that are likely to react with the lading have been removed as required in § 178.338-15.

§ 178.338-17 Pumps.

See §§ 173.33(f) and 173.318(a)(4) of this subchapter.

§ 178.338-18 Marking.

(a) *Nameplate.* On the right side near the front of each tank a corrosion resistant metal nameplate must be permanently affixed by brazing or welding around its perimeter. If this nameplate is attached by welding, it must be welded before the tank is postweld heat-treated. The nameplate must be plainly marked by stamping, embossing, or other means of forming letters into the metal of the plate in characters at least ⅜-inches high. The following information, in addition to that required by the ASME Code, must be included (parenthetical abbreviations may be used):

(1) DOT Specification number MC 338 (DOT MC 338);

(2) Material specification number (Mat. Spec. No.);

(3) Maximum density of lading for which the tank is designed (Max. Dens. of Lading);

(4) Water capacity in pounds net at 60°F. with the tank at its coldest operating temperature after deduction for the volume above the inlet to the safety relief device or pressure controlling valve, structural members, baffles, piping, and other appurtenances inside the tank (W. Cap.); and

(5) Original test date (Orig. Test Date);

(b) *Specification plate.* An additional plate, in the form specified in paragraph (a) of this section must be attached by welding, brazing, or riveting to the jacket on the right side near the front, or at the control station, in a position to be readily legible to operating personnel. It must be marked with the information specified in paragraph (a) of this section and in addition, in characters at least ⅜-inches high, the following (parenthetical abbreviations may be used):

(1) Vehicle manufacturer (Veh. Mfr.);

(2) Manufacturer's vehicle serial No. (Veh. No.);

(3) Lining material, if any (Lining);

(4) Date of manufacture (Date of Mfr.);

(5) Certificate date (Cert. Date);

(6) Design service temperature (Design Serv. Temp.);

(7) "INSULATION FOR OXYGEN SERVICE" or "NOT AUTHORIZED FOR OXYGEN SERVICE", as appropriate;

(8) Marked rated holding time——hours and name of cryogen (MRHT—— hrs., name of cryogen); and

(9) Maximum weight of lading for which designed——pounds (Max. Net Wgt.——lbs.).

(c) The design weight of lading used in determining the loading in §§ 178.338-3(b), 178.338-10(b) and (c), 178.338-13(b) and (e) of this section must be shown as the maximum weight of lading marking required by paragraph (b) of this section.

(d) The jacket must be plainly marked on the right side near the front, in letters, at least two inches high on a contrasting background "One-way Travel Time——hrs.," with the blank filled in according to the results of the computation prescribed in § 178.338-9(c).

§ 178.338-19 Certification.

(a) The manufacturer of a cargo tank vehicle shall furnish with the completed vehicle at or before the time of delivery, the tank manufacturer's data report required by the ASME Code, a photograph, pencil rub, or other facsimile of the plates required by paragraphs (a) and (b) of § 178.338-18, and a certificate bearing the manufacturer's vehicle serial number stating that the completed tank vehicle conforms to all applicable require-

ments of Specification MC 338, including the ASME Code in effect on the date (month, year) of certification.

(b) In the case of a cargo tank vehicle manufactured in two or more stages, each manufacturer who performs a manufacturing operation on the incomplete vehicle or portion thereof shall furnish to succeeding manufacturer at or before the time of delivery a cerfificate covering the particular operation performed by that manufacturer. The cerificate must include sufficient sketches, drawings, and other information to indicate the location, make, model and size of each valve and the arrangement of all piping asociated with the tank. Each certificate must be signed by an official of the manufacturing firm responsible for the portion of the complete tank vehicle represented thereby, such as basic tank fabrication, insulation, jacket, or piping.

(c) The owner shall retain the copy of the data report, certificates, and related papers throughout his ownership of the tank and for at least one year thereafter. In the event of change of ownership, retention by the prior owner of non-fading photographically reproduced copies will satisfy this requirement. Each motor carrier using the tank vehicle, if not the owner thereof, shall obtain a copy of the data report and the certificate or certificates and retain them during the time he uses the tank and for at least one year thereafter.

PART 179—SPECIFICATIONS FOR TANK CARS

36. The Table of Sections to Part 179 would be amended by revising the entries for Subpart F and §§ 179.400 and 179.401 to read as follows:

* * * * *

Subpart F—Specification for Cryogenic Liquid Tank Car Tanks and Seamless Steel Tanks (Classes DOT-113 and 107A)

179.400 General specification applicable to cryogenic liquid tank car tanks.
179.401 Individual specification requirements applicable to inner tanks for cryogenic liquid tank car tanks.

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37. In § 179.102, § 179.102-4 would be revised; § 179.102-17 would be added to read as follows:

§ 179.102 Special commodity requirements for pressure tank car tanks.

* * * * *

§ 179.102-4 Vinyl fluoride, inhibited.

Each tank used to transport vinyl fluoride, inhibited, must comply with the following special requirements:

(a) The tank must comply with specification DOT-105A600W and must be designed for loading at or colder than minus 50°F.

(b) All plates for the tank, manway nozzle, and anchor must be made of steel complying with ASTM Specification A516, Grade 70; ASTM Specification A537, Grade B; or AAR Specification TC128, Grade B of AAR Specifications for Tank Cars, Appendix M. Impact specimens must be Type A Charpy V-notch as shown in ASTM Specification A370 and must meet the impact requirements at or colder than minus 50° F. The ASTM specifications referred to are found in the Book of ASTM Standards, Part 4 (see § 171.7(d)(5)(iv) of this subchapter). Production welded test plates prepared as required by W4.00 of AAR Specifications for Tank Cars, Appendix W, must include impact test specimens of weld metal and heat affected zone, prepared and tested in accordance with W9.00 of AAR Specifications for Tank Cars, Appendix W, and these must meet the same impact requirements as the plate material at or colder than minus 50°F.

(c) Insulation must be of approved material and must be self-extinguishing.

(d) The tank must be equipped with one safety relief valve, set for the start-to-discharge pressure listed in § 179.101-1 and one safety vent of approved design, set to function at a pressure less than the tank test pressure, but not less than 78 percent of the tank test pressure. The discharge capacity of each safety relief device must be sufficient to prevent the build up of pressure in the tank in excess of 82½ percent of the tank test pressure. The discharge from each safety relief device must be piped outside the protective housing.

(e) Excess flow valves must be installed under all liquid and vapor valves, except safety relief valves.

(f) A thermometer well must be installed.

(g) A gaging device is not required but may be installed. Fixed length dip tubes may be used for gaging.

(h) A pressure gage must be installed.

(i) Aluminum, cooper, silver, zinc, or an alloy containing any of these metals may not be used in the tank construction, or in fittings in contact with the lading.

(j) The jacket must be stenciled adjacent to the water capacity stencil "COLDEST LADING TEMPERATURE —° F."

(k) The tank car and insulation must be designed to prevent the vapor pressure of the lading from increasing from the pressure at the maximum allowable filling density to the start-to-discharge pressure of the safety relief valve within 30 days at an ambient temperature of 90°F.

(l) The fillet welds between the tank anchor and tank shell may not have internal voids or discontinuities. These welds must be examined by radioscopy or other non-destructive testing technique to ensure that they do not have internal voids or discontinuities.

* * * * *

§ 179.102-17 Hydrogen chloride, anhydrous.

Each tank car used to transport hydrogen chloride, anhydrous must comply with the following special requirements:

(a) The tank car must comply with Specification DOT-105A600W and be designed for loading at or colder than minus 50 degrees F.

(b) All plates for the tank car tank, manway nozzle, and anchor must be made of steel complying with the ASTM Specification A516, Grade 70; ASTM Specification A537, Grade B; or AAR Specification TC128, Grade B of AAR Specifications for Tank Cars Appendix M. Impact specimens must be Type A charpy V-notch in ASTM Specification A370 and must meet the impact requirements at or colder than minus 50 degrees F. The ASTM specifications referred to are found in the Book of ASTM Standards, Part 4 (see § 171.7(d)(5)(iv) of this subchapter). Production welded test plates prepared as required by W4.00 of AAR Specifications for Tank Cars, Appendix W, must include impact test specimens of weld metal and heat affected zone, prepared and tested in accordance with W9.00 of AAR Specifications for Tank Cars, Appendix W, and these must meet the same impact requirements as the plate material at or colder than minus 50 degrees F.

(c) Insulation must be of approved material and must be self-extinguishing.

(d) Safety relief valves must be monel trimmed and equipped with a frangible disc of silver, or teflon coated monel or tantalum. Each safety relief device shall have the space between the frangible disc and the relief valve vented with a suitable auxiliary valve. The discharge from each safety relief valve must be piped outside the protective housing.

(e) Loading and unloading valves must be Hastelloy B or C or monel trim and identified as "Vapor" or "Liquid". Excess flow valves must be installed under all liquid and vapor valves, except safety relief valves.

(f) A thermometer well must be installed.

(g) A gaging device is not required but may be installed. Fixed length dip tubes may be used for gaging.

(h) A sump must be installed in the bottom of the tank under the liquid pipes.

(i) All gaskets must be teflon, teflon jacketed, or of other approved material.

(j) The tank car tank may be equipped with exterior cooling coils on top of the tank car shell.

(k) The jacket must be stenciled adjacent to the water capacity stencil "COLDEST LADING TEMPERATURE, ——°F."

(l) The tank car and insulation must be designed to prevent the pressure of the lading from increasing from the pressure at the maximum allowable filling density to the start-to-discharge pressure of the safety relief valve within 30 days at an ambient temperature of 90° F.

(m) The fillet welds between the tank anchor and tank shell may not have internal voids or discontinuities. These welds must be examined by radioscopy or other non-destructive testing techniques to ensure they do not have internal voids or discontinuities.

* * * * *

38. Subpart F would be revised to read as follows:

Subpart F—Specification for Cryogenic Liquid Tank Car Tanks and Seamless Steel Tanks (Classes DOT-113 and 107A)

§ 179.400 General specifications applicable to cryogenic liquid tank car tanks.

§ 179.400-1 General.

Tanks built to these specifications must comply with §§ 179.400 and 179.401.

§ 179.400-2 Approval.

See § 179.3 for approval procedure.

§ 179.400-3 Type.

(a) Tanks built to these specifications must consist of an inner container suitably supported within an outer shell. The tank car must be equipped with piping systems for vapor venting, transfer of lading and with safety relief devices, controls, gages and valves prescribed herein.

(b) The annular space must be evacuated and contain a suitable insulation. Tanks must be circular in cross section, with heads designed concave to pressure. The out of roundness of the cylindrical portion of the inner and outer shell may not be greater than that permitted in Section VIII, Division 1, Paragraph UG-80 of the ASME Code.

§ 179.400-4 Insulation system and holding time.

(a) The insulation system must:

(1) provide 30 days of holding time as determined by testing, or

(2) provide 12 days of holding time as determined by testing and such a car must be equipped with an approved device to prevent discharge of a gas mixture exceeding 50% of the lower flammability limit to the atmosphere under normal conditions of storage or transportation.

(b) The holding time test will measure the time elapsed before the pressure of the contents under equilibrium conditions reaches the level of the lowest pressure control valve setting.

(c) The test to determine holding time must be performed by charging the tank car with a cryogenic liquid having a boiling point at atmospheric pressure equivalent to the coldest design service temperature of the tank. The tank must be charged to its maximum permitted filling density with that liquid at a temperature corresponding to its boiling point at atmospheric pressure. The rail car together with its contents must then be exposed to ambient temperature.

(d) The tank pressure and ambient temperature must be recorded at 3-hour intervals, until the pressure level of the contents reaches the pressure at which the lowest pressure relieving device is set to open. This total time lapse in hours shall be noted "measured holding time at —°F. average temperature." The measured holding time must be adjusted to the equivalent holding time for the intended commodity at an average ambient temperature of 90° F. to establish the rated holding time.

(e) Insulating material must be approved and must be self-extinguishing.

(f) If the insulation consists of a powder having a tendency to settle, the entire top of the cylindrical portion of the inner container must be insulated with a layer of glass fiber insulation of at least one-inch nominal thickness or equivalent, suitably held in position, and covering an area extending 25 degrees to each side of the top center line of the inner tank.

(g) The outer shell must be provided with fittings to permit effective evacuation of the annular space between the outer shell and the inner container.

(h) Connections must be provided for a vacuum gage of approved design to indicate the absolute pressure in the annular space. The gage, if not portable, must be mounted in a position where it will be readily visible to an operator. The connection for a portable gage must be easily accessible.

§ 179.400-5 Materials.

(a) High-alloy steel plate of type 304 or 304L must be used for the inner tank and its appurtenances, as specified in AAR Specifications for Tank Cars, Appendix M, and must be:

(1) In the annealed condition prior to fabrication, forming and fusion welding;

(2) Suitable for use at the temperature of the lading; and

(3) Compatible with the lading.

(b) Any steel casting, steel forging, rivet, steel structural shape and carbon steel plate used to fabricate the outer shell and heads must be as specified in AAR Specifications for Tank Cars, Appendix M.

(c) Specimens for the required impact tests of plate material and weld material used for the inner container and appurtenances must be taken from the welded test plate. The specimens must be subjected to the tests prescribed and satisfy the results specified in AAR Specifications for Tank Cars, Appendix W, at a temperature no warmer than the boiling point of the lading at atmospheric pressure.

§ 179.400-6 Bursting and buckling pressure.

(a) The minimum required bursting pressure of the inner container is listed in § 179.401-1.

(b) The outer container of the required evacuated insulation system must be designed in accordance with § 179.400-7(d) in addition to the design loads and stresses specified in Section AAR.23 of the AAR Specifications for Tank Cars. Such designs and calculations must include the loadings and stresses transferred to the outer container through the support system.

§ 179.400-7 Thickness of plates.

(a) The minimum wall thickness, after forming, of the inner container and the 2:1 ellipsodial heads for the inner container must be that specified in § 179.401-1, or that calculated by the following formula; whichever is greater:

$$t = Pd/2SE$$

Where:

d = inside diameter, in inches;
E = 0.9 welded joint efficiency; except E = 1.0 for seamless heads; P = minimum required bursting pressure, in psi; S = minimum tensile strength of plate material, in psi, as prescribed in AAR Specifications for Tank Cars, Appendix M, Table M1;
t = minimum thickness of plate after forming, in inches.

(b) The minimum wall thickness, after forming, of the 3:1 ellipsoidal heads for the inner container must be that specified in § 179.401-1, or that calculated by the following formula; whichever is greater:

$$t = 1.83\ Pd/2SE$$

Where:

d = inside diameter, in inches;
E = 0.9 welded joint efficiency; except E = 1.0 for seamless heads;

P=minimum required bursting pressure, in psi;
S=minimum tensile strength of plate material, in psi, as prescribed in AAR Specifications for Tank Cars, Appendix M, Table M1;
t=minimum thickness of plate after forming, in inches.

(c) The minimum wall thickness, after forming, of a flanged and dished head for the inner container must be that specified in § 179.401-1, or that calculated by the following formula; whichever is greater:

$$t=PL(3+\sqrt{L/r})/8SE$$

Where:

L=main inside radius of dished head, in inches;
E=0.9 welded joint efficiency; except E=1.0 for seamless heads;
P=minimum required bursting pressure, in psi;
S=minimum tensile strength of plate material, in psi, as prescribed in AAR Specifications for Tank Cars, Appendix M, Table M1;
r=inside knuckle radius, in inches;
t=minimum thickness of plate after forming, in inches.

(d) For the outer container the wall thickness after forming of the shell and heads must be not less than 7/16 inch. The annular space is to be evacuated, and the cylindrical portion of the outer shell between heads or between stiffening rings, if used, must be designed to withstand an external pressure of 37.5 psi (critical collapsing pressure), as determined by the following formula:

$$P_c=2.6E(t/D)^{2.5}/(L/D)-0.45(t/D)^{0.5}$$

Where:

P_c=Critical collapsing pressure, in psi (37.5 psi minimum);
E=modulus of elasticity of shell material, in psi;
t=minimum thickness of shell material after forming, in inches;
D=outside diameter of shell, in inches;
L=distance between stiffening ring centers, in inches. (The heads may be considered as stiffening rings located ⅓ of the head depth from the head tangent line).

(e) If stiffening rings are used in designing the cylindrical portion of the outer shell for external pressure, they must be attached to the shell by means of fillet welds. Outside stiffening ring attachment welds must be continuous on each side of the ring. Inside stiffening ring attachment welds may be intermittent welds on each side of the ring with the total length of weld on each side not less than ⅓ of the circumference of the tank. The maximum space between welds may not exceed eight times the outer tank wall thickness.

(1) A portion of the outer shell may be included when calculating the moment of inertia of the ring. The effective width of shell plate on each side of the attachment of the stiffening ring is given by the following formula:

$$W=0.78Rt^{0.5}$$

Where:

W=width of shell effective on each side of the stiffening ring, in inches;
R=outside radius of the outer shell, in inches;
t=plate thickness after forming of the outer shell, in inches.

(2) Where a stiffening ring is used that consists of a closed section having two webs attached to the outer shell, the shell plate between the webs may be included up to the limit of twice the value of "W" as defined above. The outer flange of the closed section is subject to the same limitations, with "W" based on the "R" and "t" values of the flange. Where two separate members, such as two angles, are located less than "2W" apart they may be treated as a single stiffening ring member. (The maximum length of shell plate which may be considered effective is 4W).

(3) The stiffening ring must have a moment of inertia large enough to support the critical collapsing pressure as determined by either of the following formulae:

$$I=0.035D^3LP_c/E$$

$$I'=0.046D^3LP_c/E$$

Where:

I=required moment of inertia of stiffening ring about the centroidal axis parallel to the vessel axis, in inches to the fourth power
I'=required amount of inertia of combined section of stiffening ring and effective width of shell plate about the centroidal axis parallel to the vessel axis, in inches to the fourth power
D=outside diameter of the outer shell, in inches;
L=one-half of the distance from the centerline of the stiffening ring to the next line of support on one side plus one-half of the distance from the centerline to the next line of support on the other side of the stiffening ring. Both distances are measured parallel to the axis of the vessel, in inches. A line of support is:

(i) A stiffening ring which meets the requirements of this paragraph, or

(ii) A circumferential line of a head at one-third the depth of the head from the tangent line;

P_c=critical collapsing pressure, in psi (37.5 psi minimum);
E=modulus of elasticity of stiffening ring material in psi.

(4) Where loads are applied to the outer shell or to stiffening rings from the support system used to support the inner container within the outer shell, additional stiffening rings or an increased moment of inertia of the stiffening rings designed for the external pressure must be provided to carry the support loads.

(f) A sump of siphon bowl may be in the bottom of the inner container shell if:

(1) it is formed directly into the shell, or is formed and welded to the shell and is of weldable quality metal that is compatible with the tank shell;

(2) the stress in any orientation under any condition does not exceed the circumferential stress in the inner tank shell designed in accordance with § 179.400-7(a); and

(3) the wall thickness is not less than that specified in § 179.401-1.

§ 179.400-8 Tank heads.

(a) Tank heads of the inner container and outer shell must be of approved contour, and must be flanged and dished or ellipsoidal.

(b) Flanged and dished heads must have:

(1) A main dish radius not greater than the outside diameter of the straight flange;

(2) An inside radius not less than 6 percent of the outside diameter of the straight flange; and

(3) A knuckle radius not less than 3 times the head thickness.

§ 179.400-9 Welding.

(a) Except for a closure of an access opening and a maximum of two circumferential closing joints in the cylindrical portion of each outer container, each joint of an inner container, outer container and appurtenance must be a fusion-welded double-welded butt joint.

(b) The closure for an access opening, and the circumferential closing joint in the cylindrical portion of an outer container including a head to shell joint, may be a single-welded butt joint using a backing strip on the inside of the joint.

(c) Each joint must be in accordance with the requirements of AAR Specifications for Tank Cars, Appendix W.

(d) Each welding procedure, welder and fabricator must be approved.

§ 179.400-10 Postweld heat treatment.

(a) Postweld heat treatment of the inner container is not required.

(b) The cylindrical portion of the outer shell, with the exception of the circumferential closing seams, must be postweld heat treated in accordance with the requirements of AAR Specifications for Tank Cars, Appendix W. Any item to be welded to this portion of the outer shell must be attached before postweld heat treatment. Welds securing the inner container support system to the outer shell, connections at piping penetrations, closures for access openings, and the tank heads at each end of the shell need not be postwelded heat treated when it is not practicable due to final assembly procedures.

(c) When cold formed heads are used on the outer shell they must be heat treated before welding to the shell if postweld heat treatment is not practicable due to assembly procedures.

§ 179.400-11 Support system for inner container.

(a) The inner container must be supported within the outer shell by a support system of approved design. The system and its areas of attachment to the outer shell must have adequate strength and ductibility at operating temperatures to support the inner container when filled with the lading to any level incident to transportation.

(b) The support system must be designed to be capable of supporting, without yielding, impact loads producing accelerations of the following magnitudes and directions when the inner container is fully loaded and the car is equipped with a conventional draft gear:

Longitudinal	7"g"
Transverse	3"g"
Vertical	3"g"

The longitudinal acceleration may be reduced to 3"g" where a cushioning device of approved design, which has been tested to demonstrate its ability to limit body forces to 400,000 pounds maximum at 10 miles per hour, is used between the coupler and the tank structure.

(c) The inner container and outer shell must be permanently bonded to each other electrically, by either the support system, piping, or a separate electrical connection of approved design.

§ 179.400-12 Cleaning of inner container.

The interior of the inner container and all lines connecting with it must be thoroughly cleaned and dried prior to use. Proper precautions must be taken to avoid contamination of the system after cleaning.

§ 179.400-13 Radioscopy.

Each longitudinal and circumferential joint of the inner container and each longitudinal and circumferential double-welded butt joint of the outer shell must be examined the entire length in accordance with the requirements of AAR Specifications for Tank Cars, Appendix W.

§ 179.400-14 Access to inner container.

(a) The inner container must be provided with a means of access having a minimum inside diameter of 16 inches. Reinforcement of the access opening must be made of the same material used in the inner container. The access closure must be of an approved material and design.

(b) If a welded closure is used, it must be designed to allow it to be reopened by grinding or chipping and to be closed again by rewelding, preferably without a need for new parts. A cutting torch may not be used.

§ 179.400-15 Inner container piping.

(a) *Product lines.* The piping system for vapor and liquid phase transfer and venting must be made from material compatible with the product and having satisfactory properties at the lading temperature. The outlets of all vapor phase and liquid phase lines must be located so that accidental discharge from these lines will not impinge on any metal of the outer shell, car structures, trucks or safety appliances. Suitable provision must be made to allow for thermal expansion and contraction.

(1) *Loading and unloading line.* A liquid phase transfer line must be provided and it must have a manually operated shut-off valve located as close as practical to the outer shell, plus a secondary closure that is liquid and gas tight. This closure must permit any trapped pressure to bleed off before the closure can be removed completely. A vapor trap must be incorporated in the line and located as close as practical to the inner shell. Any loading and unloading line must be vacuum jacketed between the outer shell and the shut-off valve. The shut-off valve must also be vacuum jacketed.

(2) *Vapor phase line.* A vapor phase line must connect to the inner container and must be of sufficient size to permit the safety relief devices specified in § 179.400-17 and connected to this line to operate at their design capacity without excessive pressure build-up in the tank. The vapor phase line must have a manually operated shut-off valve located as close as practicable to the outer shell, plus a secondary closure that is liquid and gas tight. This closure must permit any trapped pressure to bleed off before the closure can be removed completely.

(3) *Vapor phase blowdown line.* A blowdown line must be provided. It may be attached to the vapor phase line specified in paragraph (a)(2) of this section upstream of the shut-off valve in that line. A by-pass line with a manually operated shut-off valve must be provided to permit reduction of the inner vessel pressure when the vapor phase line is connected to a closed system. The discharge from this line must be outside the housing and must be directed upward and away from operating personnel.

(b) Any pressure building system provided for the purpose of pressurizing the vapor space of the inner container to facilitate unloading the liquid lading must be approved.

§ 179.400-16 Test of inner tank.

(a) After all items to be welded to the inner container have been welded in place, the inner container must be pressure tested at the test pressure prescribed in § 179.401-1. The temperature of the pressurizing medium may not exceed 100°F. during the test. The container must hold the prescribed pressure for a period of not less than ten minutes without leakage or evidence of distress. In a pneumatic test due regard for the protection of all personnel should be taken because of the potential hazard involved. After a hydrostatic test the container and piping must be emptied of all water and purged of all water vapor.

(b) Calking of welded joints to stop leaks developed during the test is prohibited. Repairs to welded joints must be made as prescribed in AAR Specifications for Tank Cars, Appendix W.

§ 179.400-17 Valves and gages.

(a) *Valves.* Manually operated shut-off valves and control valves must be provided wherever needed for control of vapor phase pressure, vapor phase venting, liquid transfer and liquid flow rates. All valves must be made from approved materials compatible with the lading and having satisfactory properties at the lading temperature.

(1) Liquid control valves must be of extended stem design.

(2) Packing, if used, must be satisfactory for use in contact with the lading and must be of approved materials that will effectively seal the valve stem without causing difficulty of operation.

(3) Each control valve and shut-off must be readily operable. These valves must be mounted so that their operation will not transmit excessive forces to the piping system.

(b) *Gages.* Gages except portable units, must be securely mounted within suitable protective housings. The following gaging devices must be provided:

(1) *Liquid level gage.* Connections must be provided for a liquid gage of approved design to indicate the quantity of liquified lading within the inner container. A gage must be mounted where it will be readily visible to an operator during transfer operations or storage. The connection for a portable gage must be readily accessible.

(2) *Fixed length dip tube.* A fixed length dip tube, with a manually operated shut-off valve located as close as practicable to the outer shell, must be provided. The dip tube must indicate the maximum liquid level for the allowable filling density. The inner end of the dip tube must be located on the longitudinal centerline of the tank and within four feet of the transverse center line of the tank.

(3) *Vapor phase pressure gage.* A vapor phase pressure gage of approved design, with a manually operated shut-off valve located as close as practicable to the outer shell, must be provided. The gage must indicate the vapor pressure within the inner container and must be mounted where it will be readily visible to an operator. An additional fitting for use of a test gage must be provided.

§ 179.400-18 Safety relief devices.

(a) The tank must be provided with safety relief devices for the protection of the tank assembly and piping system. The discharge from these devices must be directed away from operating personnel, principal load bearing members of the outer shell, car structure, trucks and safety appliances. Vent or weep holes in safety relief devices are prohibited. All main safety relief devices must discharge to the outside of the protective housings in which they are located. This requirement does not apply to small safety relief valves installed to protect isolated sections of lines between the final valve end closure.

(b) *Materials.* Materials used in safety relief devices must be suitable for use at the temperature of the lading and otherwise compatible with the lading in the liquid and vapor phases.

(c) *Inner container.* Safety relief devices for the inner container must be attached to piping connected to the vapor phase of the inner container and mounted so as to remain at ambient temperature prior to operation. The inner container must be equipped with one or more safety relief valves and one or more safety vents (except as noted in paragraph (c)(3)(iv) of this section), and installed without an intervening shut-off valve (except as noted in paragraph (c)(3)(iii) of this section). Additional requirements are as follows:

(1) *Safety vent.* The safety vent shall function at the pressure specified in § 179.401-1. The safety vent must be flow rated in accordance with the applicable provisions of AAR Specifications for Tank Cars, Appendix A, and provide sufficient capacity to meet the requirements of AAR Specifications for Tanks Cars, Appendix A, paragraph A8.06(a).

(2) *Safety relief valve.* The safety relief valve must:

(i) be set-to-discharge at the pressure specified in § 179.401-1, and

(ii) meet the requirements of AAR Specifications for Tank Cars, Appendix A, paragraph A8.07(b).

(3) *Installation of safety vent and safety relief valve.*

(i) *Inlet piping.* The opening through all piping and fittings between the inner tank and its safety relief devices must have at least the area of the safety relief device inlet, and the flow characteristics of this upstream system must be such that the pressure drop will not reduce the relieving capacity below that required or adversely affect the proper operation of the safety relief device.

When the required relief capacity is met by the use of multiple safety relief devices which are placed on one connection, the inlet internal cross-sectional area of this connection must be at least equal to the combined inlet areas of the safety relief devices connected to it, and in all cases must be sufficient to provide the required flow capacity.

(ii) *Outlet piping.* The size of the discharge lines must be at least the same as the safety relief device outlet and must not reduce the relieving capacity below that required to properly protect the inner tank. When the required relief capacity is met by use of multiple safety relief devices placed on a common discharge manifold, the manifold outlet internal cross-sectional area must be at least equal to the combined outlet areas of the safety devices.

(iii) Duplicate safety devices may be used when an approved 3-way selector valve is installed to provide for relief through either duplicate safety relief device. The 3-way valve must be included in the mounting required by AAR Specifications for Tank Cars, Appendix A, paragraph A6.02(h), when conducting the flow capacity test on the safety vent required by AAR Specifications for Tank Cars, Appendix A, paragraph A6.01(a). Flow capacity tests must be performed with the 3-way valve at both of the extreme positions as well as at the mid-position to ascertain that the flow capacity requirements of AAR Specifications for Tank Cars, Appendix A, paragraph A8.07(a) are met.

(iv) An alternate safety relief valve, set as required in § 179.401-1, may be used in lieu of the safety vent, provided it meets the flow capacity requirement of AAR Specifications for Tank Cars, Appendix A at a flow rating pressure of 110 percent of its start-to-discharge pressure. Installation must:

A. Prevent moisture accumulation at the seat by providing drainage away from that area.

B. Permit periodic drainage of the vent piping.

C. Prevent accumulation of foreign material in the vent system.

(4) *Evaporation control.* The routine release of vaporized lading must be controlled with a pressure controlling and mixing device or prevented as specified in § 179.400-4. The pressure controlling device must be set to start-to-discharge at a pressure not greater than that specified in § 179.401-1, and must have sufficient capacity to limit the pressure within the inner container to that pressure specified in § 179.401-1 when the discharge is equal to twice the normal venting rate during transportation with normal vacuum and the outer shell at 130°F.

(5) *Safety interlock.* If a safety interlock is provided for the purpose of allowing transfer of lading at a pressure higher than the pressure control device setting but less than the safety relief valve setting, the design must be such that the safety interlock will not affect the discharge path of the safety relief valve or safety vent at any time. The safety interlock must automatically provide an unrestricted discharge path for the pressure control device at all times when the tank car is in transport service.

(d) *Outer shell.* The outer shell must be provided with a suitable system to prevent buildup of annular space pressure in excess of the external pressure for which the inner container was designed, but not to exceed 16 psig. The total relief area provided by the system must be a minimum of 25 square inches, and means must be provided to prevent clogging of any system opening, as well as to provide adequate communication to all areas of the insulation space. If a safety vent is a part of the system, it must be designed to prevent distortion of the frangible disc when the annular space is evacuated.

(e) *Piping system.* Where a piping circuit can be isolated by closing a valve, means for pressure relief must be installed.

§ 179.400-19 Test of safety relief valves.

Each valve must be tested with air or gas for compliance with § 179.401-1 before being put into service.

§ 179.400-20 Protective housings.

All valves, gages, closures and safety relief valves, with the exception of secondary relief valves for the protection of isolated piping, must be enclosed within protective housings. The protective housing must be adequate to protect the enclosed components from direct solar radiation, mud, sand, adverse environmental exposure and mechanical damage incident to normal operation of the tank car. They must be designed to provide reasonable access to the enclosed components for operation, inspection and maintenance, and so that vapor concentrations cannot build up to a dangerous level inside the housing in the event of valve leakage or safety valve operation. The enclosures must be operable by personnel wearing heavy gloves and must incorporate provisions for locks or seals. Protective housings and their covers must be constructed

of metal not less than 0.119 inch in thickness.

§ 179.400-21 Operating instructions.

All valves and gages must be clearly identified with corrosion-resistant nameplates. A plate of corrosion-resistant material bearing directions or precautionary instructions for the safe operation of the equipment during storage and transfer operations must be securely mounted so as to be readily visible to an operator. The instruction plate must be mounted in each housing containing operating equipment and controls for product handling. These instructions must include a diagram of the tank and its piping system with its various gauges, control valves and safety relief devices clearly identified and located.

§ 179.400-22 Stamping.

(a) A tank that complies with all specifications requirements must have plainly and permanently stamped into the metal near the center of the head of the outer shell at the "B" end of the car, in letters and figures at least ⅜-inch high, the following information in the following order:

	Example of Required Stamping
Specification	DOT-113A60W
Minimum loading temperature.	Minus 423°F.
Inner container	Inner container
Material	ASTM A240-304
Shell thickness	Shell 3/16 inch
Head thickness	Head 3/16 inch
Inside diameter	ID 107 inch
Tank builders initials	ABC
Date of original test and initials of party conducting original test.	00-0000GHK
Water capacity	00000 lbs.
Outer shell	Outer shell
Car assembler (if other than tank builder).	DEF
Material	ASTM A515-70
Tank builders initials	XYZ

(b) Any marking, stenciling or stamping on the shell or heads of the inner container is prohibited.

(c) In lieu of the stamping required by paragraph (a) of this section, the specified markings may be incorporated on a data plate of corrosion-resistant metal, fillet welded in place on the head of the outer shell at the "B" end of the car.

§ 179.400-23 Stenciling.

The outer shell of the tank must be stenciled as follows:

(a) the date on which the frangible disc was replaced and the initials of the party making the replacement must be stenciled on the outer shell in letters and figures at least 1½ inch high.

(b) The name of the hazardous material for which the tank was designed must be stenciled in letters at least 4 inches high with at least a ⅝-inch stroke. The separation between each letter must be at least ¾-inch diameter. The markings must be affixed to both sides of the outer shell so as to be readily visible when viewed from each side of the tank car.

(c) The minimum loading temperature and maximum lading weight must be stenciled in letters and figures at least 1½ inches high adjacent to the hazardous material stencil.

(d) The water capacity must be stenciled in pounds net at 60°F. with the tank at its coldest operating temperature after deduction for the volume above the inlet to the safety relief device or pressure controlling valve, structural members, baffles, piping, and other appurtenances inside the tank, in letters and figures at least 1½ inches high.

(e) Each side of the tank car must be stenciled, letters at least 1½ inches high with the statement, "DO NOT HUMP OR CUT OFF WHILE IN MOTION."

(f) The outer shell must be stenciled in letters at least 1½ inches high with the statement, "vacum jacketed" below the tank classification.

§ 179.400-24 Certificate of construction.

See § 179.5.

40. § 179.401 would be revised to read as follows:

§ 179.401 Individual specification requirements applicable to inner tanks for cryogenic liquid tank car tanks.

§ 179.401-1 Individual specification requirements.

In addition to § 179.400 the individual specification requirements for the inner container and its appurtenances are as follows:

DOT specification	113A60W	113C120W
Lading Temperature (Minimum °F.)	−423	−155
Material	§ 179.400-5	§ 179.400-5
Impact Tests (Weld and Plate Material)	§ 179.400-5(c)	§ 179.400-5(c)
Impact Test Values	§ 179.400-5(c)	§ 179.400-5(c)
Maximum Heat Transfer (Btu Per Day Per Lb. of Water Capacity Max.) (see § 179.400-4).	0.097	0.4121
Bursting Pressure, psi	240	300
Minimum Plate Thickness, Shell (see § 179.400-7(a))	3/16	3/16
Heads (see § 179.400-7(a), (b), and (c))	3/16	3/16.
Test Pressure, psi (see § 179.400-16)	60	120
Safety Vent Bursting Pressure (Max. psi)	60	120
Safety Relief Valve Start-to-Discharge pressure, psi (±3 psi)	30	75
Safety Relief Valve Vapor Tight Pressure (Min. psi)	24	60
Safety Relief Valve Flow Rating Pressure (Max. psi)	40	85
Alternate Safety Relief Valve Start-to-Discharge Pressure, psi (±3 psi).	—	90
Alternate Safety Relief Valve Vapor Tight Pressure (Min. psi)	—	72
Alternate Safety Relief Valve Flow Rating Pressure (Max. psi)	—	100
Pressure Control Device	17	
Start-to-Vent (Max. psi)	§ 179.400-18(c)(4)	§ 179.400-18(c)(4)
Relief Device Discharge Restrictions	§ 179.400-18	§ 179.400-18
Transfer Line Insulation	§ 179.400-15	§ 179.400-15

AUTHORITY: (49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53; 49 CFR Part 1 App. A. and 49 CFR Part 106, App. A, paragraph (a)(4)).

NOTE—The Materials Transportation Bureau has determined that the proposals in this notice if implemented would not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9583). A regulatory evaluation is available in the public docket.

Issued in Washington, D.C. on February 28, 1979.

ALAN I. ROBERTS,
Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

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THURSDAY, MARCH 8, 1979

PART III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

■

PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

Amendments to Departmental Procedures

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-79-887]

PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

Amendments to Departmental Procedures

AGENCY: Department of Housing and Urban Development.

ACTION: Procedures.

SUMMARY: HUD is issuing final Procedures to amend the Departmental procedures for protection and enhancement of environmental quality. The Department's environmental procedures have been revised to:

1. Provide greater flexibility in the size and type of projects requiring an Environmental Impact Statement (EIS) by establishing new unit thresholds for housing actions in SMSA Counties or County Equivalents. No change has been made in the qualitative criteria which could independently require an EIS regardless of size or type of project.

2. Establish criteria for exempting certain types of property disposition actions from the new unit thresholds. Under certain conditions, multifamily property disposition actions would not be subject to the new thresholds, and disposition actions affecting one-to-four family structures would adopt the Planned Program Approach for determining when the Special and EIS Clearance procedure would be used.

3. Establish a procedure for conducting simplified environmental reviews on new or more specific projects when an adequate Final EIS had previously been filed for the general location.

4. Establish a procedure for updating an Environmental Impact Statement by the use of an EIS Supplement.

5. Establish a procedure for the publication and dissemination of a Notice of Intent to File an Environmental Impact Statement.

6. Establish the level of review required when individual actions are part of a larger development.

The revised procedures also (a) clarify HUD's review requirements with respect to historic preservation, (b) clarify the description of exempt rehabilitation and modernization projects, (c) apply the public disclosure principle of Executive Order 11514, as amended, and (d) provide the authority for the Department to carry out its responsibilities under Executive Order 11988 (Floodplain Management), and Executive Order 11990 (Protection of Wetlands).

EFFECTIVE DATE: April 9, 1979.

SUPPLEMENTARY INFORMATION: A Notice was published on August 8, 1978 (43 FR 35170) proposing amendments to the Department's environmental procedures. Interested parties were given until September 7, 1978, to submit written comments to the Rules Docket Clerk. The Notice also indicated that a series of interagency discussions had been held, involving CEQ, HUD, Veterans Administration and the Farmers Home Administration, in an attempt to work toward the unification of agency procedures in implementing the National Environmental Policy Act. In view of the proposed CEQ regulations (43 FR 25230), comments were also invited on these broader interagency implications.

One reviewer commented on the broader interagency aspects indicating that more information was needed about individual agency program requirements before they could make meaningful comments. Noting that the Congress has endorsed efforts toward the unification of agency procedures (Section 905 of the Housing and Community Development amendments of 1978), the Department intends to continue these interagency discussions over the next several months. The Department of Housing and Urban Development is in the process of converting all of its Department-wide environmental review procedures into a new Part 50 of Title 24 of the Code of Federal Regulations. When Part 50 is published in 1979, it will reflect these interagency discussions and include any other revisions required by the new CEQ regulations.

A number of general comments were made about the lack of comprehensiveness of these particular amendments. Questions were also raised about how the amendments are related to the original document published July 18, 1973 (38 FR 19182) and the subsequent amendments (November 4, 1974, 39 FR 38922; June 11, 1976, 41 FR 23978; March 9, 1977, 42 FR 13208; July 22, 1977, 42 FR 37605; and January 4, 1978, 43 FR 797). The Department understands the concern and the problem of trying to relate this amendment to the original document and all subsequent amendments. A complete single text which includes all the amendments plus those sections of the original document which are still in effect would be the best way to answer these concerns. In fact, HUD is now in the final stages of developing Part 50 which will up-date and incorporate all of the previous issuances into a single Federal Register document, and we expect that this Part 50 will be published for comment in the very near future.

The following summarizes the significant comments on, and the changes that were made to, the proposed amendments that HUD published on August 8, 1978 at 43 FR 25230.

Flexible Housing Thresholds Requiring EIS's

Most of the public comments on this issue supported the general principle of flexible thresholds for determining when housing-type actions automatically require HUD to prepare an EIS. However, there was wide disagreement about the specifics of the flexibility principle, how it should be applied, and how it relates to or may affect regional growth patterns and environmental standards.

Some commentors urged HUD to establish criteria to be used by HUD field staff to expand the defined urbanizing belt. This would assure higher thresholds in areas which experience continuing growth. Some expressed the opinion that HUD decisions to expand specific urbanizing belts should be made by the Federal Housing Commissioner in HUD, rather than the Assistant Secretary for Community Planning and Development. Others were of the opinion that, although thresholds should be raised above the present 500-unit threshold for more densely populated areas, they should also be lowered to require an EIS on subdivisions containing less than 500 units.

The appropriate program offices that would be most affected by the proposal developed implementing procedures for the new thresholds and the decision was made to publish this principle essentially as it appeared in the Federal Register on August 8, 1978 (43 FR 35170).

Some changes have been made to define responsibility during the transition/termination phase of an EIS when an EIS was in process prior to this rule but is no longer required.

Actions Not Subject to EIS Threshold Criteria

All comments supported this new subparagraph which establishes procedures whereby an EIS which was prepared by HUD, a grantee of HUD pursuant to 24 CFR Part 58, or another Federal agency, and which anticipated a subsequent action requiring an EIS, could be used by HUD as the environmental review and clearance of that subsequent action.

Aggregation

Public bodies and public interest groups supported the principle of evaluating the cumulative impact of the projects when they are located in such a manner as to have a combined effect on the environment. Several comments suggested that definitive criteria should be developed to guide field offices in the application of the aggre-

gation principle and that the time (60 days) and the distance (2,000 foot) standards identified in paragraph 5.a.(5)(b) are subjective and open to criticism. However, no other standards were suggested in any of the comments. Moreover, as a result of these comments considerable flexibility has been introduced in applying the aggregation principle by adding a new subparagraph (c) to allow the use of the "early start" procedures when applying the aggregation principle an Environmental Impact Statement would be required.

PROPERTY DISPOSITION

Three comments were received during the comment period concerning language which specifies conditions for exempting multifamily property disposition actions from EIS thresholds. The comments were primarily editorial in nature and, as a result, part of the text has been rewritten to clarify these conditions.

DECISION POINTS AND HISTORIC PRESERVATION

Some of the comments indicated a problem with the definition of decision points as they apply to historic preservation review procedures. A new and different definition of decision points has been included in these Procedures to address these concerns.

NOTICE OF INTENT TO PREPARE AND FILE AN ENVIRONMENTAL IMPACT STATEMENT

One comment was received from a state planning agency suggesting that the A-95 clearinghouse be used to notify and solicit comments in respect to the Notice. Although the NEPA responsibility cannot be delegated in this manner, the A-95 clearinghouses may make arrangements with local and state agencies to receive information copies of their comments.

REHABILITATION AND MODERNIZATION EXEMPTIONS

A number of commentors raised questions about exempting from environmental review those HUD actions involving rehabilitation and/or modernization projects that are presently in non-compliance with HUD's environmental criteria and standards, including noise, flood plains and wetlands. Changes have been made to clarify HUD policy with respect to existing HUD standards and to identify those projects which would continue to be subject to an environmental review.

EIS SUPPLEMENT AND APPENDICES A-1 and A-2

No comments were received on these two changes. The Procedures are republished with only minor editorial changes to Appendices A-1 and A-2.

Other information: A Finding of Inapplicability with respect to environmental impact has been prepared in accordance with the Department's environmental procedures. A copy of this Finding is available for inspection and copying in the Office of the Rule Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, the Department's environmental procedures, previously published on July 18, 1973 (38 FR 19182) and subsequently amended on November 4, 1974 (39 FR 38922), June 11, 1976 (41 FR 23878), March 9, 1977 (42 FR 13208), and January 4, 1978 (43 FR 797), are hereby further amended as follows.

1. Paragraph 1 of chapter 1 is amended by adding a new subparagraph i as follows:

i. Executive Order 11988 (42 FR 26951, May 25, 1977) and Executive Order 11990 (42 FR 26961, May 25, 1977) which call for heads of agencies to issue or amend procedures to avoid adverse impacts on and to avoid support of development in wetlands and floodplains.

2. Paragraph 5.d. of chapter 2 is amended by adding a new subparagraph (5), thereto, as follows:

(5) *Threshold determination.* An EIS shall be prepared for any action exceeding the thresholds identified in appendix A-1. Set forth below are the criteria for determining the threshold within the range of 500-2,500 units.

(a) The applicability of this subparagraph is limited to areas identified as urbanizing belts falling within an SMSA. Urbanizing belts are identified as the delineated Urbanized Areas, as defined by the Bureau of the Census, plus a 2/mile zone around the outer boundaries of such areas. In cases where this 2-mile zone borders or includes a portion of an incorporated place lacking census tracts, *or* when the 2-mile zone borders or includes a protion of a census tract, then the next outer boundary of such incorporated place or census tract may be used to delineate the outer limit of the urbanizing belt. An urbanizing belt may extend into the county of an adjacent SMSA, using the applicable threshold of that county, but in no case shall the urbanizing belt extend beyond an SMSA County boundary.

(b) In cases where the environmental clearance officer believes that, due to urban development occuring since the last Bureau of Census update, this delineation does not adequately identify urbanizing belts (for example, in rapidly growing areas), the ECO may request an expansion of the belt. The request will include information related to the same criteria that the Bureau of Census used in its designation of the urbanized area, but the request must include more recent information than the last Bureau of Census update. The request must also include a suggested redelineation of the urbanizing belt, either on a map, or in adequate specificity so that the redelineation can be drawn on a map. The request should be submitted through the area office manager and the regional environmental clearance officer, to the Assistant Secretary for Community Planning and Development for final determination. The assistant secretary for CPD may, following an evaluation of the request, authorize an expansion of the defined urbanizing belt.

TABLE 1.—*Flexible EIS Thresholds*

SMSA county population range	Threshold units
1,500,000+	2,500
1,000,000 to 1,499,999	2,100
750,000 to 999,999	1,800
600,000 to 749,999	1,500
500,000 to 599,999	1,200
400,000 to 499,999	1,000
300,000 to 399,999	900
200,000 to 299,999	800
100,000 to 199,999	700
50,000 to 99,999	600
Under 50,000	500

(c) The flexible EIS threshold table (table No. 1), shows threshold numbers (units) which are to be applied to the SMSA county or county equivalent (independent city) population data. For example, a county or an independent city within a Standard Metropolitan Statistical Area (SMSA) which has a population between 200,000 and 299,999 shall be exempt from the automatic requirement for an Environmental Impact Statement (EIS) if the proposed HUD action involves less than 800 units. The population data shall be drawn from the Bureau of Census population estimates for 1975 as published in the P-25 series of current population reports. The threshold units indicated in Table No. 1, shall mean the housing or other units involved in the action under those programs identified in Appendix A-1 as having EIS thresholds of 500 to 2,500 units. Although the initial application of these thresholds will be to the population figures for 1975, the Department will apply revised population estimates and revised SMSA designations as they subsequently become available from the Bureau of Census.

However, when the population estimate for a given SMSA county indicates that there has been a loss in population since the last decennial census, HUD will use the most recent decennial census figures.

(d) Since some environmental reviews will be in process when this change in thresholds becomes effective, the following transition rules shall apply to those situations where an EIS would have been required under the previous thresholds but will not be required under the new flexible thresholds:

(i) Where a draft EIS has been published for public comment, the EIS process, including the issuance of a final EIS, shall be completed or the termination process described in (iv) below shall be completed before the required decision point is reached.

(ii) Where a notice of intent to file an EIS has been published but a draft EIS has not been published for public comment, the EIS process shall be completed or the termination process described in (iv) below shall be completed before the required decision point is reached. The decision of whether to continue the EIS process through to the filing of the Final EIS or whether to terminate the EIS process shall be made by the

Area Office Manager following consultation with the Regional Office ECO.

(iii) The option of deciding not to continue the full EIS process is not available in cases where HUD has based the need for an EIS on qualitative reasons irrespective of project size and the HUD threshold.

(iv) Where an EIS already in process is to be terminated, as provided by subparagraph (i) and (ii) above, the area office shall in cooperation with the HUD office from which the EIS originated complete a special environmental clearance and a finding of inapplicability; shall give full consideration to all comments which may have been received in response to a notice of intent to prepare an EIS or in response to a draft EIS; and shall publish a notice of intent to terminate an EIS. Such notice shall be published and disseminated in the same manner as a notice of intent to file an EIS as described in paragraph 5.d.(1). The notice may be brief but shall identify the name, character, site and location of the project or program for which further processing of an EIS is to be terminated, set forth the circumstances and reasons for discontinuing further EIS processing, indicate that the special clearance required by this subparagraph has been completed and indicate where and when it is available for public review, describe how any comments received in response to a notice of intent to prepare an EIS or in response to a draft EIS were considered, and state that HUD proposes to approve the project or program under consideration in no less than fifteen (15) calendar days from the date the notice is published.

3. Paragraph 5, of chapter 2 is amended by adding a new subparagraph e. thereto, as follows:

e. *Project level actions not subject to EIS threshold criteria.* It is the policy of the Department to avoid duplicative analysis and documentation and undue delays in connection with environmental reviews. Accordingly, where any final environmental impact statement has been listed in the FEDERAL REGISTER for a project level action or where an areawide or similar broad scale final EIS has been so listed and the EIS anticipated a subsequent project level action requiring an environmental clearance, then the EIS threshold criteria contained in appendix A-1 and appendix A-2 shall not apply to that subsequent action if the following conditions are met:

(1) A special environmental clearance has been completed and concurred in by the applicable environmental clearance officer, resulting in a finding that the proposed project is not a new major Federal action significantly affecting the quality of the human environment.

(2) In addition to the content prescribed elsewhere in this subparagraph, the special environmental clearance shall include:

(i) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA;

(ii) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;

(iii) An analysis showing that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior environmental impact statement;

(iv) Documentation showing that where the previous EIS required mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.

(3) The prior final environmental impact statement has been kept current in the following ways:

(i) The EIS has been filed or updated within five (5) years;

(ii) The EIS has been updated in accordance with significant revisions made to the underlying assumptions (covering at least those items in 5.e.(2)(iii) above) as may be stated in the comprehensive plan or major elements thereof or other public policy revisions;

(iii) The EIS has been updated to reflect new environmental issues and data or legislation an implementing regulations which the Department of Housing and Urban Development has determined to have significant environmental impact on the areas covered by the prior EIS.

(4) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

4. The second sentence of paragraph 5.a.(5) of chapter 2 is deleted and replaced by the following:

In determining the level of environmental clearance required, individual projects shall be aggregated under the following conditions:

(a) When the applicant's locally approved development plan or the applicant's control of the site (through ownership, option, or otherwise) indicates a total development that would exceed threshold requirements; or

(b) When separate applications, for which feasibility letters have not been issued, have been received or are expected to be received (within 60 days) on neighboring sites (whose boundaries are within 2,000 feet) and these indicate a total development that would exceed threshold requirements. This aggregation principle shall not apply when the Area Office ECO determines that natural or manmade features are located in such a manner as to clearly indicate separate and independent developments.

When an EIS is required as a result of applying (a) or (b) above, the Area Office Manager may allow each project to be processed as an "early start" in accordance with paragraph 5.a.(10) provided the total number of units approved for early start does not exceed 200.

5. Paragraph 2 of chapter 1 is amended by deleting subparagraph 1, in its entirety. A new subpargraph 1, is added as follows:

1. *EIS supplement.* For the purpose of these procedures, the term "EIS supplement" shall be used to identify a product and a two-stage process, for updating a final environmental impact statement when additional information is discovered or when actions are being contemplated which would change the basic assumptions of the most recent final EIS. The EIS supplement is limited to contemplated actions which are subsequent to HUD's approval of, or commitment to, the project's original proposals.

6. The second sentence of paragraph 5.a.(1) of chapter 2, is deleted in its entirety and replaced by the following:

These shall include an individual action on a one-to-four family dwelling, training grants and, under some conditions, rehabilitation and/or modernization projects. Rehabilitation or modernization projects are exempt from these procedures unless they result in any of the following effects: (1) increase the number of dwelling units per acre by more than 20%; or (2) change land uses from residential to non-residential or from non-residential to residential; or (3) change one class or residential land use to another class or residential land use; or (4) involve a cost of rehabilitation or modernization which exceeds 75% of the replacement cost of the property after rehabilitation or modernization.

7. Paragraph 2.h. of chapter 1 is deleted in its entirety and is replaced by the following:

h. *Decision Points.* Those points of Federal commitment in the decision-making process concerning proposed projects and undertakings before which environmental assessments and historic preservation procedures must be completed. Specific decision points under HUD's various types of programs are set forth in Appendices A-1 and A-2 of these regulations. HUD compliance with these regulations at the prescribed decision point shall be final.

8. The title, first paragraph, and the last sentence of section 5.a.(6) are deleted and replaced by the following:

(6) *Properties included in or eligible for inclusion in the National Register of Historic Places.* All HUD actions and undertakings involving decision points defined herein are subject to a historic preservation review through procedures prescribed by the Department. This review serves to determine whether a proposed action or undertaking will affect a property included in, or eligible for inclusion in, the National Register of Historic Places; and, if such a property is involved, to avoid or mitigate adverse effects to the fullest extent practicable. The historic preservation review must be accomplished before the proposed action or undertaking proceeds past the relevant decision points set forth in either appendix A-1 or appendix A-2. To the extent possible, this review shall be carried out in conjunction with the environmental review procedures, including the special clearance or environmental impact statement required by appendix A-1 and appendix A-2. Where environmental impact statements are required, they should reflect and describe the historic preservation review. Where environmental reviews are not required, historic preservation reviews are nonetheless required prior to the decision points defined in appendix A-1 and appendix A-2.

9. Paragraph 5.d. of chapter 2 is amended by adding a new subparagraph (1) and renumbering all of the existing numerical subparagraphs from (2) thru (5). The new subparagraph (1) shall read as follows:

(1) *Notice of intent to file an environmental impact statement.* Immediately after determining that an EIS is required a notice of intent to file an EIS shall be prepared.

Such notice may be brief but shall (i) identify the name, character, size and location of the project or program to which the EIS relates, (ii) solicit the comments of all interested parties respecting the environmental impacts of the project or program, (iii) indicate the time (not less than ten (10) calendar days), manner, form and address for the submission of comments, and (iv) specify an estimated date for completion and distribution of the draft EIS. Copies of the notice of intent to file an EIS shall be sent to the local news media, individuals and groups known to be interested in the project or program, local, State, and Federal agencies, the appropriate regional office of the Environmental Protection Agency, the appropriate A-95 clearinghouses, and others believed appropriate. Such notice shall be published at least once in a newspaper of general circulation in the affected community. If such newspaper is on a type specializing in the publication of legal, real estate, commercial or other notices, listings and advertisements and is not of a type subscribed to and read by the general public as a source of news of general public interest, then such notice shall also be published at least once in a newspaper which is a source of news of general public interest or shall be published in such other manner deemed most likely to inform residents of the affected community.

10. Paragraph 5.a.(9) of chapter 2 is amended as follows:

A. The first paragraph of subparagraph (9) is deleted and the following inserted:

(9) *Updating environmental clearances.* Environmental clearances shall be updated by revision, EIS supplement, amendment or addendum to the original clearance under the following circumstances;

B. Paragraph 5.a.(9) of chapter 2 is amended by adding a new subparagraph (d), thereto, as follows:

(d) *Special procedures for the issuance of a supplement to the final environmental impact statement.* The issuance of a supplement to the final EIS may be used in accord with appendix A-1 or appendix A-2 when subsequent to HUD approval of, or commitment to, the proposed project, changes are contemplated that would result in a modification of the impact of the proposals or component activities addressed in the current final EIS. Immediately after determining that a supplement to the current final environmental impact statement is required, a notice of intent to issue a supplement to the final environmental impact statement shall be prepared in accordance with the procedure for the issuance of a notice of intent to file an enviromental impact statement. The supplement to the final environmental impact statement shall be prepared covering the changes contemplated and circulated in accordance with the procedure for preparing a draft and final environmental impact statement.

11. Paragraph 5.a.(7) of chapter 2 is amended as follows:

A. The first sentence of subparagraph a. is deleted and replaced by the following:

Project level actions involving other than HUD insured projects, subdivisions, property disposition programs and low-rent housing projects.

B. Paragraph 5.a.(7) of chapter 2 is amended by adding a new subparagraph c., thereto, as follows:

c. *Property disposition programs.* The environmental clearance form in appendix C-5 may be used in conducting the required environmental clearances(s) involving HUD property disposition actions. Program instructions as approved by the Assistant Secretary for CPD may modify this form to adapt it to property disposition actions.

12. The first two sentences of paragraph 5.a.(9)(c) are deleted and replaced by the following:

HUD environmental clearance is required for component activities whose environmental activities were not addressed in sufficient detail in an original and current environmental clearance for a larger action. Where a prior clearance is current and anticipated a subsequent action, no new clearance on the proposed subsequent action is required except as required by paragraph 5.e. Required environmental clearances shall focus on the environmental impact of the specific project and site and need not treat the environmental impact on the more comprehensive level addressed in the original environmental impact statement.

13. Paragraph 5.d. of chapter 2 is amended by adding a new subparagraph (6), thereto; as follows:

(6) *Special procedure for multifamily property disposition actions.* The EIS thresholds set forth in appendix A-1 do not apply to multifamily property disposition actions when all the following conditions are met: (1) No change of use in the property can reasonably be expected within one year of the HUD action. For the purposes of this subparagraph no change in use means; unit density is not increased more than 20 percent; there is no change in use from residential to nonresidential use or from one class of nonresidential use to another class of use; or if rehabilitation is involved prior to disposition, or is a condition of disposition, the cost of rehabilitation is less than 75 percent of the total cost of replacement after rehabilitation. (ii) A special clearance and finding of no significant effect has been completed and a notice of this effect has been published and disseminated in the same manner as a notice of intent to file an environmental impact statement as described in paragraph 5.d.(1). The notice may be brief, but shall be published at least 20 days prior to the HUD action; describe why no change of use as set forth in this handbook is involved; indicate that a special clearance has been prepared and approved in accordance with this subparagraph; state where and when it is available for public inspection; identify the name, character, size and location of the project or disposition action to which the special clearance relates; indicate the anticipated date of HUD approval; invite comments concerning the need for an EIS; and indicate that such comments (if received at least 5 days before the anticipated HUD approval date) will be considered before a final decision is made. (iii) All communications received in accordance with subparagraph (ii) above are carefully considered in accordance with paragraph 5.a.(3).

14. Paragraph 5.d. of chapter 2 is amended by adding a new subparagraph (7), thereto, as follows:

(7) *Special procedure for one-to-four family property disposition actions.* The special and EIS thresholds set forth in appendix A-1 apply to the number of units in inventory in a planned program area of a PPA (planned program approach). The number in inventory shall be determined no more than 30 days prior to approval of the PPA. In addition, individual planned program areas, or portions thereof, should be aggregated in accordance with paragraph 5.a.(5) before applying the appropriate threshold. A new clearance of a planned program area of a PPA (which has previously received an environmental clearance) is required when previously approved modes of disposition are changed; when new acquisitions since the last environmental clearance reach or exceed the special or EIS threshold; or when the units in the inventory reach or exceed the applicable threshold.

15. Appendix A-1 and Appendix A-2 are deleted in their entireties and replaced by the following new Appendices:

APPENDIX A-1.—DECISION POINTS AND THRESHOLDS FOR ENVIRONMENTAL CLEARANCES

Allenvironmental clearances shall be completed before the applicable decision points set forth below for Departmental Programs except as they may be inapplicable or inappropriate (see paragraph 2.h). The thresholds shall apply to the activities which have been aggregated in accordance with paragraphs 5.a(5) and (9) and 5.d.(7). Consult the Assistant Secretary for Community Planning and Development for decision points and thresholds for programs or other actions not listed.

Program	Decision points	Special clearance thresholds	EIS thresholds [1,4]
Concentrated Code Enforcement Program	Approval of application of major amendatory.	All new Concentrated Code Enforcement Areas.	When required pursuant paragraph 5d or Appendix A-2.
Demonstration Projects [2]	Approval of contract or of demonstration site.	Cost totaling $500,000 in new construction.	When required pursuant to paragraph 5d or Appendix A-2.
Housing assistance or insurance: New construction: [3,4,5]			
Subdivisions of one-to-four family structures	Issuance of feasibility letter or major change in letter or project (ASP-6).	100 lot subdivision where typical lot size is 6,000 sq. ft. or greater; 200 lot subdivision where typical lot size is under 6,000 sq. ft..	500 to 2,500 units (see paragraph 5.d.(5)).
Multifamily Structures	Issuance of SAMA letter or major change in letter or project. Reservation of contract authority to State and local agencies for interest reduction assistance and rent supplement payments for uninsured projects [6].	200-unit multifamily housing project or requested mortgage amount exceeds $5,000,000.	500 to 2,500 units (see paragraph 5.d.(5)).
Public Housing	Letter of notification of tentative site approval or approval of major change.	200-unit public housing project	500 to 2,500 units (see paragraph 5.d.(5)).
College Housing	Approval of fund reservation for college housing or major amendatory.	200-unit student project	500 to 2,500 units (see paragraph 5.d.(5)).
Mobile Homes	Issuance of SAMA letter or major change in letter or project.	200-unit mobile home park	500 to 2,500 units (see paragraph 5.d.(5)).
Nursing Homes	Issuance of SAMA letter or major change in letter or project.	200-bed nursing home	500 to 2,500 beds (see paragraph 5.d.(5)).
Hospitals [7]	Issuance of SAMA letter or major change in letter or project.	200-bed hospital	500 to 2,500 beds (see paragraph 5.d.(5)).
Group practice facilities	Issuance of SAMA letter or major change in letter or project.	Facilities with the acreage of 50,000 sq. ft., or gross floor area of 30,000 sq. ft.	When required pursuant to paragraph 5.d. or Appendix A-2.
Section 8 Housing Assistance Payments Program [8]	Notification of selection of preliminary proposals.	200-unit project	500 to 2,500 units (see paragraph 5.d.(5)).
Section 223(f): [3,4,8]			
Purchase	Issuance of conditional commitment.	None	None.
Refinancing	Issuance of firm commitment	None	None.
Rehabilitation (except rehab exempt per paragraph 5.a.(1) [3,4,9])	Feasibility determination	Same as for new construction	Same as for new construction.
Modernization (Public Housing)	Approval of FHA's Final Application.	200-units/demolition	500 to 2,500 units/demolition (see paragraph 5.d.(5)).
Property disposition program: [4]			
Vacant Land	Approval of Planned Program Approach (PPA). If none, approval of the disposition program.	200-units based on prospective use [10].	500 to 2,500 units based on prospective use. [10]
One-to-four family structures	Approval of Planned Program Approach (PPA). If none, approval of the disposition program.	200-unit project [11]	500 to 2,500 units/demolition (see paragraph 5.d.(5)). [11]
Multifamily structures	Approval of the disposition program.	Any multifamily project	500 to 2,500 units/demolition (see paragraph 5.d.(5)).
College housing	Approval of the disposition program.	Any student project	500 to 2,500 units/demolition (see paragraph 5.d.(5)).
Mobile homes	Approval of the disposition program.	Any unit mobile home park	500 to 2,500 units/demolition (see paragraph 5.d.(5)).
Nursing homes	Approval of the disposition program.	Any bed nursing home	500 to 2,500 units/demolition (see paragraph 5.d.(5)).
Hospitals [7]	Approval of the disposition program.	Any bed hospital	500 to 2,500 units/demolition (see paragraph 5.d.(5)).
Group practice facilities	Approval of the disposition program.	Same as new construction	When required pursuant to paragraph 5.d. or Appendix A-2.
Model Cities	Approval of application for individual project within Model Cities Program [12,13].	See appropriate categorical program.	See appropriate categorical program.
Neighborhood Facilities [14]	Approval of allocation order or approval subject to validation of funds (whichever is sooner), or approval of major amendatory.	Site acreage of 50,000 sq. ft., or gross floor area of 20,000 sq. ft.	When required pursuant to paragraph 5.d. or Appendix A-2.
Open Space Land [14]	Approval of allocation order or approval subject to validation of funds (whichever is sooner) or approval of major amendatory. Approval for Conversion.	(1) All sanitary landfill projects. (2) Impoundment of 2 surface acres or 25 acre feet of water. (3) 50 acres. (4) All conversions of open space land acquired with HUD assistance to non-open space uses not originally approved by HUD.	When required pursuant to paragraph 5.d. or Appendix A-2.

Program	Decision points	Special clearance thresholds	EIS thresholds [1] [4]
Public Facility Loans [14]	Approval of allocation order or approval subject to validation of funds (whichever is sooner) or approval of major amendatory.	See Water and Sewer	When required pursuant to paragraph 5.d. or Appendix A-2.
Urban Renewal, [15] Conventional	Approval of Part I or approval of major amendatory.	All urban renewal projects	When required pursuant to paragraph 5.d. or Appendix A-2.
Neighborhood Development Program [14]	Approval of allocation order or approval subject to validation of funds, whichever is sooner.	(1) All first year NDP's and conversions from conventional urban renewal to NDP. (2) Subsequent action years: To the extent that the urban renewal plan has not been previously evaluated and/or changes in area or plans.	When required pursuant to paragraph 5.d. or Appendix A-2.
Water and Sewer	Approval of application or major amendatory.	(1) All above ground reservoirs and stand pipes. (2) All source development projects, including major river impoundments, raw water reservoirs, well fields, and treatment plants. (3) Treated water transmission or sewage collection lines which pass through, are adjacent to, or serve undeveloped areas of 50 acres or more.	When required pursuant to paragraph 5.d. or Appendix A-2.
Flood and Disaster Insurance Program	Issuance of special flood plain or mudslide area delineations.. Community eligibility	(1) Variance from normal practice defined by FIA. (2) Variance of land use and control measures from established FIA criteria.	When required pursuant to paragraph 5.d. or Appendix A-2.
Community Development Block Grant Program under Title I of the Housing and Community Development Act of 1974, where an applicant has been deemed by HUD to lack legal capacity to assume environmental responsibilities [16].	Approval of application or amendment required to be submitted to HUD for approval; or in those cases where a preapplication is required, the invitation to submit a full application.	All new Community Development Block Grant Program applications and all second and succeeding year applications containing any new or changed program activity not covered in a previous environmental review.	When required pursuant to 24 CFR Part 58.25.

[1] In addition to the quantitative factors listed under this column, paragraph 5.d., Appendix A-2 or Appendix B-1 may apply requiring an Environmental Impact Statement. If a project level action was anticipated and adequately evaluated by a prior EIS, Areawide, or similar broad scale environmental clearance, a new Environmental Impact Statement may not be necessary. (See paragraph 5.e.)

[2] All demonstration projects resulting in new construction of $500,000 are included; other demonstration projects are generally exempt.

[3] Project selection criteria are not a substitute for environmental clearance.

[4] It is recognized that in high density areas, size alone need not necessarily imply a significant impact on the quality of the human environment. Therefore, special exemption to the EIS threshold may be granted by the Assistant Secretary GPO for quantitative purposes where typical densities in the immediate environs of a project processed as multi-family exceeds 50 units per acre. Area-wide waivers may be granted for large dense urban areas or sectors thereof having such densities and meeting criteria established by the Assistant Secretary. Delegations of authority to approve such waivers may be granted to the Regional Offices at the discretion of the Assistant Secretary. The automatic EIS thresholds for projects processed as multi-family do not apply (and a waiver is not required) for projects already constructed where the HUD action is solely approval of subsidies when the following conditions are satisfied: (a) The Housing project is located in a previously environmentally cleared HUD assisted urban renewal project area and HUD has approved residential reuse on the parcels; (b) A Special Environmental Clearance for the housing project has been completed and indicates no unresolved environmental problems; (c) Regarding the urban renewal project, the remaining options subject to the Federal review have no significant environmental impact; and (d) There is no known opposition on environmental grounds.

[5] Phase three Breakthrough housing projects are subject to environmental clearance procedures in the same way as other housing projects.

[6] This Handbook shall also apply to HUD approval of interest subsidy on existing properties. However, the environmental assessment does not have to address the impact of the construction of the project on the environment since it has already taken place. All other environmental factors must be assessed.

[7] HEW has the lead role in environmental evaluation and clearance of proposed hospitals. HUD has responsibility for clearance and conformance with Departmental policies and standards to the extent that such clearance is not conducted by HEW.

[8] Notification of the Selection of a Final Proposal shall be deemed to be notification of Selection of a Preliminary Proposal for the purpose of decision points.

[9] The environmental assessment for a Section 223(f) application will be made by performing a Normal Environmental Clearance. Special Clearances or Environmental Impact Statements will not be prepared, since properties with undesirable environmental features will not be accepted. (Paragraph 5-5, HUD Handbook 4565.1).

[10] The Special and EIS thresholds for vacant land shall be determined by the number of units of whatever type of housing is expected to be located on the land when rebuilt and fully utilized. Unless otherwise known, the expected number of units should be the maximum allowed on the land in question under existing zoning or equivalent local law.

[11] See paragraph 5.d.(7) before applying thresholds for disposition actions of one-to-four family structures.

[12] See paragraph 5.a. (5) and (9). For individual projects within the Model Cities program which receive Model Cities supplemental grants but which derive the majority of their Federal assistance from another agency, such as HEW, the other agency is considered land agency and responsible for the environmental clearance. For a project which receives all or most of its funding from Model Cities grants, HUD is responsible for the appropriate environmental clearance.

[13] For projects using supplementary funds which result in the construction or acquisition of capital facilities not included in HUD categorical programs, the appropriate enninronmental clearance shall be prepared prior to the award of the supplemental grant.

[14] Project selection systems are not a substitute for environmental clearance.

[15] For projects in the National Capital area refer to an agreement between HUD and the National Capital Planning Commission relative to NCPC preparing Draft EIS's.

[16] Under the COBG Program, the applicant assumes the environmental review responsibilities otherwise applicable to HUD and carries them out in accordance with 24 CFR Part 58 unless the applicant has been deemed by HUD to lack legal capacity to do so.

APPENDIX A-2 Other HUD Actions With Special Requirements

Action	Decision Point	Requirement
New construction or non-exempt rehabilitation of residential or other noise sensitive land uses such as nursing homes, hospitals, group practice facilities, in unacceptable noise zone (Circular 1390.2)[1].	Decision point stated in Appendix A-1.	Environmental Impact Statement.
New construction or non-exempt rehabilitation of residential or other noise sensitive land uses such as nursing homes, hospitals, group practice facilities, in Discretionary (Normally Unacceptable) noise zone (Circular 1390.2) which is new development in a largely undeveloped area [1].	Decision point stated in Appendix A-1.	Environmental Impact Statement.
New construction or non-exempt rehabilitation of residential or other noise sensitive land uses in Discretionary (Normally Unacceptable) noise zone Circular 1390.2), which is infill in existing development [1].	Decision point stated in Appendix A-1.	Special Environmental Clearance.
New Communities—new Projects: Debt Guarantee, or certification of eligibility or interest loan.	Authorization by NCDC Board of offer of commitment, or certification of eligibility, or approval of interest loan.	Environmental Impact Statement.
New Communities—Previously Approved Projects:		
Amendment to the Development Plan resulting in a change in project land use [2], or total population, by 30% or more, or closeout of project..	Approval by Secretary....	Environmental Impact Statement Supplement.
Amendment to the Development Plan which requires the prior approval of the Secretary and which concerns a change in project land use [2], or total population, by less than 30%.	Approval by Secretary....	Special Environmental Clearance. [3]
Any amendment to Development Plan (other than those described above) which requires the prior approval of the Secretary.	Approval by Secretary....	Normal Environmental Clearance [3].
Additional guarantee, or other financial arrangement including investment (other than a change in management and/or ownership alone):.		
Predicated on a future change in project land use [2] ,or total population, which would require the approval of the Secretary.	Approval by NCDC	Special Environmental Clearance [3].
Not predicated on a future change in project land use [2], or total population, which would require the approval of the secretary.	Approval by NCDC	Normal Environmental Clearance [3].
Any project which has an effect on a property included in, or eligible for inclusion in, the National Register of Historic Places..	Decision point stated in Appendix A-1.	Special Environmental Clearance.
Any project which has an adverse effect on a property included in, or eligible for inclusion in, the National Register of Historic Places, except where the effect has been mitigated and resulted in a signed Memorandum of Agreement pursuant to 26 CFR Part 800 and the project or program would not otherwise require an EIS. Legislation..	Decision point stated in Appendix A-1.	Environmental Impact Statement [4].
	Department decision to sponsor legislation.	Finding of Inapplicability or Draft and Final Environmental Impact Statement.
Regualtions and HUD issuances must undergo environmental clearance unless exempted by Paragraph 5.c.(2) of these Procedures or by the Assistant Secretary for CPD..	Publication in Federal Register of notice of proposed rulemaking Promulgation..	Finding of Inapplicability or Draft Environmental Impact Statement. Final Environmental Impact Statement, where applicable.
Policy and guidance documents which have potential for significantly affecting the quality of the human environment.	A-85 clearance . Promulgation.	Finding of Inappliceability or Draft Environmental Impact Statement. Final Environmental Impact Statement, where applicable.

[1] Project actions affected by Circular 1390.2 require that projects located in the Unacceptable or Discretionary-Normally Unacceptable noise exposure zone require special approvals and must incorporate noise attenuation measures

[2] A change in project land use means a change in amount, absorption, intensity, or location of a category of land use

[3] A Finding of Inapplicability which may follow these levels of environmental reiew shall not be effective without the concurrence of the Assistant Secretary for Community Planning and Development. A Normal or Special Environmental Clearance will be replace by the requirement for an EIS or EIS Supplement if, in the opinion of the Assistant Secretary for CPD, such is warranted

[4] Request review by Advisory Council on Historic Preservation. Section 7(d), Department of HUD Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., on March 1, 1979.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc. 79-684 Filed 3-7-79; 8:45 am]

federal register

THURSDAY, MARCH 8, 1979

PART IV

CONSUMER PRODUCT SAFETY COMMISSION

■

INTERIM STANDARDS FOR CELLULOSE INSULATION

Proposals

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1209]

AMENDED INTERIM STANDARD FOR CELLULOSE INSULATION

Subpart B—Proposed Certification Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Commission proposed regulations that manufacturers, private labelers, and importers must follow to certify that their products comply with the Commission's amended Interim Standard for Cellulose Insulation. The proposal contains requirements for conducting a reasonable testing program, for recordkeeping, and for certifying. These requirements will assist manufacturers, private labelers, and importers in complying with the amended interim standard and will also help the Commission monitor compliance with that standard.

DATES: The Commission proposes that the rule be applicable to cellulose insulation manufactured after October 15, 1979.

Written comments on the proposed rule, preferably in five copies, must be received by April 9, 1979.

ADDRESS: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, 1111 18th St., N.W., Third Floor, Washington, D.C. 20207. All comments received and other information relating to this proceeding may be viewed in the Office of the Secretary.

FOR FURTHER INFORMATION CONTACT:

Allen Brauninger, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6629.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the FEDERAL REGISTER at page 12746, the Commission has published a proposed amendment of the Interim Standard for Cellulose Insulation which addresses the flame resistance and corrosiveness of cellulose insulation. The interim standard was published on August 8, 1978 (16 CFR Part 1209, 43 FR 35240). The proposed amendment incorporates (with changes made by the Commission) the requirements for settled density, smoldering combustion, critical radiant flux, and corrosiveness contained in the purchasing specification for cellulose insulation of the General Services Administration issued on June 15, 1978 and designated GSA Specification HH-I-515D. If issued by the Commission on a final basis, the proposed amendment would change the test procedures the Commission uses to determine if cellulose insulation produced or distributed for sale to or use by consumers is acceptable for flame resistance and corrosiveness. A more detailed explanation of the proposed amendment's requirements, rationale, and background is given in the preamble to the proposed amendment.

The Commssion is proposing to issue this certification rule to inform manufactuers, private labelers, and importers of the procedures to use in certifying that their products comply with the proposed amendment, in the event that it is issued in final form. In publishing the proposed certification rule at the same time as the proposed amendment, the Commission believes that manufacturers, importers, and private labelers of cellulose insulation will be able to more accurately assess the costs and effects of the proposed amendment to the standard, and will, therefore, be able to provide the Commission with more complete information in their comments on the proposed amendment and proposed certification rule.

Under the proposed certification rule manufacturers, private labelers, and importers are responsible for 1) implementing their own reasonable testing programs within certain broad outlines, 2) issuing certificates of compliance for cellulose insulation in the form of labels or separate certificates which state that the cellulose insulation complies with the standard and supply other specified information, and 3) keeping records which demonstrate that the certificates are based on a reasonable testing program. These requirements are discussed in detail in this preamble.

NOTICE OF INTENT TO PROPOSE AN AMENDMENT TO THE STANDARD

In the FEDERAL REGISTER of September 6, 1978 (43 FR 39720), the Commission published a notice of its intent to propose an amendment to the Interim Standard for Cellulose Insulation which would substitute the tests for settled density, smoldering combustion, critical radiant flux, and corrosiveness contained in GSA Specification HH-I-515D for the tests for flame resistance and corrosiveness currently specified in the interim standard. In that notice, the Commission solicited comments from all interested persons about many issues involved in proposing such an amendment to the standard, including issues related to certifying compliance with the standard if it were amended.

The notice stated that while section 14 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2063) gives the Commission authority to issue regulations to prescribe a reasonable testing program which must be used to support certification of compliance with any consumer product safety standard, the act does not require the Commission to issue such regulations. In the absence of a regulation prescribing a reasonable testing program, manufacturers, private labelers, and importers must either test each product, or devise and implement their own reasonable testing programs to support issuance of the certificate of compliance required by section 14.

In the notice of September 6, 1978, the Commission solicited comments on the issues of whether it should propose a regulation prescribing a reasonable testing program to support certification with the proposed amended standard, and if so, the form that such proposed regulations should take. The notice solicited comment on three broad alternatives that the Commission staff was considering for the form of proposed regulations to prescribe a reasonable testing program.

The first alternative described in that notice would require certification of insulation on a lot-by-lot basis, using the quality assurance provisions in paragraph 4 of GSA Specification HH-I-515D. Those provisions reference the sample selection procedures of Military Standard 105 (MIL-STD-105) "Sampling Procedures and Tables for Inspection Attributes," and require that the sample selected shall be subjected to all of the tests in the proposed amended standard.

The second alternative would require manufacturers to qualify their products by performing all of the tests in the proposed amended standard with passing results, and then to demonstrate each day that the product being produced is substantially the same as the product which yielded passing results when subjected to qualification tests.

The third alternative would require manufacturers to test their production each day, using simplified tests which could be conducted quickly at the place of production and which would be reliable predictors of the likelihood that the insulation would pass the tests specified in the proposed amended standard.

COMMENTS ON CERTIFICATION ISSUES

In response to the notice of September 6, 1978, comments on issues relating to certification were received from seven manufacturers of celluslose insulation, one chemical manufacturer, four testing laboratories, one consulting engineering firm, and one association of testing laboratories.

Four commentors favored the second alternative described in the

notice of September 6, 1978, and two commentors recommended a combination of the second and third alternatives. Most of these comments objected to the first alternative suggested in the notice of September 6, 1978, stating that such an approach would require manufacturers to hold large quantities of insulation pending completion of all tests specified in the proposed amended standard. These comments stated that the first alternative for a testing program would cause manufacturers to incur costs of maintaining large quantities of insulation in inventory, of obtaining warehouse space, and of segregating individual lots while in storage. The Commission agrees with these commentors that a testing program designed along the lines of the first alternative might create an undue burden on manufacturers.

A comment favoring the second alternative stated that a major problem involved with a testing program based on the third alternative is the lack of simplified tests which are known to have a high degree of correlation with the tests set forth in the proposed amended standard. One of two commentors favoring the third alternative agreed that much work must be done to establish the correlation between any simplified tests which might be performed by manufacturers at the place of production and the tests of the proposed amended standard.

The Commission staff explored the possibility that a test involving exposure of small quantities of insulation to a flame and measurement of any resulting char length and weight loss might be performed by manufacturers in place of the test for critical radiant flux in the proposed amended standard, and that a test measuring the acidity of the insulation might be performed by manufacturers instead of the corrosiveness test of the proposed amended standard. At this time, Commission staff lacks sufficient evidence that either of these tests has a high degree of correlation with the tests in the proposed amended standard. For this reason, the Commission is not proposing to require a testing program based on the third alternative suggested in the notice of September 6, 1978. However, the Commission recognizes that these or other simplied tests may be established in the future to have a sufficiently high degree of correlation with the tests in the proposed amended standard to merit their use in a reasonable testing program.

Three insulation manufacturers recommended that the Commission not issue specific requirements for a reasonable testing program, but that manufacturers be permitted to submit testing programs to the Commission for approval as "reasonable testing programs" to support certification of compliance. These comments state that a testing program which is workable for small manufacturers may not be practical for large manufacturers.

The Commission agrees that it is difficult to design a testing program which would be appropriate for all manufacturers and therefore, as is explained further below, has decided not to issue specific requirements for such a program. However, the Commission also declines to establish a procedure by which reasonable testing programs are submitted to the Commission for approval. The Commission believes such a procedure would place a heavy burden on the agency's limited resources by necessitating evaluation of individual testing programs. Instead, in this proposed certification rule, the Commission has decided to provide manufacturers, private labelers, and importers with a mandatory outline of a reasonable testing program, without specifying the type or frequency of tests for such a program.

The proposed testing program follows the general approach of the second alternative in the notice of September 6, 1978 because it requires qualification and production testing (without specifying the content of testing). The program is described below.

Reasonable Testing Program

As noted above, section 14(a) of the Consumer Product Safety Act requires each manufacturer, importer, or private labeler of a product which is subject to a consumer product safety standard to issue a certificate of compliance with the applicable standard and to base that certificate upon a test of each item or upon a reasonable testing program.

Because it is not practical to test each item subject to the standard, it is necessary for manufacturers, private labelers, and importers to use a reasonable testing program for cellulose insulation to support certificates of compliance with the proposed amended standard.

The proposed testing program allows manufacturers, private labelers, and importers to determine the types and frequency of testing for their own programs. The Commission believes that it should not specify these elements because a uniform, mandatory program would not be suitable for all cellulose insulation manufacturers. The manufacturers' operations differ in size and profitability. Quality control also varies between plants. For example, a manufacturer with a large daily output of insulation and with good sales prospects may be able to afford and may wish to conduct more frequent and more complex testing than a small manufacturer with a marginal operation. All manufacturers, of course, must comply with the proposed amended standard, if it is issued in final form.

While the Commission is not requiring specified testing at explicit intervals, the proposed rule does provide that all reasonable testing programs must conform to certain broad outlines. This is because the Commission believes that current cellulose insulation production, even with the best state-of-the-art in manufacturing, is sufficiently variable to warrant periodic testing to demonstrate that the product complies with the proposed amended standard.

Because of natural variability in the manufacturing process and the raw materials, some cellulose insulation manufacturing plants may experience difficulty in maintaining a consistent product. Based on information received concerning the cellulose insulation manufacturing process, the Commission has learned that variations in the final product may be caused by factors such as the quality of the paper (especially, if a manufacturer buys from more than one source), the availability and quality of the necessary chemicals, the grinding of the chemicals, the mechanism feeding chemicals into the paper stock, and the pulverization of the product. The manufacturing process is also affected by external factors such as ambient temperature and relative humidity. For some manufacurers, equipment breakdowns and equipment degradation through wear are common. Constant vigilance may be required to keep the manufacturing process functioning properly. In short, information available to the Commission indicates that current cellulosic insulation production is likely to result in significant product variability unless the manufacturing process is closely monitored.

Based on the nature of the manufacturing process, the Commission concludes that periodic testing of samples of insulation being produced is essential to ensure that the insulation will comply with the proposed amended standard.

Accordingly, proposed § 1209.33(b) requires that all reasonable testing programs must consist of four parts:

1. Qualification tests which must be performed on samples of the manufacturer's cellulose insulation to demonstrate that the product is capable of passing the tests prescribed by the proposed amended standard.

2. A written description of the raw materials, production equipment, and manufacturing process used to produce the cellulose insulation which passed the qualification testing. This description is known as the "product specification."

3. Production tests performed at appropriate intervals on the insulation as it is manufactured to demonstrate that the product being manufactured is substantially similar to the product which passed the qualification tests and to demonstrate that the product being manufactured meets the requirements of the proposed amended standard.

4. Corrective action, which must be taken whenever samples of the cellulose insulation yield unacceptable or failing test results.

The section on qualification testing (proposed § 1209.34) states that before any manufacturer, importer, or private labeler distributes any cellulose insulation which is subject to the standard, samples of the insulation must be tested for compliance with the standard. (As used in the rest of this preamble, the term "standard" means the proposed amendment to the interim standard for cellulose insulation based on GSA specification HH-I-515D.) Manufacturers, private labelers, or importers are free to determine what type of qualification testing to conduct. The qualification testing may be performed before the effective date of the standard.

The second step of the required reasonable testing program is the preparation of a written description of the cellulose insulation which passed the qualification testing. This written description is referred to as the "product specification."

Section 1209.35 of the proposed certification rule requires that the product specification include the following information:

a. A description of the equipment used to manufacture the insulation, including the model numbers and names of the equipment manufacturers, and details of any modification made to any item of equipment.

b. A description of the cellulosic stock material used.

c. The formulation of fire-retardant chemicals added, including their chemical constituents and their form (that is, granulated or powered); the amount of chemicals present in the finished insulation, expressed as a percentage of the total weight of chemicals and cellulosic stock; and the name and address of each chemical supplier.

d. A description of the tests which were used to qualify the product as well as the dates of performance and results and actual values, where applicable, of the tests.

e. Any other information needed to describe the product.

Proposed § 1209.35(d) states that whenever the manufacturer, private labeler, or importer makes any change to any item of production equipment, raw materials, or manufacturing process which is likely to affect the ability of the cellulose insulation to meet the standard, that change will result in a new product, requiring the preparation of a new product specification. Such a change will also require that the new product be subjected to qualification tests with passing or acceptable results.

The product specification required by proposed § 1209.35 must be prepared before any cellulose insulation subject to the standard is distributed in commerce. However, preparation of the product specification may be done at any time before the effective date of the standard, if the manufacturer desires.

The third step of the reasonable testing program appears in proposed § 1209.36. It consists of production tests which must be performed at "production intervals" to establish that the product being manufactured is substantially similar in those properties affecting flame resistance and corrosiveness to the product which passed the qualification testing and which is described in the product specification. ("Production interval" is defined in proposed § 1209.32(b) to mean a time span determined by the manufacturer, private labeler, or importer to be appropriate for conducting a test or series of tests on samples of the insulation being produced to demonstrate that the product meets the requirements of the standard. An appropriate production interval may vary from test to test.)

Manufacturers, private labelers, and importers must determine the types of tests for production testing. Furthermore, each production test is required to be conducted at a "production interval" short enough to ensure that if the samples selected for testing meet the standard or a portion of the standard, the insulation produced during the interval will also meet the standard or the appropriate portion of the standard.

If any production test yields failing results, production must cease and the manufacturing process must be "corrected". In addition, the material from which the samples were taken may not be distributed in commerce unless the material can be "corrected" so as to meet the standard. Cellulose insulation that does not comply with the standard cannot be sold or offered for sale.

Proposed § 1209.37(a) states that "corrective action" may consist of replacement, adjustment, or repair of equipment; change of chemical formulation or chemical quantity; change in cellulosic stock material; or any other action which a manufacturer believes is necessary to produce complying insulation. Corrective action includes changes to the manufacturing process as well as reworking the insulation product itself.

Proposed 1209.37(b) provides that if any corrective action required to be taken results in a change to the product so that it is no longer accurately described in the product specification, a new product results. Any new product must be subject to qualification testing in accordance with proposed § 1209.34 and must be described in a product specification in accordance with proposed § 1209.35 before the new product may be distributed in commerce.

The proposed certification rule states at § 1209.33(c) that the Commission will test for compliance with the standard by using the test procedures set forth in the standard. The proposed rule emphasizes, however, that manufacturers are free to use *any* reasonable test procedures. The proposed rule also states at § 1209.33(d) that any or all of the testing for the reasonable testing program may be performed by an outside party qualified to perform such tests. The manufacturer, private labeler, or importer retains responsibility for ensuring that all testing has been properly performed with acceptable results and for ensuring the integrity of all records of such tests required to be maintained by § 1209.38 of the proposed rule. In response to the September 6, 1978 notice of intent, comments from two manufacturers of cellulose insulation, two testing organizations, and one association of testing organizations suggested that the Commission *require* that the sampling and testing supporting certification be performed by parties other than the manfacturer of the product.

As noted above, the Commission has not followed this suggestion. The Commission points out that such a requirement could be unfair to certain firms, particularly larger manufacturers, who might be able to perform reasonable testing at a lower cost than the fees imposed by an outside testing laboratory. In addition, the Commission points out that such a requirement might necessitate issuance by the Commission of regulations determining exactly what type of firms and organizations would be eligible to perform the required sampling and testing. This, the Commission believes, would be an unnecessary burden on Commission resources.

RECORDKEEPING REQUIREMENTS

Proposed § 1209.38 requires that manufacturers, private labelers, and importers subject to the standard maintain the following records which are required to be available to any designated officer or employee of the Commission upon request: (Section 16 (b) of the Consumer Product Safety Act (15 U.S.C. 2065(b)) authorizes the

Commission to require the establishment and maintenance of records that are necessary to implement the act or to determine compliance with regulations issued under the act. The section also provides that the records must be made available for inspection by duly designated agents of the Commission upon request).

1. A record of each product specification containing all the information required by proposed § 1209.35.

2. Records to demonstrate compliance with the requirements for production testing in proposed § 1209.36, including a description of the types of production tests conducted and the production interval selected for performance of each production test.

3. Records of all corrective actions taken, including the specific action taken, the date the action was taken, and the test failure which necessitated the action. These records are required to relate the corrective action taken to the product specification of the cellulose insulation which was the subject of the action and the product specification of any new product resulting from the action.

4. Records indicating exactly which insulation material is covered by each certificate of compliance issued.

The primary purpose for requiring maintenance of these records is so that manufacturers, private labelers, or importers will be able to demonstrate that they are conducting a reasonable testing program in certifying their products. In aiding Commission enforcement of the certification rule, the records will, of course, also promote Commission enforcement of the amended standard.

Besides aiding Commission enforcement, the records could be helpful to a manufacturer in limiting the scope of a possible recall order under section 15 of the CPSA. (The Commission is authorized under section 15 to order a manufacturer of a product which is found, after a hearing, to present a "substantial product hazard" to elect one of the following remedies: repair the defective product, replace the product with a non-defective product, or refund the purchase price of the product. "Substantial product hazard" is defined in section 15 to mean a failure to comply with an applicable consumer product safety rule or a product defect, which creates a substantial risk of injury to the public.) Records of product specifications, changes in specifications, dates and results of production tests, information concerning production intervals, and dates and results of corrective actions are examples of the types of information which could serve to identify the period of time during which noncomplying insulation was manufactured. In the absence of such information, all production conforming to a particular product specification could be subject to a recall order.

The records of each product specification are required to be maintained for as long as a product conforming to that specification is manufactured and for two years thereafter. Records of production testing, corrective actions taken, and certificates issued are required to be maintained for two years.

Retention of records for two years is required by the proposed rule because the Commission staff has obtained samples of cellulose insulation which were manufactured more than a year before those samples were collected. Some of these were taken from retailers' inventories. Thus, the Commission has evidence that cellulose insulation may remain in inventories before reaching the ultimate consumer for more than one year after it is manufactured. Commission enforcement personnel are particularly interested in being able to check the records concerning any insulation held in inventory.

The Commission is interested in receiving comments on whether the records required to be maintained by proposed § 1209.38 are the type of records manufacturers would normally keep to support certificates of compliance, even if the records were not specifically required by this proposed rule. The Commission is also interested in whether the information required for the records under proposed § 1209.38 could be incorporated into other records insulation manufacturers normally keep.

CERTIFICATION OF COMPLIANCE

1. Responsibilities of Manufacturers

Proposed § 1209.39(a)(1) of the regulations published below requires manufacturers of cellulose insulation subject to the standard which is sold in bags or similar containers to certify compliance with the standard with a label on each bag or container. The labels will be considered "certificates" of compliance, as that term is used in section 14(a) of the CPSA. (Note: Section 14(c) authorizes the Commission to issue rules requiring a product to bear a label containing specified information.) The certification label may be the same label required by § 1209.9 of the standard, as long as all the information required by both labels is clear.

The certification label is required to include the following information:

a. The statement "This product meets the amended CPSC standard (effective October 16, 1979) for the flame resistance and corrosiveness of cellulose insulation."

b. The name of the manufacturer (or private labeler or importer, see below) issuing the certificate.

c. The date of manufacture by day, month, and year.

d. The place of manufacture, by city, state, and zip code, or in the case of products manufactured outside the United States, by city and country.

This information must appear prominently and conspicuously on each bag or container in letters and figures at least one-fourth of an inch in height. All of the information, except for the statement concerning compliance with the proposed amendment and the name of the person issuing the certificate, may be in code if any interpretation of the coding system is available to consumers, persons in the chain of distribution, and the Commission.

In those few instances where cellulose insulation is not sold in bags (Information available to the Commission indicates that nearly all cellulose insulation is sold in bags), the certificate of compliance must necessarily be in the form of a document which is separate from the product. Proposed § 1209.39(a)(2) provides for certification with a separate document such as an invoice, a bill, or other statement which must accompany the shipment or delivery of insulation not sold in bags. The separate document is required to contain the name of the manufacturer, private labeler, or importer issuing it as well as the statement—"This product meets the amended CPSC standard (effective October 16, 1979) for flame resistance and corrosiveness of cellulose insulation. This material was manufactured on (insert day, month, and year of manufacture) at (insert city, state, and zip code, or in the case of insulation manufactured outside the United States, city and country)." The information concerning the date of manufacture and the place of manufacture may be in code, provided an interpretation of the code is available to the Commission, persons in the chain of distribution, and consumers upon request.

In deciding that certification for cellulose insulation, where feasible, should be in the form of a label rather than a separate certificate the Commission points out that the label will be visible to all in the distribution chain, and the certification will be immediately available if any questions arise whether particular bags of insulation comply with the amended standard. The Commission believes that a certificate of compliance in the form of a label on each bag is the most convenient and probably the least costly form of a certificate for manufacturers. (This is especially true because a label stating that the product meets the amended Commission standards for cellulose insulation would be required under the proposed amended

standard.) The Commission also points out that a label affixed to each bag of insulation, in contrast to a certificate covering many bags of insulation and supplied to the retailer, is much more meaningful to consumers and will enable them to identify complying cellulose insulation.

The Commission, furthermore, notes that certificates of compliance in the form of separate documents may create a problem for Commission enforcement personnel and all parties in the chain of distribution in determining what specific products are covered by particular certificates, especially after the products covered by different certificates have been commingled. A label on each bag of insulation eliminates this practical difficulty.

Both the certification label and the separate certificate are required to include the date of manufacture, expressed by day, month, and year. The Commission has proposed the requirement to indicate the day of manufacture, since the Commission has information indicating that the ability of a manufacturer's product to meet the requirements of the standard may change from one day to the next. If the day of manufacture is indicated, manufacturers whose insulation is subject to a recall should be able to confine the recall to the specific insulation that has been improperly certified or found to present a substantial product hazard under section 15 of the CPSA.

The Commission does not believe that stamping each bag of insulation with the day of manufacture will present any great technical or economic problems for manufacturers. However, the Commission solicits comments on this question.

There is another issue involving certificates of compliance with the Commission is particularly interested in receiving comments on. With regard to insulation sold in bags or containers, the Commission notes that distributors and retailers might prefer to be provided with a separate certificate for insulation they receive in addition to the certification label. Distributors and retailers can retain a separate certificate after they have sold the certified products and can produce a certificate as a defense in any enforcement action for violation of the standard. Without a separate certificate, distributors and retailers might want to maintain their own records indicating that the products they received and sold were labeled as complying. Of course, distributors and retailers can either keep their own records or can contractually obtain the separate certificate from the person who provides them with the insulation. However, the Commission is considering requiring the issuance of separate certificates for insulation sold in bags, in addition to the certification labels, and is interested in receiving comments on this issue.

2. Responsibilities of Private Labelers and Importers

Proposed § 1209.39(b) provides that when a private labeler distributes cellulose insulation subject to the standard under the private labeler's name, the private labeler must issue the certificate of compliance but may rely on the manufacturer's tests to support the certificate. Where the private labeler issues the certificate, however, the private labeler has the responsibility for ensuring that all testing used to support the certificate (even though performed by the manufacturer) has been performed properly with passing or acceptable results and that all records of such tests being held by the manufacturer are accurate and complete.

Proposed § 1209.39(d) contains similar provisions for importers of insulation. The importers are required to issue the certificates of compliance, but may rely on the foreign manufacturer's tests to support the certificates if the records of the tests are maintained in the United States and the importer is resident, or maintains a resident agent in this country. The records must be available in the U.S. to enable Commission investigators to inspect the records and thus, monitor compliance with the certification rule and the standard. Like private labelers, importers who certify are responsible for ensuring that all testing has been performed properly with passing or acceptable results and that all records of the tests are accurate and complete.

3. Multiple Responsibility

Proposed § 1209.40 provides that if there is more than one party (i.e., manufacturer, private labeler, or importer) otherwise subject to the requirements of this proposed rule for certain cellulose insulation, only the party closest to the consumer in the distribution chain need issue a certificate.

Economic Impact of the Proposed Certification Rule

As described earlier in the notice, the proposed certification rule includes requirements for a reasonable testing program as well as recordkeeping and labeling. The Commission does not believe the costs of the proposed rule will be burdensome because while the rule mandates a specified label or separate certificate for bags of insulation, it leaves manufacturers with a great deal of flexibility as to testing and recordkeeping.

Information presently available to the Commission indicates the following costs are associated with the reasonable testing program, recordkeeping, and labeling requirements of the proposed certification rule.

Reasonable testing program. This proposed rule provides that before regular production begins, manufacturers must qualify their cellulose insulation product by testing samples of the product for compliance with the standard. After the product is qualified, the manufacturer must demonstrate with production testing that the insulation being manufactured is substantially similar to the qualified product. The manufacturer determines the types of qualification testing to conduct as well as the types and frequency of production testing.

The costs of meeting the qualification and production testing requirements will obviously differ from firm to firm and will depend on such factors as the cost of equipment for test selected, the frequency of testing, and the need for skilled personnel to conduct the tests selected.

If a manufacturer were to qualify his product by using the specific tests in the standard, the Commission estimates the cost would be under $1,000. The approximate fees of commercial laboratories to conduct the tests in the standard are: (1) settled density, $150; (2) smoldering combustion test, $60–$100; (3) corrosiveness test, $115–$275; (4) critical radiant flux test, $175–$225; and (5) calibration for the critical radiant flux rest, $100. This total cost ranges from $600 to $850, plus shipping and is based on manufacturers being able to qualify their products on the first attempt. Before providing certification labels to firms, most commercial laboratories require manufacturers to participate in the commercial laboratory's complete certification program, which includes at least one on-site inspection, and testing in addition to that required in the standard (for example, testing for thermal resistance, odor emission, starch content, and fungal growth). The cost for this type of program leading to a certification label is approximately $3000.

As noted above, firms will incur varying costs for production testing. The total cost of production testing will depend on the type and frequency of tests and on the frequency of test failures. (If a manufacturer fails a test, proposed § 1209.36 requires that he immediately stop production, take corrective action, and requalify the product for the test that is failed.) This requirement concerning production test failure should not be burdensome to larger firms, which have invested in their own equipment, since these firms could repeat a test almost immediately if there were a failure.

Similar firms may not have the same flexibility to repeat tests and avoid halts in production and therefore, may wish to design their testing programs to include only tests which can be performed quickly.

Although the Commission cannot estimate the frequency of failure because it does not know the tests that firms will use, the Commission emphasizes that the frequency of failure is likely to be reduced as manufacturers gain experience and skill in manufacturing complying products. The frequency of failure may also be reduced by the availability of commercial pre-mix chemical formulations that have recently been developed. These pre-mix chemical formulations are likely to be used by many small firms and could reduce the frequency of failure for these firms.

Recordkeeping requirements. The proposed certification rule at section 1209.38 requires manufacturers, private labelers, and importers to maintain records of each product specification; records demonstrating compliance with the production testing requirements, including a description of the types of production tests conducted and the production interval selected for performance of each test; records of all corrective actions taken; and records indicating exactly which insulation material is covered by each certificate issued. The proposed certification rule requires that the records be maintained for a two year period. The Commission does not believe that the recordkeeping costs will be significant, since manufacturers are presently maintaining records to demonstrate that they are conducting a reasonable testing program to comply with the present interim standard. The proposed certification rule allows manufacturers a great deal of latitude in the format of their recordkeeping so that most manufacturers should be able to incorporate certification recordkeeping into their present systems will little difficulty.

Labeling requirements. Section 1209.39(a)(1) of the proposed certification rule requires manufacturers of cellulose insulation whose product is sold in bags or similar containers to certify compliance with the standard with a label on each bag or container. The label must include the statement: "This product meets the amended CPSC standard (effective October 16, 1979) for flame resistance and corrosiveness of cellulose insulation." The label must also include the name of the manufacturer or private labeler or importer issuing the certificate, the date of manufacture by day, month, and year, and the place of manufacture.

The Commission believes that the labeling requirements of the certification rule will have a minimal economic impact on manufacturers. The label statement that the product meets the amended CPSC standard is the same as the label statement that would be required by the proposed amendment. The Commission believes that the proposed effective date of October 16, 1979 will allow many manufacturers time to draw down imventories of bags without these labels and thereby avoid the need for hand-stick-on labels. In the case where inventories are not depleted by October 16, 1979 and hand-stick on labels are used, the Commission estimates that these labels would add approximately 2½ cents to the cost of each bag of insulation, as well as an application cost of at most 4 cents per bag during the limited production period.

The Commission does not believe there are significant costs associated with requiring manufacturers to include on the label the name of the manufacturer, the date of manufacture by day, month, and year, and the place of manufacture. The Commission believes that many manufacturers presently include the name of the manufacturer and the place of manufacture on the label. The date of manufacture could be stamped on each bag before or after the bag is filled with insulation. The date of manufacture and place of manufacture may be included on the label in code.

For those few instances where cellulose insulation is not sold in bags or containers, the proposed certification rule provides that the certificate of compliance must necessarily be in the form of a document which is separate from the product. The separate document could be an invoice, bill, or other statement and must accompany the shipment or delivery of insulation that is not sold in bags. The separate document must contain the same information that the certification rule requires to be included on the label of insulation sold in bags. The Commission does not believe that this requirement of a separate document would present a significant burden to manufacturers, since the rule provides a great deal of flexibility as to the format of the separate document. The separate document requirement could be satisfied by including this information in a bill or invoice that already accompanies the product.

The Commission believes that the certification rule, as proposed, would have a minimal impact on the price of the product to consumers. Since firms may, within certain parameters, define their own reasonable testing programs, firms may be able to keep certification costs low enough to eliminate the need to pass on any costs to consumers.

The Commission notes that demand for cellulose insulation dropped significantly in 1978 and that from 200-300 firms left the industry in that one year. If demand does not pick up soon, additional firms may leave the industry. The Commission believes that if this occurs, it will be because of the demand situation and not as a result of the proposed certification rule which is intended to be flexible enough to accommodate the needs of both the largest and the smallest firms.

Environmental Considerations

The Commission has conducted an environmental assessment of the proposed amendment to the cellulose insulation standard. Based on that assessment (copies of which are available in the Office of the Secretary of the Commission), the Commission concluded that the proposed amendment would have no significant effect on the environment. The Commission believes that this proposed rule concerning certification of compliance with the amended standard will also have no significant impact on the environment.

The amendment and certification rule, if adopted, could have the following potential environmental impacts: (1) fewer homes may be insulated, if the supply of cellulose insulation is reduced and substitute types of insulation are not made available, thus leading to a decrease in energy savings; (2) there may be an increase in the amount of urea-formaldehyde foam insulation used, to make up for any decrease in the use of cellulose insulation; and (3) there may be a need to expand boric acid production, if the proposed amendment and certification rule would result in a shortage of boric acid for use as a flame retardant in cellulose insulation. However, the Commission does not believe that any of these potential effects are likely to occur since the amendment and certification rules are unlikely to adversely affect the availability or use of cellulose insulation.

The Commission does not believe that consumer demand for cellulose insulation will be affected by the amendment or certification rule. The industry is further capable of supplying sufficient insulation to meet current and foreseeable demand for cellulose insulation. Because of this capacity, it is also expected that little substitution of urea-formaldehyde foam insulation for cellulose insulation will occur. Additionally, since the certification rule will not affect the amount of cellulose insulation produced, the rule will not cause an expansion of boric acid production.

In addition, it should be noted that the Commission's interim rules for

carrying out its responsibilities under the National Environmental Policy Act (see 16 CFR Part 1021; 42 FR 25494) provide that product certification or labeling rules normally have no potential for affecting the environment. Therefore, environmental review of such rules is generally not required. (§ 1021.5(b)(2)).

With respect to this cellulose insulation certification rule, the Commission finds that the proposed rule will have no significant effect on the human environment and that no further environmental review of the proposal is necessary.

CONCLUSION AND PROPOSAL

Having considered the need for and the economic impact of the certification requirements set forth below, the Commission concludes that the proposed requirements are reasonable and not unduly burdensome in light of the need for the rule. Therefore, pursuant to sections 14 and 16 of the CPSA (15 U.S.C. 2063 and 2065), the Commission proposes to amend Title 16, Chapter II, Subchapter B, by adding a new Subpart B to Part 1209, reading as follows:

PART 1209—AMENDED INTERIM STANDARD FOR CELLULOSE INSULATION

Subpart B—Certification

Sec.
1209.31 Purpose and applicability.
1209.32 Definitions.
1209.33 Reasonable testing program.
1209.34 Qualification testing.
1209.35 Product specification.
1209.36 Production testing.
1209.37 Corrective actions.
1209.38 Records.
1209.39 Certification of Compliance.
1209.40 Certification responsibility; multiple parties.
1209.41 Effective date.

AUTHORITY: Secs. 14, 16; 86 Stat. 1220, 1222; (15 U.S.C. 2063, 2065).

Subpart B—Certification

§ 1209.31 Purpose and applicability.

(a) *Purpose.* The purpose of this Subpart B of Part 1209 is to establish requirements that manufacturers, importers, and private labelers must follow to certify that their products comply with the Amended Interim Standard for Cellulose Insulation (16 CFR Part 1209, Subpart A). This Subpart B includes requirements for conducting a reasonable testing program, certifying with label and separate certificates, and recordkeeping.

(b) *Applicability.* (1) Cellulose insulation which is subject to the standard includes all cellulose insulation produced or distributed for sale to, or for the personal use, consumption, or enjoyment of, consumers in or around a permanent or temporary household or residence, a school, in recreation or otherwise. The standard applies to cellulose insulation that is produced or distributed for sale to consumers, for their direct installation or use, as well as cellulose insulation that is produced or distributed for installation by professionals.

(2) The term "cellulose insulation" is defined in § 1209.2(a) of the standard to mean cellulosic fiber, loose fill, thermal insulation that is suitable for blowing or pouring applications. The definition of cellulose insulation in the standard includes cellulose insulation installed using the "wet process" method of installation. The "wet process" insulation is blown into an area with a spray or mist of water applied at the nozzle during installation.

§ 1209.32 Definitions.

In addition to the definitions set forth in section 3 of the act and in § 1209.2 of the standard, the following definitions shall apply to this Subpart B of Part 1209:

(a) "Private labeler" means an owner of a brand or trademark which is used on the label of cellulose insulation subject to the standard which bears a private label as defined in section 3(a)(7) of the act (15 U.S.C. 2052(a)(7)).

(b) "Production interval" means a time span determined by the manufacturer, private labeler, or importer to be appropriate for conducting a test or series of tests on samples of the cellulose insulation being produced to demonstrate that the product meets the requirements of the standard. An appropriate production interval may vary from test to test. The time period for a production interval shall be short enough to ensure that if the samples selected for testing comply with the standard or a portion of the standard, the insulation produced during the period will meet the standard or the appropriate portion of the standard.

§ 1209.33 Reasonable testing program.

(a) *General.* Section 14(a) of the Consumer Product Safety Act (15 U.S.C. 2063(a)) requires each manufacturer, importer, or private labeler of a product which is subject to a consumer product safety standard to issue a certificate of compliance with the applicable standard and to base that certificate upon a test of each item or upon a reasonable testing program. Because it is not practical to test each item subject to the standard, a reasonable testing program shall be used to support certificates of compliance for cellulose insulation.

(b) *Requirements of testing program.* A reasonable testing program for cellulose insulation is one which demonstrates that the insulation complies with the standard. Manufacturers, private labelers, and importers shall determine the types and frequency of testing for their own reasonable testing programs. However, all reasonable testing programs shall consist of four elements:

(1) Qualification tests which must be performed on samples of the manufacturer's cellulose insulation to demonstrate that the product is capable of passing the tests prescribed by the standard.

(2) A description of the cellulose insulation which passed the qualification testing. This description is known as the "product specification."

(3) Production tests, which must be performed at appropriate production intervals as long as the cellulose insulation is being manufactured.

(4) Corrective action, which must be taken whenever samples of the cellulose insulation yield unacceptable or failing test results.

(c) *Commission testing.* The Commission will test for compliance with the standard by using the test procedures contained in the standard. However, a reasonable testing program may include either tests prescribed in the standard or any other reasonable test procedures.

(d) *Testing by third parties.* At the option of the manufacturer, importer, or private labeler, some or all of the testing for the reasonable testing program may be performed by an independent third party qualified to perform such tests. However, the manufacturer, importer, or private labeler is responsible for ensuring that all testing used to support the certificate of compliance has been properly performed with passing or acceptable results and for maintaining all records of such tests in accordance with § 1209.38 below. Such additional testing shall be applicable in determining if the cellulose insulation may be certified as being in compliance with the standard, and the test results shall be incorporated into the manufacturers' records.

§ 1209.34 Qualification testing.

(a) *Requirement.* Before any manufacturer, importer, or private labeler begins distribution in commerce of cellulose insulation which is subject to the standard, samples of the insulation shall be tested for compliance with the standard. Manufacturers, importers, and private labelers shall determine the types of tests for qualification testing.

(b) *Timing, sampling.* Any or all of the qualification testing required by this § 1209.34 may be performed before the effective date of the standard. Manufacturers, private labelers, or importers may select samples for qualifi-

cation testing of a product in any manner they desire.

§ 1209.35 Product specification.

(a) *Requirement.* Before any manufacturer, importer, or private labeler distributes in commerce cellulose insulation which is subject to the standard, he or shall shall ensure that the insulation is described in a written product specification.

(b) *Contents of specification.* The product specification shall include the following information:

(1) A description of the equipment used to manufacture the insulation, including the model number and names of the equipment manufacturers, and details of any modification made to any item of equipment.

(2) A description of the cellulosic stock material used to manufacture the insulation, identifying the extent of impurities allowed.

(3) The formulation of the fire-retardant chemicals added, including their chemical constituents and their form (for example, granulated or powdered); the amount of fire-retardant chemicals present in the finished insulation, expressed as a percentage of the total weight of chemicals and cellulosic stock; the average weight of chemicals per bag; and the name and address of each chemical supplier.

(4) A description of the tests which were used to qualify the product as well as the dates of performance and results and actual values, where applicable, of the tests.

(5) Any other information necessary to describe the insulation.

(c) *Distribution in Commerce.* After the qualification testing required by § 1209.34 has been completed with acceptable results and the product specification required by this § 1209.35 has been recorded, the cellulose insulation may be manufactured and distributed in commerce, subject to the provisions of § 1209.36.

(d) *New Product.* Whenever a manufacturer, private labeler, or importer makes any change to any item of equipment, cellulosic stock material, or formulation of a fire retardant chemical, or any other factor which is likely to affect the ability of the cellulose insulation to meet the standard, that change will result in a new cellulose insulation product, requiring the preparation of a new product specification. The new product must be subjected to qualification tests and must yield passing or acceptable results.

§ 1209.36 Production testing.

(a) *General.* Manufacturers, private labelers, and importers shall test the cellulose insulation periodically as it is manufactured to demonstrate that the product being manufactured is substantially similar to the product which passed the qualification testing and to demonstrate that the product being manufactured meets the requirements of the standard.

(b) *Types and frequency of testing.* Manufacturers, private labelers, and importers shall determine the types of tests for production testing. Each production test shall be conducted at a production interval short enough to ensure that if the samples selected for testing meet the standard or a portion of the standard, the insulation produced during the interval will also meet the standard or the appropriate portion of the standard.

(c) *Test failure.* If any test yields failing results, production must cease and the faulty manufacturing process corrected. (see § 1209.37). In addition, the material from which the samples were taken may not be distributed in commerce unless the material can be corrected (see § 1209.37) so as to yield passing results and meet the standard. Cellulose insulation that does not comply with the standard cannot be sold or offered for sale.

§ 1209.37 Corrective actions.

(a) *Test failure.* When any test required by § 1209.36 yields failing or unacceptable results, corrective action must be taken, Corrective action includes changes to the manufacturing process as well as reworking the insulation product itself. Corrective action may consist of equipment adjustment, equipment repair, equipment replacement, change in chemical formulation, change in chemical quantity, change in cellulosic stock, or other action deemed appropriate by the manufacturer, private labeler or importer to achieve passing or acceptable test results.

(b) *New product.* If any corrective action required this the § 1209.37 results in a change of the product specification and a new cellulose insulation product (see § 1209.34(b)), the product specification for the new product must be recorded in accordance with § 1209.35, and qualification tests must be performed with passing or acceptable results in accordance with § 1209.34 before the new product is distributed in commerce.

§ 1209.38 Records.

(a) *Establishment and maintenance.* Each manufacturer, importer, and private labeler of cellulose insulation subject to the standard shall establish and maintain the following records which shall be available to any designated officer or employee of the Commission upon request in accordance with section 16(b) of the act (15 U.S.C. 2965(b)):

(1) A record of each product specification containing all information required by § 1209.35.

(2) Records to demonstrate compliance with the requirements for production testing in § 1209.36, including a description of the types of production tests conducted and the production interval selected for performance of each production test.

(3) Records of all corrective actions taken in accordance with § 1209.37, including the specific action taken, the date the action was taken, and the test failure which necessitated the action, Records of corrective action must relate the corrective action taken to the product specification of the insulation product which was the subject of that corrrective action, and the product specification of any new product which results from any corrective action.

(4) Records indicating exactly which insulation material is covered by each certificate of compliance issued.

(b) *Retention*—(1) *Product specification.* The records of each product specification shall be retained for as long as the cellulose insulation covered by that specification is manufactured and for a period of two (2) years thereafter.

(2) *Other records.* Records of production testing, corrective actions taken, and certificates issued shall be maintained for a period of two (2) years.

§ 1209.39 Certification of compliance.

(a) (1) *Responsibilities of manufacturer for insulation sold in bags.* Manufacturers of cellulose insulation subject to the standard which is sold in bags or similar containers shall certify compliance with the standard with a label on each bag or container which contains the following information (This label may be the same label provided in § 1209.9 of the standard):

(i) The statement "This product meets the amended CPSC standard (effective October 16, 1979) for flame resistance and corrosiveness of cellulose insulation."

(ii) The name of the manufacturer, private labeler, or importer issuing the certificate of compliance. See §§ 1209.39 (b) and (c), below.

(iii) The date of manufacture by day, month, and year.

(iv) The place of manufactuer, by city, state, and zip code, or in the case of products manufactured outside the United States, by city and country.

The information required by this § 1209.39(a) shall be permanent and conspicuous on the bag or container, and must appear in letters and figures at least ¼ inch in height. The date and place of manufacture may be in code, provided the person or firm issuing the certificate maintains a written record of the meaning of the code that can be made available to consumers, persons in the chain of distribution, and the Commission upon request.

(2) *Insulation not sold in bags or containers.* The manufacturer of cellulose insulation subject to the standard which is not sold in bags or similar containers shall certify compliance with the standard by accompanying each shipment or delivery of the product, with a document such as an invoice, bill, statement, or separate document, which states the following: "This product meets the amended CPSC standard (effective October 16, 1979) for flame resistance and corrosiveness of cellulose insulation. This material was manufactured on (insert day, month, and year of manufacture) at (insert city, state, and zip code, or in the case of insulation manufactured outside the United States, city and country)." The certificate of compliance must also contain the name of the manufacturer, private labeler, or importer issuing the certificate. See §§ 1209.39 (b) and (c), below. The certificate of compliance must appear in letters and figures which are conspicuous and legible. The date and place of manufacture may be in code, provided the person or firm issuing the certificate maintains a written record of the meaning of the code that can be made available to consumers, persons in the chain of distribution, and the Commission upon request.

(b) *Responsibilities of private labelers.* A private labeler who distributes a product subject to the standard which is manufactured by another person or firm but which is sold under the private labeler's name, brand, or trademark must issue the certificate of compliance required by section 14 of the Consumer Product Safety Act and this § 1209.39. If the testing required by this Subpart B of Part 1209 has been performed by or for the manufacturer of the product, the private labeler may rely on any such tests to support the certificate of compliance if the records of such tests are maintained in accordance with § 1209.38, above. The private labeler is responsible for ensuring that all testing used to support the certificate of compliance has been performed properly with passing or acceptable results, and that all records of such tests are accurate and complete.

(c) *Responsibilities of importers.* The importer of any product subject to the standard must issue the certificate of compliance required by section 14(a) of the act and this § 1209.39. If the testing required by this Subpart B of Part 1209 has been performed by or for the overseas manufacturer of the product, the importer may rely on any such tests to support the certificate of compliance if the importer is a resident of the U.S. or has a resident agent in the U.S. and the records are maintained in the U.S. in accordance with § 1209.38 above. The importer is responsible for ensuring that all testing used to support the certificate of compliance has been performed properly with passing or acceptable results, and that all records of such tests are accurate and complete.

§ 1209.40 Certification responsibility, multiple parties.

If there is more than one party (i.e., manufacturer, private labeler, or importer) otherwise subject to the requirements of this Subpart B of Part 1209 for certain cellulose insulation, only the party closest to the consumer in the distribution chain is required to issue a certificate.

§ 1209.41 Effective date.

The requirements of this Subpart B of Part 1209 shall become effective on October 16, 1979. Any cellulose insulation manufactured after October 15, 1979 must be certified as complying with the standard.

PROCEDURE FOR SUBMITTING COMMENTS

Comments regarding this proposal for issuing a certification rule must be received by April 9, 1979. 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, N.W., Washington, D.C. 20207.

(Secs. 14, 35(c)(2), Pub. L. 92-573, Pub. L. 95-319, 86 Stat. 1220-1221, 92 Stat. 388-389; (15 U.S.C. 2063, 2082).)

Dated: March 2, 1979.

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

[FR Doc. 79-6864 Filed 3-7-79; 8:45 am]

[6355-01-M]

[16 CFR Part 1209]

INTERIM STANDARD FOR CELLULOSE INSULATION

Proposed Amendment

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendment to standard.

SUMMARY: In this document the Commission proposes to amend its interim safety standard that addresses the flammability and corrosiveness of cellulose insulation. A recently enacted law required the Commission to publish that standard, which is based on a General Services Administration (GSA) specification for cellulose insulation. The law also requires the Commission to propose as amendments to its standard any related revisions GSA makes to its specification. Therefore, the Commission is proposing this amendment, which is based on a GSA revision that became effective on June 15, 1978.

DATE: Comments must be reveived by April 9, 1979.

Under the proposal, cellulose insulation manufactured after October 15, 1979 would have to comply with the requirements of the standard as revised, including the labeling requirement.

The Commission must publish an amendment or withdraw the proposal by June 29, 1979.

ADDRESS: Comments should be titled *Cellulose Insulation: Proposed Amendment to the Interim Standard* and 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, CPSC, Washington, D.C. 20207, 301-492-6453.

SUPPLEMENTARY INFORMATION

I. BACKGROUND

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 required the Commission to issue an interim consumer product safety standard for cellulose insulation based on the requirements for flame resis-

tance and corrosiveness in the General Service 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 flame resistance and corrosiveness of cellulose insulation (43 FR 35240). The interim standard became effective September 8, 1978, so that 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.

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.

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 either publish the amendment as a final amendment or withdraw the proposal.

The Commission 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 was 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. The Commission further extended the January 22, 1979 date by 45 days, so that the Commission must now publish the proposed amendment by March 8, 1979 (44 FR 3989, January 19, 1979). On September 6, 1978, the Commission published a notice of intent to propose an amendment to the interim standard (43 FR 39720). The notice of intent included the flame resistance and corrosiveness provisions of HH-I-515D and solicited comments on these provisions and related issued. These comments are discussed in the section of this preamble titled: *IV. Response to Comments Received Concerning the Notice of Intent.*

In addition to publishing the proposed amendment, the Commission has published elsewhere in this issue of the FEDERAL REGISTER a proposed certification rule under section 14 of the CPSA (15 U.S.C. 2063). That rule would prescribe requirements that manufacturers and private labelers would have to follow to certify that their cellulose insulation complies with the requirements of the amended standard. The Commission hopes to make that rule final at the same time it issues the amendment to the standard, in order to provide guidance. However, section 14 of the CPSA requires manufacturers and private labelers to certify that their products comply with a safety standard, even if the Commission has issued no certification regulation. The Commission has also published a proposed rule under section 27(e) of the CPSA (15 U.S.C. 2076(e)) that would require manufacturers of cellulose insulation to include labeling on their product concerning the proper installation of cellulose insulation to prevent fires (43 FR 59390, December 20, 1978).

II. DESCRIPTION OF THE PROPOSED AMENDMENT

The amendment to the interim standard, 16 CFR Part 1209, as proposed below, would prescribe flame resistance and corrosiveness requirements for cellulose insulation manufactured for use as a consumer product. The amendment to the interim standard would apply to all such cellulose insulation manufactured after October 15, 1979. Cellulose insulation manufactured before October 16, 1979 but after September 7, 1978 must continue to comply with the interim standard based on HH-I-515C. The requirements of the proposed amendment are intended to reduce or eliminate an unreasonable risk of injury to consumers from flammable and corrosive cellulose insulation.

As provided by Pub. L. 95-319, the proposed amendment contains the flame resistance and corrosiveness provisions of GSA Specification HH-I-515D (with several changes discussed below), since these provisions supersede the requirements for flame resistance and corrosiveness in GSA Specification HH-I-515C.

The Commission has not included the following paragraphs of HH-I-515D in the proposed amendment 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 *Moisture Absorption;* 4.8.4 *Odor Emission;* 4.8.6 *Fungi Resistance;* 4.8.9 *Starch;* 4.9 *Quality Assurance Test Methods;* 4.9.3 *Thermal Resistance;* paragraph 5, *Preparation for Delivery;* paragraph 6, *Notes.*

A. SCOPE AND APPLICATION

Section 1209.1 of the amended interim standard describes its scope and application. The amended interim standard contains requirements based on GSA Specification HH-I-515D that are intended to reduce or eliminate an unreasonable risk of injury to consumers from flammable and corrosive cellulose insulation.

As does the current interim standard, the amended interim standard would apply to cellulose insulation that is a consumer product, that is, insulation produced or distributed for sale to or for the personal use, consumption, or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation, or otherwise. The amended interim standard would apply to cellulose insulation that is produced or distributed for sale to consumers for their direct installation or use, as well as insulation that is produced or distributed for installation by professionals. As required by section 9(d)(1) of the act (15 U.S.C. 2058(d)(1)), the amended interim standard would apply only to cellulose insulation manufactured on or after the effective date of the amendment (proposed as October 16, 1979).

B. DEFINITIONS

Section 1209.2(a) of the proposed amendment defines the consumer product covered by the amended interim standard. For purposes of the amended interim standard, "cellulose

insulation" means cellulosic fiber, loose fill, thermal insulation that is suitable for blowing or pouring applications. Like the present interim standard, the definition includes insulation installed using the "wet process" method of installation. ("Wet process" insulation is blown into an area with a spray or mist of water applied at the nozzle during installation.) The definition does not specifically exclude insulation installed using a spray-on process with wet or dry adhesives. However, if the Commission receives information indicating that there is no need to include insulation installed using a spray-on adhesive process, or if the Commission receives information indicating that the test methods of the proposed amendment are not applicable to insulation installed using a spray-on adhesive process, the Commission will specifically exclude these types of insulation. Interested persons are encouraged to comment on the definition of cellulose insulation at § 1209.2(a) of the proposed amendment.

C. CORROSIVENESS PROVISIONS

The proposed amendment includes requirements and test procedures for the corrosiveness of insulation. (See §§ 1209.3(a) and 1209.5 of the proposed amendment.) As provided by Pub. L. 95-319, these provisions are based on the corrosiveness provisions of GSA specification HH-I-515D, which revised the corrosiveness provisions of GSA specification HH-I-515C. The Commission has made several changes in the provisions, as discussed below. The test method of the proposed amendment provides that insulation test specimens are saturated with distilled or deionized water and are placed in contact with a thin metal coupon. Aluminum, copper, and steel coupons are used. The saturated insulation and metal coupon assembly (also referred to as a composite specimen) is placed in a humidity chamber at high temperature and high relative humidity for 14 days. Subsequently, the coupons are removed from the composites, cleaned, and examined over a light bulb for perforations. If any metal coupon is observed to have any perforation (excluding notches which extend into the coupon 1 mm or less from any edge), then the insulation fails the corrosiveness requirement.

The corrosiveness test method of the present interim standard differs from the test method of the proposed amendment in the procedure for preparing the metal coupons and insulation specimens, the type of coupons used in the test, the amount of time the specimens are left in the humidity chamber, and the coupon post-cleaning. The proposed amendment would require that the corrosiveness test method and the smoldering combustion test method (described below) be conducted using the results of the measured settled density of the cellulose insulation. At section 1209.4 the proposed amendment includes a test procedure for determining settled density. This test method for determining settled density uses a cyclone-shaker and is different than the blown density test method in the current interim standard (at § 1209.7). As explained in section III of this preamble concerning Commission proposed changes, the cyclone-shaker test method is also different from the test method for determining settle density at paragraph 4.8.1 of HH-I-515D.

D. FLAME RESISTANCE PROVISIONS

The proposed amendment would supersede the flame resistance provisions of the present interim standard by replacing these provisions with two new requirements and procedures for determining flame resistance: the requirement and test procedures for critical radiant flux (see §§ 1209.3(b) and 1209.6 of the proposed amendment) and the requirement and test procedures for smoldering combustion (see §§ 1209.3(c) and 1209.7 of the proposed amendment).

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 smaller, two foot, version of the tunnel. The tunnel test measures how quickly a given material burns. The proposed amendment would replace the tunnel test with the attic floor radiant panel and smoldering combustion tests. These two tests evaluate the fire performance of cellulose insulation by specifying both open flame and smoldering ignition sources in an attempt to better simulate real-life conditions.

The attic floor 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 directed toward the surface of the test specimen. The amount of heat received by the specimen decreases as the distance from the heat source increases. The specimen is ignited at the hot end by a small pilot burner; and, if the flames propagate, the specimen burns toward the cool end. After the flames have extinguished, the person conducting the test measures the extent of burning present on the specimen. The person conducting the test then converts and reports this measurement as "critical radiant flux." The proposed amendment would require all test specimens to have a critical radiant flux equal to or greater than 0.12 W/cm^2 in order to pass the test. At § 1209.8 the proposed amendment includes a procedure for calibrating radiation instrumentation used in the test procedure for critical radiant flux.

The requirements and test procedures for smoldering combustion in the proposed amendment are designed to determine the potential of a material to undergo sustained smoldering combustion when exposed to a moderate heat source. A lit cigarette (lit end up) is placed in a small specimen of conditioned insulation (at settled density) in a stainless steel box. The specimen holder is weighed before the test. The cigarette and specimen are allowed to burn for at least two hours or until the smoldering has ended. After the smoldering has ended, the specimen holder and any residue are weighed, and the percent weight loss of the original specimen is calculated. In order to pass the requirements of the proposed amendment for smoldering combustion, the insulation must have no evidence of flaming combustion and a weight loss of 15 percent or less of the initial weight of each of the specimens tested.

The proposed amendment does not include the flame resistance permanency requirements and test procedures of the present interim standard, since flame resistance permanency has been eliminated from the revised GSA Specification HH-I-515D.

E. LABELING PROVISIONS

The present interim standard, at § 1209.9, requires manufacturers and private labelers to place the following statement on their containers of cellulose insulation: "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." As provided by Pub. L. 95-319, this label requirement remains in effect only during the period in which the interim standard based on HH-I-515C is in effect. The proposed amendment, at § 1209.9(a), includes a label requirement to enable persons to distinguish insulation that meets the requirements of the amended standard. The label, as proposed, states: "This product meets the amended CPSC standard (effective October 16, 1979) for flame resistance and corrosiveness of cellulose insulation." This label requirement would replace the label requirement of the present interim standard.

The proposed amendment provides that manufacturers may use any type of label, including a pressure sensitive or glued on label, to meet this require-

ment, provided the label is made and attached in such a manner that it will be legible for the expected amount of time between the manufacture of the product and its installation. The proposed amendment, at § 1209.9(b), specifies the size of the label and requires the label to be printed in legible type in a color which contrasts with the background on which the statement is printed. Unlike the present interim standard, which included a reference to CPSC regulations under the Federal Hazardous Substance Act for designing a label that is prominent and conspicuous, § 1209.(b) specifies the size of the label in order to eliminate confusion.

F. CERTIFICATION AND ENFORCEMENT

As explained in § 1209.10(a), section 14 of the CPSA (15 U.S.C. 2063) requires any manufacturer or private labeler of a product subject to a standard to certify that the product conforms to the standard. The certification must be based on either a test of each product or a reasonable testing program. Elsewhere in this issue of the FEDERAL REGISTER, the Commission has proposed a certification rule that provides certification requirements. The Commission hopes to issue that regulation in final form at the same time the Commission issues a revised standard. However, even if the Commission does not issue a final certification rule, section 14 of the CPSA requires manufacturers and private labelers to certify their products.

As explained at § 1209.10(b), if the proposed amendment is adopted, the Commission intends to use the test procedures in the proposed amendment to determine whether insulation complies with the standard.

G. EFFECTIVE DATE

At § 1209.11, the proposed amendment provides that all cellulose insulation that is a consumer product and that is manufactured after October 15, 1979, must meet the requirements of the amended standard. The Commission believes that this effective date is reasonable since it will allow manufacturers time to meet the requirements of the amendment, including the labeling requirements. If the Commission decides to adopt the amended standard, the Commission must do so and publish the amended standard by June 29, 1979. Manufacturers would have the time from June 29, 1979 through October 15, 1979 to comply with the requirements of the amendment. Persons who believe that a different effective date should be chosen should comment on this issue and should present information showing why the proposed effective date is not reasonable. Persons commenting on this issue should also indicate what other effective dates would be reasonable, and present information supporting their position.

III. COMMISSION PROPOSED CHANGES TO THE FLAME RESISTANCE AND CORROSIVENESS PROVISIONS OF HH-I-515

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 ensure 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 ensure that the revision is suitable for issuance as a mandatory product safety rule (H.R. REPT. No. 95-1322; 95th Cong., 2d sess. 13(1978) and H.R. REPT. No. 95-1116; 95th Cong., 2nd sess. 7-8(1978)). The Commission describes below the proposed changes along with the reasons for the proposed changes.

The Commission encourages interested persons to comment on these proposed changes.

Test procedures for determining settled density (1209.4). at § 1209.4(a)(1), the Commission has substituted a new test apparatus and procedure for determining settled density in place of the test apparatus and procedure described at paragraph 4.8.1 of HH-I-515D. The new test method, the cyclone-shaker test method, was recommended by the Department of Energy after the Department of Energy conducted comparison studies between this test method and the settled density test method of HH-I-515D.

The CPSC engineering laboratory conducted comparison tests between the present test method of HH-I-515D (with slightly modified temperature and humidity conditions) and the cyclone-shaker test method of the proposed amendment. The tests indicated that there were only minimal differences between results obtained using the two test methods. The Commission has no evidence to indicate that the cyclone-shaker test method is less reproducible or reliable than the test method in HH-I-515D.

The environmental conditioning apparatus presently specified in paragraph 4.8.1 of HH-I-515D is reportedly difficult to obtain and may have to be custom built. The conditioning chamber necessary to reproduce these environmental conditions would be expensive. The conditioning chamber would also have a limited capacity, which would restrict the number of specimens that could be tested during the 28 day conditioning period.

The Commission believes that the change should result in a test procedure that is easier, less expensive, and less time consuming for the manufacturer and testing laboratory. The conditioning requirement in the proposed amendment is identical to the conditioning requirements for the smoldering combustion test and the attic floor radiant panel test, so there is no need to purchase additional equipment for measuring settled density. In addition the proposed change will allow settled density to be determined within a matter of several days instead of the minimum 28 days presently specified in HH-I-515D.

Test procedures for corrosiveness. (1209.5). The Commission has included the following changes in the proposed amendment concerning the test procedures for corrosiveness:

(1) At § 1209.5(a)(1), the Commission proposes that the requirement for the humidity chamber in HH-I-515D be changed to provide for a "forced-air" humidty chamber. As presently described in paragraph 4.8.5 of HH-I-515D, the humidity chamber could be either a forced-air or static-air type. Air circulation in the humidity chamber may affect the evaporation rate of water from saturated insulation as well as the rate of corrosion. To better ensure that all testing laboratories will be using similar humidity chamber systems, and also to eliminate possible variations in test conditions, the Commission has proposed that a forced-air humidity chamber be specified. The Commission believes that most testing laboratories already have available and frequently use such forced-air systems.

(2) Throughout § 1209.5, the Commission has changed the type of dishes for the composite test specimens from "evaporating" to "crystallizing". This change has been made so that the type of dish is consistent with current laboratory practices and with the present interim standard. The change will also allow the test coupons to be centered more easily in the insulation specimens. The change has been made at § 1209.5(a)(2) and at several places in § 1209.5(b) of the proposed amendment.

(3) Throughout § 1209.5, the Commission has changed the term test "specimens" to test "coupons" to describe the thin metal squares that are used to evaluate corrosiveness. This change has been made since the word "coupon" more accurately describes these metal squares and eliminates possible confusion with the "speci-

mens" of cellulose insulation. The change has been at § 1209.5(a)(3), and at several places in § 1209.5(b).

(4) At § 1209.5(a)(4) the Commission has changed the description of the "Insulation Sample" in paragraph 4.8.5 of HH-I-515D to specify that six insulation test specimens shall be used for one test, and that each specimen shall weigh 20 g. This change has been made in order to clarify the number of specimens to be used and to provide a full description of the test specimens at one place in the standard.

(5) At § 1209.5(b) the Commission has included a new procedure for cleaning the metal coupons. The Commission has included this change in the proposed amendment since the cleaning procedures in paragraph 4.8.5 of HH-I-515D may result in incomplete removal of grease and surface contaminants and may lead to poor reproducibility of test results. The cleaning procedure in paragraph 4.8.5 of HH-I-515D, using 1,1,1-trichloroethane alone to clean the metal coupons, is inadequate to achieve the necessary water-break free surface criterion to ensure that the metal coupons are clean. To ensure that the coupons would not be contaminated during handling, the Commission has specified that coupons not be touched by ungloved hands. The Commission has specified that chemicals used in the cleaning process be of at least a certified reagent grade free of oily residue and other contaminants, since different qualities of solvents are available. Solvents that are low grade quality may not effectively clean the metal coupons.

(6) At § 1209.5(b) the Commission has changed the procedure for preparing the insulation test specimens and the description of the method for calculating the quantity of distilled or deionized water to be used with each specimen. These changes are intended to reasonable ensure that homogenious specimens are obtained, thus addressing variability due to possible separation of dry chemicals from the cellulose insulation. The change should improve the reproducibility of the test method.

(7) At § 1209.5(b), the Commission has included a statement providing that care should be taken to avoid evaporation of water from the time when the specimen is being prepared until the time when the specimen is placed in the humidity chamber. The purpose of this change is to minimize possible variations in test results that may occur from evaporation.

(8) At § 1209.5(b), the Commission has included a clarification that the specimen preparation be repeated for all metal coupons to avoid any possible confusion.

(9) At § 1209.5(b) the Commission has changed the amount of time the specimens are to remain in the humidity chamber from 14 days to 336 ± 4 hours to clarify the time frame in which the test is considered to be complete.

(10) At § 1209.5(b) the Commission has included a clarifying statement that any opening of the humidity chamber door be kept to a minimum while the composite specimens are placed in and removed from the humidity chamber. Although it is necessary to open the door of the humidity chamber to put new specimens into the chamber or take tested specimens out of the chamber, opening the doors should be kept to a minimum since opening may lead to fluctuations of the temperature and humidity. Therefore, the purpose of this change is to avoid possible variations in test results that may occur as a result of variations in the controlled temperature and humidity conditions of the humidity chamber.

(11) At § 1209.5(b) the Commission has clarified the test procedure to provide that, after the test is completed, the metal "coupons" should be brushed with a "nylon bristle brush or equivalent" to remove loose corrosion products. The use of the "nylon bristle brush or equivalent" has been included since the use of a hard bristle brush could artifically cause perforations apart from the corrosion test.

(12) At § 1209.5(b) the Commission has changed the procedure for removing the remaining corrosion products from the metal coupons to provide that these coupons be cleaned in accordance with specified practices identified in "ASTM G1—Standard Recommended Practice for Preparing, Cleaning, and Evaluating Corrosion Test Specimens" (American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103). The procedure in HH-I-51D for removing corrosion products calls for a simple nitric acid dip. The change proposed by the Commission would allow post-cleaning of the metal coupons by methods which substantially reduce removal of intact metal and provide for more accurate evaluation of the corrosion the test coupons may experience.

(13) At § 1209.5(c) the Commission has changed the procedure for determining noncorrosiveness to exclude notches which extend into the coupon 1 mm or less from any edge. The Commission believes that this change will minimize variations in judgment that may occur in determining noncorrsiveness. These notches do not represent the corrosion potential of the insulation test specimens and should not be used in judging corrosiveness. The notches frequently represent effects on the edges of the coupons accentuated by coupon preparation rather than corrosion from the test specimens.

(14) At § 1209.3(a) and § 1209.5(b) the Commission has changed the procedure for examining the metal coupons to eliminate the requirement that the coupons be examined under a "chrome reflected" light bulb. The reason for this change is that the Commission believes that a 40-W appliance light bulb without a chrome reflector is sufficient for examining test coupons for perforation.

(15) At § 1209.3(a) the Commission has provided that no perforation "of any of the six" 3 mil metal "coupons" shall be evident. The change has been made to clarify that the metal coupons are examined, rather than the specimen of insulation.

(16) Throughout § 1209.5 the Commission has made numerous technical non-substantive changes, such as editorial changes, the addition of tolorances, the use of consistent measurement units and the inclusion of equivalent units, to ensure that the proposed amendment is suitable for issuance as a mandatory safety standard.

Test procedures for critical radiant flux (§ 1209.6). The Commission has included the following changes in the proposed amendment concerning the test procecures for critical radiant flux:

(1) At § 1209.6(a) the Commission has added the words "or equivalent" after the words "an air-gas fueled radiant heat energy panel". This addition has been made since it may be possible for improved panels to be developed which will produce test results that are in agreement with the test results obtained using the specified panel. At the present time, however, the Commission is not aware that any other equivalent panel is available.

(2) At § 1209.6(b)(1) the Commission has replaced "Marinite XL" with "Marinite I" in order to correct an error in HH-I-515D.

(3) At § 1209.6(b)(2) the Commission has included a provision that would allow for alternative gas and air mixing systems. Since the standard provides that these gas and air mixing systems must be equivalent to the venturi-type system specified in HH-I-515D, the use of alternative systems would not affect test results.

(4) At § 1209.6(b)(2) the Commission has deleted the requirement that the test chamber shall be capable of operating at temperatures up to 816°C (1500°F). The Commission has deleted this phrase since the Commission does not believe that it is necessary to specify a maximum operating temperature for this apparatus.

(5) At § 1209.6(d) the Commission has deleted a section entitled "typical examples" under the heading "Test

Specimens" since the examples are not an essential part of the standard and do not clarify the test procedure. Also, in this section the Commission has added the requirement that three specimens per sample shall be tested since the Commission believes that three specimens are necessary and sufficient for statistical reliability.

(6) At § 1209.6(e) the Commission has added the statement "In a continuing program of tests, the flux profile shall be determined not less than once a week. Where the time interval between tests is greater than one week, the flux profile shall be determined at the start of the test series." The Commission has added this statement to ensure that the flux profile does not deviate from the standard during the production of the insulation.

(7) At § 1209.6(f) the Commission has deleted the requirement that specimens be conditioned "a minimum of 48 hours." The proposed amendment requires conditioning to equilibrium, with a less than 1 per cent change in net weight of the specimen in two consecutive weighings, with a minimum of two hours between each weighing. The Commission believes that these changes should ensure proper conditioning of the specimens.

(8) At § 1209.6(g)(2) and (3) the Commission has proposed that the amount of time the pilot burner flame must contact the test specimens be changed from "5 minutes" to "2 minutes". The Commission believes that if the specimen is going to ignite within the first 2 minutes. The Commission is not aware of any incidents in which specimens have ignited after an exposure of more than two minutes to the pilot light.

(9) Throughout § 1209.6, the Commission has also made numerous technical nonsubstantive changes such as numbering changes, correction of typographical errors, and the addition of tolerances, to ensure that the proposed amendment is suitable for issuance as a mandatory safety standard.

(10) The Commission has included figures *5a*, *5b*, *7a*, and *8a* in this proposal as alternative methods of constructing the specimen tray and the dummy specimen for the attic floor radiant panel test. These figures would replace figures 5, 7, 8 and 11, which are presently included in HH-I-515D. Unlike the present figures, the proposed figures provide the advantage of showing how to construct a specimen tray that is symmetrical and capable of being inserted in to the panel in either position. The figures also show modifications to the calcium silicate board to simplify the method of construction. The Commission does not believe that these figures would require extensive changes to existing attic floor radiant panel test equipment. At the present time the Commission believes that these alternate figures should be included in any final amendment. If the Commission decides to include these alternate figures in any final amendment, the Commission will make appropriate changes in section 1209.8(b) of the proposal, concerning construction and instrumentation of the radiant panel test chamber. Interested persons are asked to comment on the need for including these figures in any final amendment, and the possible impact of including these figures in any final amendment. The Commission will not include these figures in any final amendment if: (1) the commentors present information showing that there is no need for the proposed change, (2) the commentors show that the need for the change would be outweighed by the economic burden imposed by the changes because of decreased usefulness of the panel for other tests, or (3) the change will impact on the availability of existing attic floor radiant panel test equipment. (The Commission has not published figures 3 and 4 with the proposed amendment. These figures, which are photographs of the radiant panel, may be seen in the office of the Secretary of the Commission.)

Test procedures for smoldering combustion (§ 1209.7). The Commission has included the following changes in the proposed amendment concerning the test procedures for smoldering combustion:

(1) At § 1209.7(a)(1) the Commission has added the word "unfaced" to the glass fiberboard required as a pad in the test. The Commission believes that in order to obtain reproducible results in the test it is necessary to specify a standard substrate on which to place the specimen holder. The insulating medium used in the development of this test method and for the weight loss criterion chosen was unface glass fiberboard of the dimensions specified in the proposed amendment. The Commission believes that this change should increase the reproducibility of the test method.

(2) At § 1209.7(b)(1) the Commission has revised the procedure for loading the test specimen into the specimen holder as follows: "The material shall be blown, combed, or otherwise mixed to remove lumps and shall be loaded uniformly into each specimen holder, level and flush to the top of the holder". The purpose of this revision is to provide some assurance that the specimen will be consistent and be distributed uniformly in the specimen holder. The change should eliminate possible variations in test results that may occur if the material is not distributed uniformly in the specimen holder.

(3) At § 1209.7(b)(1) the Commission has added the phrase "whichever period is longer" in order to clarify the duration of the test.

(4) At § 1209.7(b)(2) the Commission has clarified the procedure for determining the net weight of the content of the specimen holder at the conclusion of the test.

(5) At § 1209.7(b)(2) the Commission has changed the provision for allowing the specimen holder to cool down from "25°C" to "approximately room temperature". The Commission believes that this change is consistent with the requirement that the test area be maintained at 21 ± 3°C, and should not affect test results. The change will make it easier to conduct the test.

(6) At § 1209.7(b)(3) the phrase "Three specimens per sample shall be tested" has ben added to the proposed amendment. The Commission has chosen three specimens to be consistent with the critical radiant flux determination. For the critical radiant flux determination, the Commission believes that three specimens ar necessary and sufficient for statistical reliability. This change is intended to eliminate confusion as to the number of specimens per sample to be tested.

(7) Throughout § 1209.7 the Commission has also made technical nonsubstantive changes, such as numbering changes, correction of typographical errors, and the addition of tolerances, to ensure that the proposed amendment is suitable for issuance as a mandatory safety standard.

IV. Response to Comments Received Concerning the Notice of Intent

In the Federal Register of September 6, 1978, the Commission published a notice of intent to propose an amendment to the interim standard (43 FR 39720). The notice of intent included the relevant provisions of GSA Specification HH-I-515D, along with several changes suggested by the Commission's staff, and requested public comments on all aspects of the proposed amendment and related issues. The Commission received twenty-two timely comments and eight late comments in response to the notice of intent. These comments are available for inspection in the Office of the Secretary of the Commission. An explanation of the relevant issues raised by the comments, along with the Commission's response, is given below:

Settled density. GSA Specification HH-I-515D contains test requirements and procedures for determining settled density. In the proposed amendment, at Section 1209.4, the Commission has included a new test procedure for determining settled density—the cyclone-shaker test method. An explanation of the new method for determin-

ing settled density and the reasons for the change are stated in the section of this FEDERAL REGISTER notice titled, *III. Commission Proposed Changes to the Flame Resistance and Corrosiveness Provisions of HH-I-515D.* In response to the notice of intent the Commission received the following comments concerning settled density:

Several commentors criticized the settled density test method in HH-I-515D as being cumbersome, complex, expensive and time consuming. According to these commentors, the test method can be run by only a few laboratories. The commentors claimed that a large conditioning area is required and that the blowing operation and drop box procedures in HH-I-515D are too dusty and messy for laboratory environments. Other commentors stated that no substantiating test data have been offered in support of the test method in HH-I—515D.

However, one commentor urged the Commission to retain the settled density test method in HH-I-515D, claiming that it is necessary to control variables such as moisture content, temperature, and the mechanical environment surrounding the test specimen. The commentor also claimed that the cyclone-shaker substitute method for determining settled density is without supportive data and does not correlate to real world conditions, since it is impractical to attempt to simulate 10 or 20 years of natural conditions in less that the 28 day period required in the HH-I-515D test method.

The procedure in HH-I-515D was designed to predict the condition of the cellulose insulation after it has been installed for one or two years. Properties such as R-value (not part of the proposed amendment) and smolder resistance (part of the proposed amendment) are affected by density. The Commission agrees with the commentors who stated that the present settled density test in HH-I515D is cumbersome and time consuming. To overcome these problems, the Commission has included in the proposal the cyclone-shaker test method, a substitute test method for determining settled density. This test method was recommended to the Commission by the Department of Energy as a substitute test method for the method of determining settled density in HH-I-515D. (In a comment on the Notice of Intent, the Department of Energy recommended that the Commission adopt the cyclone-shaker test method.)

As discussed earlier, in the section of the FEDERAL REGISTER notice concerning Commission proposed changes to the flame resistance and corrosiveness provisions of HH-I-515D, the Commission staff and the Department of Energy have conducted tests indicating that test results for the present test method of HH-I-515D and the cyclone-shaker test method are substantially the same. The Commission believes that these tests show that the cyclone-shaker test method simulates real life conditions at least as accurately as the test method of HH-I-515D. As a result, the Commission believes that these tests provide supportive data for the cyclone-shaker test method.

Another commentor questioned the possible change to the dry, shaker method for determining settled density. The commentor stated that while the shaker method may be easier to conduct, the results from this test provide better coverage and obscure the possibility of more settlement after installation. The commentor recommended that if the cyclone-shaker method is adopted, the product should be preconditioned before using the shaker. However, another commentor questioned the need for humidity conditioning in the settled density test.

The Commission believes that the cyclone-shaker method simulates settling after installation as well as the HH-I-515D settled density test. The Commission agress that preconditioning should be performed before the test is run and has required preconditioning in the proposed amendment. The Commission has included humidity conditioning in the proposed amendment in order to eliminate variability in test results that arise from not using the same preconditioning.

Several commentors raised issues concerning relative humidity conditioning and the description of the procedures for sample preparation and box sizes in the settled density test of HH-I-515D. Since the cyclone-shaker test in the proposal does not involve these issues the issues have been resolved with the substitution of a different test method in the proposed amendment.

One commentor stated that the "blowing" technique used in the present interim standard based on HH-I-515C was intended to simulate the actual field installation environment and does so more accurately than the settled density test methods which are used in HH-I-515D and in the proposed amendment.

The Commission believes that in test which are affected by density, such as the smoldering combustion test, it is important that the insulation be tested at the worst case density. For cellulose insulation the worst case density for smoldering combustion is the settled density, which is measured by the test method in the proposed amendment. The blown density test method in the present interim standard based on HH-I-515C does not measure settling after installation. As a result, the Commission believes that the blown denisty test method is not appropriate for measuring the density to be used in the smoldering combustion and corrosiveness tests.

One commentor questioned the reliability of the settled density test mehtod and questioned the appropriateness of the test, claiming that it is a compaction test rather than a settled density test.

The Commission has no data to indicate that the cyclone-shaker test method recommended by the Department of Energy is not reliable. The Commission does have data to show that the cyclone-shaker test method gives approximately the same results as does the method in HH-I-515D. The National Research Council of Canada has conducted tests which indicate that compaction procedures produce settled densities found in homes. Therefore, the Commission has retained compaction procedures in the settled density test method.

Several commentors suggested that the Commission consider alternate methods for determining settled density that are less lengthy and less expensive. One commentor recommended that an alternate test, the Thermtron settled density test, be considered.

The Commission believes that the cyclone-shaker test method included in the proposed amendment will provide approximately the same benefits in economy, quickness, and ease of use as those of the Thermtron method.

Requirements and test procedures for corrosiveness. The proposed amendment to the interim standard, at sections 1209.3(a) and 1209.5, includes requirements and test procedures for corrosiveness. In response to the Notice of Intent, the Commission received the following comments concerning these requirements and procedures:

One commentor, a manufacturer of wood fiber insulation, claimed that there were no known incidents where metallic corrosion was associated with wood fiber insulation.

The Commission has no knowledge of incidents of corrosion associated with wood fiber insulation. However, the Commission is aware of several confirmed incidents where metallic corrosion was associated with other forms of cellulose insulation. These incidents were among the exhibits brought forth during the Home Insulation Hearings before the Subcommittee on Oversight and Investigations (of the House Committee on Interstate and Foreign Commerce) on February 22, 1978. At the hearings, among the incidents reported were a roof collapse of a cheese warehouse in Wisconsin and corrosion of piping and wiring of condominium units in California. The Commission does not be-

lieve that it is sufficient evidence to treat wood fiber insulation differently from other cellulose insulation.

Several commentors criticized the proposed corrosion test, stating that insufficient work has been done to determine whether the corrosion test will adequately address the corrosive nature of some fire retardants. Several commentors stated that the corrosiveness test of HH-I-515D was unreasonably severe. According to one commentor, laboratory tests have shown that untreated whole wood fibers that are not waste products or newsprint materials will fail the corrosion test. The commentor claimed that the corrosion test is not realistic, stating as an example the use of excessive moisture in saturating the system.

Based on the Commission staff experience with the corrosiveness tests of the present interim standard and the corrosiveness test of HH-I-515D, the Commission believes that the corrosion test in the proposed amendment does differentiate the corrosive nature of various cellulose insulation.

The Commission does not believe that the corrosion test procedure, as proposed, is unreasonably severe since many cellulose insulation products currently available can meet the corrosiveness requirement. The Commission has no data concerning the likelihood that untreated whole wood fibers will fail the corrosiveness test. However, since many cellulose insulation products can meet these requirements, the Commission does not believe that the corrosiveness requirements are unreasonably severe.

The Commission believes that in order to have an acceptable test period time for the corrosion test, accelerated conditions must be established. Often severe conditions which a material may encounter are used in accelerated durability testing, such as saturating the cellulose insulation. Otherwise, unacceptably long testing periods may be necessary.

One commentor recommended that the Commission adopt the corrosiveness test used for mineral wool, GSA Specification HH-I-1030B, since it more closely resembles the situation in a home. Another commentor recommended that the Commission use the corrosion test method in GSA specification HH-I-558B, a specification for industrial mineral fiber insulation.

The Commission believes that further work would be needed to assess whether these tests are more representative of a home situation for cellulose insulation. At the present time, there is insufficient data to assess the predictive and discriminatory capacities of mineral wool corrosion tests when applied to cellulose insulation.

Several commentors criticized the reproducibility of the corrosiveness test.

Based on both a critique of cellulose insulation corrosiveness tests conducted by NBS and on Commission staff experience with the corrosiveness test procedure, the Commission believes that the proposed changes in the corrosiveness test procedure will reduce potential testing variables, thus making the test more reproducible. In the next several months, the National Bureau of Standards (NBS) will be conducting an interlaboratory study on the corrosiveness test procedure. At the present time, the Commission has no information to indicate that the proposed corrosiveness test is not reproducible.

Several commentors suggested that the procedure section of the corrosiveness test requires clarification to monitor or control loss of water, which may have an adverse effect on the ability of the specimen to pass the test. Several commentors suggested that the test be conducted in a closed container to eliminate water evaporation. Other commentors suggested that the provision in the corrosiveness test of HH-I-515D for a drip guard to divert condensation to the chamber floor may cause unusual air currents that could artifically dry the test specimens. The commentors suggested that unless water loss is monitored, the drip guard provisions should be eliminated or qualified.

The Commission believes that the commentors have not presented adequate data showing that the test procedure should include provisions to monitor or control water weight loss from the water-saturated insulation test specimens. The Commission has no evidence to indicate that large variability in water weight loss is caused by variability within the humidity chamber used in the test procedure rather than in differences between the test specimens themselves. Also, the Commission believes that there is insufficient data existing to support additional measures suggested by the commentors to control water loss, such as the use of a closed container, or the elimination or qualification of the drip guard provision.

Several commentors suggested that the provisions for sample preparation required clarification to avoid the probability of evaporation from the mixture of insulation and water, and to avoid the problem of air pockets occurring when the insulation material is not in direct contact with the metal coupon.

At § 1209.5(b) of the proposed amendment the Commission has included provisions to address these concerns. The proposed procedure provides that care should be taken to avoid evaporation from the composite specimen. In addition, tamping of the composite specimen should result in reducing the occurrence of air pockets.

Several commentors suggested that the methods for cleaning the test coupons be changed. One commentor suggested using the cleaning method in GSA Specification HH-I-1030B, used for mineral wool. However, one commentor stated that there was no significant difference in results directly attributable to coupon cleaning techniques. Another commentor disagreed with the staff suggestion that additional procedures are needed to effectively clean the test coupons. According to the commentor, current cleaning procedures are excessive. Several commentors suggested that the current post-cleaning method of HH-I-515D using nitric acid has a significant effect on the steel coupon, leading to an inaccurate evaluation of the corrosiveness of the test specimen.

Since corrosion is a phenomenon associated with the material and its environment, the Commission believes that metal surface cleanliness is an essential part of this corrosion testing to reduce variability and that the proposed cleaning method should be sufficiently rigorous to eliminate variability in test results that may result when the metal surface of the test coupon is not clean. The proposed cleaning method for the steel coupons is similar to that HH-I-1030B since caustic is used. As a result of changes in the cleaning method as published in the proposed amendment, the Commission believes that the proposed cleaning method is a substantial improvement over the test method specified in HH-I-515D, since the test method in the proposed amendment will effectively remove known rust inhibitors and contaminants from the surface of the test coupons.

The Commission has deleted reference to nitric acid as a post-cleaning agent because of the possibility that the use of nitric acid may significantly decrease the amount of intact metal remaining on the metal coupons. Therefore, at § 1209.5(b)(6) the staff has incorporated in its place practices which remove corrosion products while greatly reducing removal of the intact metal of the particular test coupon. These practices are those contained in "ASTM-G1, Standard Recommended Practice for Preparing, Cleaning, and Evaluating Corrosion Test Specimens", published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.

Several commentors suggested using crystallizing dishes instead of evaporating dishes, since the test coupons fit more easily into the crystallizing dishes.

The Commission has made the changes so that the type of dish is consistent with current laboratory practices and with the present interim standard. The change will also allow the test coupons to be more easily centered in the insulation specimens.

One commentor requested that the temperature and humidity conditions of the corrosiveness test not be changed from those specified in HH-I-515D.

In the proposed amendment the Commission has not changed the temperature and humidity conditions of the humidity chamber in the corrosion test as described § 1209.5(b)(5). These conditions are 48.9 ± 1.7°C (120 ± 3°F) and 97 ± 1.5 percent relative humidity.

Several commentors suggested that a parenthesis be added to clarify that the specimens rather than the humidity chamber are to be conditioned for fourteen days.

At § 1209.5(b)(5) the Commission has incorporated wording to clarify that the test specimens remain in the humidity chamber for 14 days and that the chamber be preconditioned to 48.9 ± 1.7°C (120° ± 3°F) and 97 ± 1.5 percent relative humidity.

One commentor questioned the availability of test coupons without a rust inhibitor.

Since the availability of test coupons without a rust inhibitor is uncertain, the Commission has proposed specific cleaning steps for each type of metal. The Commission believes that the cleaning procedure in the proposed amendment at § 1209.5(b), will effectively remove known rust inhibitors from the test coupons. The Commission is considering the possibility of recommending that metal coupons for cellulose insulation corrosion testing be included in the NBS Collaborative Reference Materials Program, in order to make standard metal coupons available.

One commentor stated that trichloroethane is difficult to obtain.

Based on communications with several commercial laboratories, the Commission has no evidence to indicate that 1,1,1-trichloroethane is difficult to obtain.

One commentor stated that use of a chrome reflected 40W light bulb is not necessary since pitting and etching can be observed in ordinary light.

The Commission agrees with the commentor. In § 1209.5(b)(7) and (c) of the proposed amendment the Commission has specified that a 40-W appliance light bulb is sufficient. Therefore, a chrome reflector is not necessary.

The Department of Energy recommended that the Commission incorporate specified changes in the test procedure for corrosiveness. The recommendations were based upon technical studies conducted for the Department of Energy.

The Commission has incorporated several changes in the proposal to address the Department of Energy comments on corrosion. The most significant changes have been made in the sections of the procedure addressing the cleaning of metal coupons at § 1209.5(b).

One commenter supported the proposed revision for the 14 day exposure test, claiming that this test method would remove much of the subjectivity of the present test procedure in the interim standard based on HH-I-515C and would produce more repeatable results. The Commission agrees.

One commenter suggested that an evaluation of corrosiveness be based on the rate of corrosion, rather than visual detection. The same commenter suggested an alternate method for evaluating corrosiveness based on an analytical measurement of the amount of corrosion.

The Commission does not have evidence to indicate that the method for evaluating corrosiveness suggested by the commenter is a more representative, repeatable, reproducible, or more satisfactory method for evaluating corrosiveness than the criterion in the proposed amendment. As a result, the Commission has not included in the proposed amendment a method for evaluating corrosiveness based on a rate of corrosion.

One commenter claimed that the procedure in the proposed corrosiveness tests could be improved with the addition of control specimens.

The Commission believes that the use of control coupons would introduce subjectivity into the test method and therefore believes they should not be included.

Requirements and test procedures for critical radiant flux. The proposed amendment, at § 1209.6, includes test procedures for critical radiant flux based on the test procedures at paragraph 4.8.7. of HH-I-515D. Section 1209.3(b) of the proposed amendment requires cellulose insulation to have a critical radiant flux equal to or greater than 0.12 w/cm^2/ for each of the three specimens when tested in accordance with the test procedures. In response to the notice of intent, the Commission has received the following comments on the requirements and test procedures for critical radiant flux:

Several commenters supported the elimination of the Steiner tunnel and flame resistance permanency tests of HH-I-515C. One commenter stated that the attic floor radiant panel test in HH-I-515D was a more precise test than the Steiner tunnel test, since it gives results that are mathematically accurate rather than simply a comparison of flame propagation characteristics with other materials.

Another commenter criticized the Steiner tunnel test method of the present interim standard as having many problems and giving questionable results. The commenter supported the attic floor radiant panel test method since it eliminates the use of the wire screen and tests the insulation in an orientation that represents an actual installation.

Several commenters objected to the inclusion of the attic floor radiant panel test method.

One commentor claimed that the Steiner tunnel test method in the present interim standard should not be replaced with the attic floor radiant panel test method in the proposed amendment, since the attic floor radiant panel test method is an obscure fire test method that has not been recognized by any national consensus standards organization.

Based on the information provided to the Commission by NBS, the Commission does not agree since the test method is essentially the same as that used to rate floor covering materials under National Fire Protection Association (NFPA) Standard 253 and American Society for Testing and Materials (ASTM) E 648. The only major change in the test method is the replacement of the floor covering specimen with a 5 cm. deep specimen of cellulose insulation.

Several commentors also claimed that the ruggedness and reproducibility of the attic floor radiant panel test method have not been demonstrated.

The Commission sponsored a NBS round robin program for determining the ruggedness and reproducibility of the attic floor radiant panel test. Based on a review of the results obtained in this test, the Commission believes these tests to be reasonably reproducible. The Commission has no evidence to indicate that the test procedure is not a rugged one, in the sense that test results would differ in repeated tests conducted using the same apparatus.

Several commenters questioned the adequacy of the attic floor radiant panel test method because they believe there is a lack of comparison testing to determine reproducibility. According to several commenters, although the attic floor radiant panel test procedure is repeatable within a laboratory when the same sample is tested several times, a significant variance can be expected from laboratory to laboratory. The commenters referred to a round robin test involving four laboratories that resulted in as much as a 35 percent difference in the critical radiant flux value. The commenters also stated that recent tests by the NBS resulted in substantial dif-

ferences among laboratories. According to one commenter, when identical samples of the product were sent to testing laboratories, the insulation passed in one laboratory yet failed in another.

In a round robin test on seven cellulose insulation materials involving nine different laboratories, the average coefficient of variation for reproducibility of the critical radiant flux measurement was 21% (from a range of 13% to 30% for the seven materials tested). NBS reports that this value of 21% is comparable to variations found in tunnel test data on materials other than cellulose insulation and indicates that the attic floor radiant panel test is a comparably reproducible test. Comparative test data for cellulose insulation tested in the Steiner Tunnel is not available.

Other commentors questioned the NBS determination that the Steiner tunnel is not a good indicator of flame resistance of cellulose insulation.

Based on an analysis of the adequacy of the Steiner tunnel by NBS, the Commission believes that the Steiner tunnel test is not a good indicator of flame resistance associated with cellulose insulation. The Commission has no data that proves that the Steiner tunnel is a good indicator of the flame resistance of cellulose insulation.

According to several commentors, data have not been presented that would show that the attic floor radiant panel test method has a greater correlation with full scale attic insulation tests than the Steiner tunnel. One commentor stated that flammability studies conducted for failing insulation specimens showed a lack of discernment (or ability to measure the degree of failure) by the radiant panel test in comparison to the level of discernment in the Steiner tunnel test.

The Commission also does not have data indicating that either the attic floor radiant panel or Steiner tunnel test methods correlate with full scale attic tests. The Commission also does not have data that precisely demonstrates the level of discernment between the two test methods. However, NBS has reviewed unpublished tests at Underwriters Laboratories, Inc., in which eight different brands of cellulose insulation were tested. Each brand of cellulose insulation that passed the attic floor radiant panel test with critical radiant flux values in the range of 0.12 to 0.34 W/cm² also passed the Steiner tunnel test with ratings of 25 or under. In those Underwriters Laboratories, Inc., tests in which cellulose insulation in a warm (71° C air temperature) attic was exposed to a small flame, NBS reports that materials with a critical radiant flux of 0.12 W/cm² or above (representing a passing test result) allowed a flame to spread only a few inches from the ignition source. Cellulose insulation that failed the attic floor radiant panel test with critical radiant flux values of less than 0.12 W/cm² also failed the Steiner tunnel test with ratings from 35 to 120. These tests do not indicate that the Steiner tunnel test was more selective than the attic floor radiant panel. The only gradation of test ratings for materials in the Steiner tunnel test occurred with materials that failed. The cellulose insulation that failed the Steiner tunnel test also failed the attic floor radiant panel test, and would have propagated flames at unacceptably low levels of radiant flux.

One commentor stated that while the attic floor radiant panel test is intended to represent later stage, fully developed fire conditions in buildings, the attic floor radiant panel test conditions have not been shown to be suitable for characterizing incipient and developing stages of building fires associated with insulation.

According to NBS, the attic floor radiant panel test is designed to measure the externally applied heat flux which will result in flame propagation. The range of this heat flux was originally chosen for the flooring radiant panel test to simulate the wide range of values that would be obtained at floor level in a corridor when a well developed fire exists in an adjoining room. According to studies conducted by NBS, the heat flux in a corridor with an adjoining room fire is similar to the heat flux presented in an attic where the attic temperature is high because of heat from the combined effects of the sun and a small attic fire. As a result, to evaluate cellulose insulation when the attic temperature is high, NBS chose to use the same external heat flux range that is used for evaluating floor coverings.

One commentor questioned whether a test method that used a small sample could representatively evaluate insulation materials to be installed over much greater areas. The commentor questioned whether the small sample of the attic floor radiant panel test can representatively evaluate materials where chemical distribution and displacement variations exist.

Based on an analysis of the attic floor radiant panel test method by NBS, the Commission believes that the sample size is a reasonable one to evaluate the expected performance of the insulation material, since the attic floor radiant panel simulates the physical arrangement and exposure conditions in an attic. NBS has informed the Commission that in unpublished tests at Underwriters Laboratories Inc., the behavior of cellulose insulation material in the attic floor radiant panel test was shown to correlate with fire performance of the insulation in large scale simulated attic tests.

Several commentors questioned the requirement of paragraph 3.1.9 of HH-I-515D that each of the specimens tested have a critical radiant flux equal to or greater than 0.12W/cm². One commentor suggested that the requirement be changed to require two of three specimens to have a critical radiant flux equal to or greater than 0.12W/cm².

Based on the test method developed by NBS for the attic floor radiant panel, the Commission believes that each of the three specimens tested must meet the requirement. Based on an analysis of the radiant panel test method, the Commission believes that even one failure presents a marginal condition.

One commentor claimed that the attic floor radiant panel was unable to evaluate the growth or build-up of a fire. The commentor stated that the fire hazard should be based on performance after ignition.

According to NBS, the attic floor radiant panel test is intended to determine if, under simulated fire conditions, a material will allow flame to propagate across its surface. If the effective radiant flux in an attic situation exceeds the critical radiant flux, flames will propagate over the entire surface. Thus, the Commission believes that the attic floor radiant panel test method is able to determine the conditions under which the insulation material will contribute to the growth of the fire.

One commentor stated that the rate of flame spread is a critical factor, measured by the Steiner tunnel test method but not by the attic floor radiant panel. Another commentor suggested that the time of flame front travel between designated distances be recorded during attic floor radiant panel tests.

It is true that the attic floor radiant panel test does not measure flame spread rate, which is measured by the Steiner tunnel. The attic floor radiant panel test is intended to determine if, under simulated fire conditions, a material will allow a flame to propagate across its surface regardless of the rate of flame spread. Based on NBS's analysis of fire hazards associated with cellulose insulation, the Commission believes that it is less important to determine the rate of flame spread of cellulose insulation than the likelihood that flames will propagate across the cellulose insulation.

One commentor also criticized the attic floor radiant panel test method since it has no provision for smoke measurement.

The Commission is unaware of any test method which measures the relative hazard presented by smoke gener-

ated by burning cellulose insulation. The interim standard currently in effect based on HH-I-515C does not contain any provision for smoke measurement.

One commentor stated that additional work needs to be done to determine the effects on test results of positioning the pilot burner and placement of test specimens.

The Commission does not have sufficient data to indicate that the positioning of the pilot burner or the positioning of the test specimens is not adequately controlled. As indicated earlier, the NBS round robin tests on the attic floor radiant panel indicated that the coefficient of variation for the radiant panel was 21%, which NBS reports is comparable to other flammability tests.

Several commentors questioned the need for a Commission staff suggested change in the method for preparing specimens for pneumatic applications. The change would allow the blowing hose to be pointed "approximately" 10 degrees upwards. According to one commentor, variations from the 10 degree procedure can produce substantially different results. However, another commentor agreed with the change.

The Commission believes it is reasonable to require a fixed blowing angle for standardization purposes in the attic floor radiant panel test and agrees with the suggestion that a fixed jig be used. In the proposed amendment at § 1209.6(d)(1), the Commission has substitued a tolerance of ±1 degree from the specified angle. The Commission does not believe that the addition of this tolerance will produce significant differences in the results of the test.

Several commentors agreed with the change suggested by the Commission staff that specimens be conditioned until equilibrium is reached whether it takes less or more than forty eight hours. One commentor suggested that the standard include a method for determining whether the test specimen has reached equilibrium.

The Commission has included a definition of equilibrium at § 1209.6(f) of the proposed amendment. The time for a specimen of insulation to come to moisture equilibrium varies with the density of the material, the amount of exposed surface area, and the relative humidity level. Therefore, the Commission agrees with the commentor that the specimen should reach equilibrium within the conditioning environment even if it takes over 48 hours. As a result, § 1209.6(f) as proposed does not contain a 48 hour limit on the amount of time for conditioning test specimens.

One commentor agreed with the staff suggested change that the attic floor radiant panel be located in a draft protected "area" rather than a "laboratory," since only the area where the specimen is tested, rather than the entire laboratory, needs to be draft protected. The Commission has included this suggested change in the proposed amendment at § 1209.6(b)(1).

One commentor disagreed with the change suggested by the Commission staff that the amount of time for leaving the pilot burner flame in contact with the test specimen be reduced from five minutes to two minutes. The commentor, an independent testing laboratory, stated that additional experience was necessary to support the change. Another commentor opposed the change, and claimed that specimens failed after an exposure of more than two minutes with the pilot burner flame. However, other commentors agreed with the change.

Based on its experience with tests conducted using the attic floor radiant panel, the Commission believes that this change will allow the tests to be conducted more quickly without affecting the test results. The Commission has not experienced any incidents in which there has been a delayed ignition beyond two minutes but before five minutes. The Commission has incorporated this change in the proposed amendment, at § 1209.6(g)(3).

Several commentors stated that modifications should be made in the procedure so that specimens are tested at settled density.

Preliminary testing by NBS has indicated that the density of the test specimens does affect the attic floor radiant panel test results. NBS reports that the blown density test method specified in the test procedure at § 1209.6(d) represents "worst case" conditions. The Commission believes that the attic floor radiant panel test should be conducted at the blown density, which according to work conducted by NBS, is the worst case density for this test.

Several commentors questioned the need to apply a 50% safety factor based on an attic exposure of 160°F. The requirement at § 1209.3(b) that the critical radiant flux measurement be greater than or equal to 0.12 W/cm² was obtained by adding this factor.

NBS reports that attic temperatures of 71°C (160°F) may occur in certain locations of the United States. The radiation to the attic floor from the roof at a temperature of 71°C (160°F) would be 0.08 W/cm². Considering the state of the art in fire performance testing, a 50% factor of safety is appropriate, according to NBS fire experts. Based on information presently available, the Commission believes that the critical radiant flux requirement at § 1209.3(b) of the proposed amendment is appropriate.

One commentor objected to the staff suggestion that the attic floor radiant panel heat source be capable of operating at temperatures up to 750°C rather than 816°C. The commentor stated that the only known suitable panel is capable of operating up to 816°C. However, another commentor agreed with the staff suggestion.

The Commission believes that the operating temperature specification at paragraph 4.8.7 of HH-I-515D serves no purpose in the test procedure. As a result the Commission has not included an operating temperature specification in the proposed amendment. The deletion of this requirement will not affect the ability of existing equipment to adequately perform the test.

One commentor stated that the density and thermal conductivity specification for Marinite XL, a calcium silicate board used to construct the attic floor radiant panel test apparatus, is incorrect in HH-I-515D. The Commission agrees with the commentor and has made changes at section 1209.6(b)(1) of the standard. The inclusion of Marinite XL in HH-I-515D represents an error.

One commentor proposed an alternate system for mixing gas and air that would still maintain critical panel and chamber temperatures. At section 1209.6(b)(2) the Commission has included a provision that would permit the use of alternate panels and alternative gas/air mixing systems that give equivalent test results.

The same commentor also pointed out several dimensional errors in figures 4, 5, and 6, as published in the notice of intent. The Commission has reviewed these figures and made appropriate changes.

One commentor agreed with the staff suggested correction of a typographical error at § 1209.6(b)(8) in the description of the range of the total heat flux transducer used in the test chamber.

One commenter claimed that the attic floor radiant panel test method, at section 4.8.7 of HH-I-515D, is wasteful in that it consumes large quantities of methane. The commentor also stated that the test method could present a danger of accidental explosion.

The Commission has no information supporting the conclusion that the attic floor radiant panel test method in the proposed amendment would have any appreciable effect on the supply of methane gas. The proposed amendment, at § 1209.6(c), includes safety procedures to guard against the possibility of a gas-air fuel explosion in the test chamber. The Commission has no evidence to indicate that these safety procedures are not adequate.

Requirements and test procedures for smoldering combustion. The pro-

posed amendment, at §§ 1209.3(c) and 1209.7 includes requirements and test procedures for smoldering combustion. In response to the notice of intent, the Commission received the following comments concerning these requirements and procedures:

One commentor stated that the present interim standard based on HH-I-515C does not adequately protect the consumer from the unreasonable risk of injury associated with cellulose insulation since the present standard lacks of provision to address hazards associated with smoldering ignition. The commentor stated that test methods in the proposed amendment, including the smoldering combustion test, more accurately parallel actual use conditions and are likely to better protect the consumer from the unreasonable risk of injury from fires associated with cellulose insulation.

The Commission agrees with the commentor that the smoldering combustion test is needed. The Commission recognizes that smodering is a major potential fire hazard associated with cellulose insulation. According to NBS, the cigarette smoldering combustion test was developed to ensure that cellulose insulation material has some resistance to smoldering.

Another commentor stated that the smoldering combustion test is a fair procedure that is repeatable. The commenter also stated that the smoldering combustion test measures and assesses an important aspect of the total fire hazard of cellulose insulation. Several other commentors also supported the inclusion of the smoldering combustion test method.

In spite of some reservations about the correlation of the test method to real-life situations, another commentor supported inclusion of the smoldering combustion test method in the proposed amendment since the test method provides identification of materials with a significantly greater potential for smoldering. The commentor stated that smoldering is the major potential fire hazard associated with cellulose insulation.

Several commentors stated that while the need for a smoldering combustion test has apparently been established, no significant effort has been made to substantiate the use of the cigarette ignition exposure to produce the smoldering combustion. One commentor objected to using the cigarette as an ignition source, since lighting a cigarette is distasteful for a nonsmoker.

The cigarette was chosen as an ignition source because of its smoldering capabilities. Corollary work on smoldering temperatures has been done by NBS to demonstrate that the cigarette is a reasonably reproducible ignition source. If there are personal reasons a tester would choose not to light a cigarette the tester may use equipment, such as a vacuum pump, to accomplish the desired end result.

One commentor questioned the reliability of the smoldering combustion test method as a result of many uncontrolled variables that can enter into the testing procedure.

The Commission has made an effort to control and specify all important parameters in the smoldering combustion test. A round robin evaluation of the smoldering combustion test involving 10 laboratories and seven cellulose insulation materials, indicated good agreement among the laboratories in measuring the extent of smoldering. The pass/fail results for 3 of the 7 materials had full agreement in all 10 laboratories. The results of three other materials agreed in 9 of 10 laboratories. The results of the remaining material agreed in 7 of the 10 laboratories.

Several commentors stated that the test method does not specify how many tests must be run on each specimen. The commentors suggested that three tests be run. Open flamming during any one or more of the tests would be a failure, or a weight loss of 15% or more on one test would be a failure. One commentor, the Department of Energy, recommended that the number of samples tested in the smoldering combustion test be increased to five in order to increase the statistical knowledge of the material being tested.

The Commission recognizes that there are differing opinions as to the number of specimens that should be tested in the smoldering combustion test. The Commission has followed the HH-I-515D requirement that three specimens of insulation be tested in the attic floor radiant panel test. Insufficient test data are available to support the change at this time. Based on its experience with the attic floor radiant panel test, the Commission believes that three specimens are an adequate and appropriate number to be tested.

Several commentors stated that the smoldering combustion test method is sensitive to density. According to the commentors, in order to produce accurate results each product must be tested at its own settled density. The commentors criticized round robin tests conducted by NBS, claiming that these tests were run at an arbitrarily chosen density for each product. The commentors suggested a procedure for obtaining the proper density in the specimen holder. One commentor stated that additional steps might be required beyond determining the settled density to ensure accurate results.

At section 1209.7(b)(1) the proposed amendment provides that specimens are tested at their settled density and includes procedures for obtaining that density in the specimen holder. The round robin tests conducted by the National Bureau of Standards were performed at a fixed density of 48 Kg/m^3 (3.0 lb/ft^3). This fixed density was adopted because the sensitivity of test results to density was well known. The round robin was intended to measure the variability of the test method aside from variations caused by changes in material density. The Commission does not have sufficient evidence to indicate that additional steps beyond determining the settled density are necessary to ensure accurate results.

Several commentors objected to the inclusion of the staff suggestion that "equivalent" fiberboard be permitted, unless the amendment states what is to be equivalent. However, one commentor agreed with the change.

The Commission agrees with the commentors that more detailed specifications for the fiberboard substrate are needed. Accordingly these specifications have been included in § 1209.7(a)(1) of the proposed amendment.

Several commentors stated that the conditioning requirements were necessary and recommended that they be the same as those for the attic floor radiant panel test. The commentors suggested that the specimen be conditioned at 69°F and 50 per cent relative humidity until equilibrium is reached. Another commentor disagreed, stating that test results did not show detectable differences with conditioned and unconditioned material.

After further study the Commission has included clarifications of the conditioning requirements in the proposed amendment. Section 1209.7(b)(1) now requires the specimens and cigarettes to be conditioned until equilibrium is reached. As proposed, the amendment calls for the same conditioning requirements for both the attic floor radiant panel and the smoldering combustion test procedures.

One commentor stated that while it is important to condition the specimens before testing them, there is no demonstrated need to test the specimens under the same environmental conditions. The commentor recommended that the materials be conditioned for at least 72 hours, removed, and then immediately tested under normal laboratory conditions.

The National Bureau of Standards has demonstrated significant variations in smoldering combustion test results in tests performed at several different laboratory temperature and humidity conditions. The specified test space conditions at § 1209.7(a)(4)

of the proposed amendment will help to ensure more uniform testing.

Other Comments. The Commission received other comments addressing various issues related to the amendment to the interim standard.

Several comments identified installation of cellulose insulation over recessed light fixtures as being a major problem. One commentor suggested that the Commission include a test procedure of simulate smoldering or ignition over recessed light fixtures. Another commentor claimed that the flame resistance tests in the proposed amendment may not be adequate to address problems related to installation of cellulose insulation around recessed electrical light fixtures. The commentor stated that the proposed amendment should require manufacturers to provide explicit installation instructions.

The Commission is aware that the flame resistance tests in the proposed amendment may not fully address problems associated with the improper installation of cellulose insulation. At the present time the Commission is unaware of any flame resistance test which has been shown to be adequate or has gained widespread recognition or approval for simulating exposure to recessed electrical light fixtures. The Commission has no information that would indicate that the test method suggested by the commentor is an appropriate one that should be included in the proposed amendment. The Commission has proposed a labeling rule that is intended to address problems associated with the improper installation of cellulose insulation (43 FR 59390, December 20, 1978), including improper installation around or over the top of recessed electrical light fixtures.

One commentor stated that an adequate test for assessing flame resistance permanency should be developed. At the present time, the Commission is not aware of any test which effectively assesses flame resistance permanency. An NBS analysis of the flame resistance permanency test in the present interim standard indicates that this test is not an appropriate measure of flame resistance permanency, since the test method, which is based on the test method in HH-I-515C, has not been shown to correlate with real life conditions. HH-I-515D does not include a test method for assessing flame resistance permanency.

Several commentors suggested that the Commission include labeling requirements to enable consumers to distinguish insulation that meets the requirements of the amended interim standard. One commentor also suggested that the labeling requirement include a scale reflecting flammability and corrosion characteristics.

At § 1209.9, the Commission has included a labeling requirement in the proposed standard that would enable consumers to identify insulation that complies with the amended interim standard. The proposed amendment provides minimum requirements for flame resistance and corrosiveness characteristics of insulation. Although manufacturers may, of course, exceed the requirements, the Commission does not believe that it is necessary to include a requirement that flammability and corrosion characteristics be reflected on a scale.

Several commentors agreed with the Commission staff suggestion to delete the requirement of HH-I-515D that insulation containers be marked with a coverage chart for obtaining R values. (The coverage chart referred to in this section is used to indicate the number of pounds of insulation per square foot of floor space to obtain a given R value.) However, other commentors stated that leaving the coverage chart requirement in would help reduce confusion.

The proposed amendment has no requirements for coverage or thermal efficiency (R-value) since these requirements are not part of the flame resistance or corrosiveness provisions of HH-I-515D. As a result, the Commission has not included the R-value coverage chart as a requirement in the proposed amendment. However, the Commission decision not to include the coverage chart in the proposed amendment would not prevent manufacturers from putting a coverage chart on their bags of insulation.

One commentor suggested that the conditioning requirements for the attic floor radiant panel and smoldering combustion tests be changed to correspond to those conditions in the regions where the insulation is sold.

The Commission does not have sufficient evidence to indicate that it would be necessary or practical to specify separate testing requirements for different regions of the country.

One commentor suggested that the definition of cellulose insulation in the proposed amendment should exclude insulation made of virgin wood fiber from wood chips, where the fiber is impregnated with fire retardant chemicals. The commentor stated that cellulose insulation made from shredded newspaper and newsprint with dry mixed fire retardant chemicals produced insulation of inconsistent quality. However, according to the commentor the virgin wood fiber insulation is produced through a reliable standardized production method.

Information presently available to the Commission does not indicate that wood fiber cellulose insulation should be subject to different requirements than cellulose insulation made from pulverized newspaper.

One commentor suggested that the present interim standard, using the Steiner tunnel flame resistance test, would adequately protect consumers if the smoldering combustion test of HH-I-515D were added.

The Commission believes that the attic floor radiant panel test should be substituted for the Steiner tunnel, since according to NBS, the attic floor radiant panel test better simulates the fire hazards associated with cellulose insulation installed on an attic floor.

One commentor stated that there were inconsistencies in the conversions from English to metric units for several dimensions. The commentor also stated that some of the conversions implied an unneeded precision.

The Commission has included appropriate corrections in the proposed amendment to address these inconsistencies and avoid an implication of unneeded precision.

One commentor claimed that the floor resistance tests in the proposed amendment may not be adequate to address problems associated with cellulose insulation installed in wall spaces. Another commentor questioned whether the attic floor radiant panel is applicable to insulation installed in locations other than attics.

Although the radiant panel test method has not been shown to be applicable to fire hazards associated with cellulose insulation installed in locations other than attics, the smoldering combustion test method, another flame resistance test method in the proposed amendment, is, according to NBS, applicable to cellulose insulation installed in locations other than attics. The smoldering combustion test method is applicable to cellulose insulation installed in vertical configurations, including cellulose insulation installed in wall spaces. The Commission is not aware of any other flame resistance test method, that would be appropriate for cellulose insulation installed in wall spaces.

One commentor claimed that the proposed amendment should consider wet process flame retardants instead of dry salt flame retardants, since the dry salt retardants result in a significant loss of flame retardant due to mechanical fall-off.

The proposed amendment does not specify the use of either wet process flame retardants or dry salt flame retardants. Either wet process or dry salt flame retardants could be used, provided the cellulose insulation product complies with the flame resistance and corrosiveness test requirements of the amendment. The Commission has no facts to support the allegations that dry salt flame retardants are not permanent, or that this lack of flame

resistance permanency could result in a hazard to consumers.

One commentor claimed that the proposed amendment should include starch content testing, since starch is a nutrient that tends to attract rodents. The same commentor also stated that the interim standard should include provisions to address fungal growth, although the commentor did not state a reason for including fungal growth provisions.

The proposed amendment does not include the starch content or fungal growth provisions of HH-I-515D, since these provisions are not part of the flame resistance or corrosiveness provisions of HH-I-515D. As provided in the act, the proposed amendment includes only those parts of HH-I-515D that are revisions to the flame resistance and corrosiveness provisions of HH-I-515C.

Economic considerations. Several commentors raised issues concerning the economic impact of the proposed amendment. Based on an economic analysis of the industry and the likely effect of the proposed amendment, the Commission believes that the potential impact of the proposed amendment will be small since (1) many companies have gone out of business before and since the issuance of the interim standard, as a result of the decline in demand for the product, and (2) it is likely that the most severe economic impacts will be associated with the present interim standard and will have occurred before the proposed amendment is adopted. (For the purposes of the Commission's economic analysis, the Commission believes that smaller cellulose insulation firms should be considered to be firms with annual sales under $1 million. In 1977, a period of high demand, the average annual sales for small firms was $200,000. The Commission recognizes, however, the demand has declined significantly since the 1977 levels.)

One commentor claimed that the radiant panel test method in the proposed amendment would require manufacturers to spend thousands of dollars in order to adjust present formulations or try new formulations to pass the radiant panel test.

The Commission believes that testing costs will vary depending upon the size and technical competence of the manufacturer. For example, it appears that in most cases the testing cost associated with finding an acceptable chemical formulation will be relatively small. Most of the large manufacturers will have the internal capability of performing this task. Most of the other manufacturers will probably purchase the appropriate chemical formulation as a pre-mix—and will experience no direct development costs.

One commentor stated that sudden implementation of the proposed test changes could hurt small firms as a result of the high costs of the tests and the limited number of laboratories that have the radiant panel test equipment.

The Commission believes that the proposed effective date (October 16, 1979) should minimize any adverse effect caused by the change in requirements and test methods. Based on an economic analysis of the industry, the Commission believes that this date should provide manufacturers with time to comply with the new requirements.

There are approximately twelve commercial testing laboratories which have demonstrated expertise in the area of testing cellulose insulation. There are five major laboratories that have obtained national stature and are well recognized by consumers. One of these laboratories has informed the Commission staff that half a dozen independent laboratories alone could handle all demand for qualification and follow up testing with present testing capacity.

Several commentors stated that the interim standard and the proposed amendment will have a significant impact on the industry, resulting in an approximate 13 percent increase in manufacturing costs and an approximate 25 percent increase to the installer and consumer. According to the commentor increased chemical requirements reduce product coverage 10 percent to 20 percent, resulting in an overall price increase of 35 percent to 45 percent to the consumer. Another commentor stated that increased costs to consumers would be between 30 to 50 percent. One commentor, a manufacturer of cellulose insulation, stated that there would be no need to increase prices because of the proposed amendment and suggested that the economic objections of other manufacturers were without foundation.

At present, the Commission believes that the interim standard currently in effect will increase chemical costs to cellulose insulation manufacturers by at most 12 or 13 percent. The Commission estimates that manufacturing cost impacts of the present interim standard have resulted in approximately a 6 percent increase in price per production unit (bag) at the retail level. For 1979, price increases at the retail level will be considerably less than in 1978 because of greater availability of the product. As a result of the reduction in R-value (a measure of the thermal resistance of insulation) due to the addition of more chemicals industry sources have indicated to the Commission that about 8 or 10 percent more insulation is likely to be needed to obtain the same R-value.

Considering both the increased volume requirement and the additional manufacturing costs, the Commission estimates that for the present interim standard the increased price of insulating a 1,200 square foot attic to an R-19 level is $20 to $25. This represents an approximate 15% increase in price to the consumer as a result of meeting the present interim standard.

The Commission anticipates that the impact on manufacturing cost and consumer prices of the proposed amendment as compared to the interim standard will be very minor. For the proposed amendment, chemical costs are expected to increase by only 1 or 2 percent. At the retail level, the price may increase by one percent. Because the chemical loading that would be necessary to meet the requirements of the proposed amendment is similar to that necessary to meet the present interim standard, the chemical loading should not influence the thermal properties of the insulation. As a result, an additional amount of insulation should not be necessary to achieve the appropriate thermal resistance. In terms of costs to the consumer, the impact of the proposed amendment represents an approximate increase of $1.60 over the cost of meeting the present interim standard for a 1,200 square foot attic insulated at an R-19 rating.

One commentor stated that the present interim standard should remain in effect since the proposed amendment based on HH-I-515D is unnecessary to protect consumers and since the proposed amendment would cause financial and operational problems for manufacturers and increased cost to consumers. The commentor stated that there has been no loss of life and only negligible property damage attributable to insulation that meets HH-I-515C. The commentor also claimed that compliance with the proposed amendment would require each manufacturer to spend between $10 and $20 thousand, as well as time lost from obtaining business.

Many industry experts feel that the requirements of the proposed amendment are more difficult than those imposed by the interim standard. For instance, it appears that cellulose insulation manufacturers will need more skill and technical knowledge to resolve problems associated with the smoldering combustion test. Manufacturers will probably need a precise mixture of chemicals for their product to comply with this test requirement. Some manufacturers will have these skills; others will rely upon pre-mix formulations and/or consultants, and a few smaller companies are expected to go out of business because of declin-

ing markets and increasing costs. A small manufacturer who: (1) finds it necessary to hire a full time skilled technician to supervise the quality control operation and (2) fails in an initial attempt to obtain product certification might incur expenses approaching $20,000. However, this would not be the case for most firms. Although the Commission does not have fire incident information that could be used to assess the effects of the interim standard based on HH-I-515C, the Commission believes that the flame resistance and corrosiveness test methods of the proposed amendment better simulate hazards associated with cellulose insulation. (In the next section of this preamble, the Commission discusses the available information it has that would support a determination that the proposed amendment is necessary to protect the public).

One commentor stated that the proposed amendment would be burdensome to small manufacturers as a result of the testing requirements and suggested that manufacturers be allowed to use third party laboratories to conduct testing.

The standard itself does not require manufacturers and private labelers to conduct testing; however, Section 14 of the Consumer Product Safety Act requires manufacturers and private labelers to issue a certificate that the product complies with the standard, and to base that certificate on either a test of each product or on a reasonable testing program. Elsewhere in this issue of the FEDERAL REGISTER, the Commission has proposed a certification regulation that prescribes certification requirements. In proposing the certification requirements, the Commission has attempted to minimize the burden on manufacturers and private labelers. Some portions of the certification requirements may be met by using independent laboratories to conduct testing.

V. STATUTORY FINDINGS

Section 35 (a)(2)(F) of the act, as amended, provides that the Commission must issue the amendment to the interim consumer product safety standard unless the Commission determines, after consultation with the Secretary of Energy, that (1) the amendment is not necessary for the protection of the consumer from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation; or (2) implementation of the amendment will create an undue burden on persons who are subject to the interim consumer product safety standard. The *Conference Report* to Pub. L. 95-319 emphasizes that the Commission has an affirmative obligation to adopt the amendment to the interim standard. The Commission should not adopt the amendment only if the Commission makes a determination that the amendment is unnecessary or unduly burdensome. (H.R. Rept. No. 95-1322, 95th Cong., 2d sess. 8 (1978)).

A. DETERMINATION WHETHER THE AMENDMENT IS NOT NECESSARY TO PROTECT THE CONSUMER

Congress required the Commission to issue the present interim standard after finding that an interim standard is reasonably necessary to eliminate or reduce an unreasonable risk of injury to consumers from flammable or corrosive cellulose insulation (sec. 2(a)(4), 15 U.S.C. 2051 note, Pub. L. 95-319). In the House Committee report concerning this legislation, the members of the House Committee on Interstate and Foreign Commerce based the need for the legislation, in part, on the fact that no Federal mandatory safety standard existed to ensure the safety of insulation purchased by consumers. The House Committee members stated that the absence of a standard exposed the consumer to risks from fire and corrosion damage from untreated or improperly treated cellulose home insulation. According to the House Report, unless a safety standard is enacted, fires caused by flammable cellulose insulation are likely to increase and the potential for serious injury to the occupants of these homes is substantial. (H.R. Rept. No. 95-1116, 95th Cong., 2d Sess. 2 (1978)).

As Congress instructed, the Commission issued the present interim standard based on HH-I-515C. The interim standard applies to all cellulose insulation manufactured after September 7, 1978. Since Congress has already concluded, in requiring the present interim standard, that a standard is needed to protect the public from the unreasonable risk of injury from fires and corrosion associated with cellulose insulation, the Commission does not believe that it is appropriate to reevaluate the need for a standard in considering whether the proposed amendment is necessary. Instead, the Commission believes it should base a decision as to the need for the proposed amendment on an evaluation of the adequacy of the present interim standard and the need for the proposed amendment in terms of serving the Congressional purpose of protecting the public. The Commission discusses below the information it has that compares the proposed amendment and the present interim standard in terms of protection of the public.

In submitting comments on the issue whether the amendment is necessary to protect the public, the Commission believes that commentors should compare the proposed amendment with the present interim standard. The Commission emphasizes that unless it obtains information showing that the amendment is not necessary to protect the consumer, the Commission will not make a finding that the amendment is unnecessary.

At the present time the Commission has the following information that would support a determination that the proposed amendment is necessary to protect the public.

Flame resistance requirements and test procedures of the proposed amendment. (1209.3(b), 1209.6, 1209.3(c), 1209.7)

The Center for Fire Research of the National Bureau of Standards (NBS) has prepared for the Commission a technical rationale for the flame resistance provisions of HH-I-515D (*Technical Rationale for the General Services Administration Federal Specification HH-I-515D Flame Resistance Provisions*, Center for Fire Research, National Bureau of Standards, December 1, 1978). The technical rationale includes references to other studies and documents. A copy of this technical rationale and supporting documents is available in the Office of the Secretary of the Commission. The Commission has analyzed and reviewed this technical rationale and accompanying documents, and, based on presently available information, agrees with the conclusions in the NBS technical rational.

Requirements and test procedures for smoldering combustion. According to the NBS technical rationale, a review of fire incident data showed that smoldering was the most likely hazard associated with cellulose insulation. The NBS technical rationale stated that more than 80 percent of the fires associated with insulation involved cellulose insulation and were started by overheated electrical light fixtures, and other electrical sources, and heated flues. NBS studies indicated that when exposed to a heat source, either in an attic or a side wall, cellulose insulation could be induced to smolder unless properly treated. According to NBS, heat sources such as recessed lighting fixtures and glowing wire connections in side walls could result in temperatures in excess of 260°C (500°F) when insulation contacted the heat sources. Temperatures as high as this are sufficient to induce smoldering.

The smoldering combustion test procedures and requirements have been included in the revised GSA Specification HH-I-515D and in the proposed amendment since the flame resistance test of the present interim standard, based on GSA Specification HH-I-515C, does not address the smoldering combustion problem. The smoldering combustion test in the proposed

amendment uses a lighted cigarette as the ignition source. If smoldering is likely to occur with the test material, the lighted cigarette has a sufficiently high temperature (approximately 700°C in the very small glowing region) to initiate smoldering. The test method is intended to determine whether the smoldering will continue in the insulation if smoldering has started. In order to pass the test, the test specimen must have a weight loss of less than or equal to 15 percent and must not exhibit flaming combustion. The weight loss requirement is based on data showing that, if a product does not exhibit smoldering tendency, the weight loss of the specimen would be 1 to 4 percent, while if the product smolders the weight loss would be from 30 to 35 percent or higher. According to NBS, because of the nature of the test results, a weight loss criterion midway between these values is reasonable. The flaming combustion criterion was also chosen as an appropriate criterion to eliminate the most severe failure situation. According to NBS, the smoldering combustion test requirement will ensure that insulation materials have some resistance to smoldering. This would represent an improvement over the present interim standard, which does not contain any test requirement that is designed to ensure that insulation materials have some resistance to smoldering.

Requirements and test procedures for critical radiant flux. The present interim standard, based on GSA Specification HH-I-515C, uses the Steiner tunnel test method (ASTM E-84) to assess flame resistance. This test method applies a fixed orientation and exposure for all materials tested, regardless of the end use configuration of the product. In the technical rationale prepared for the Commission, NBS examined the Steiner tunnel test method of HH-I-515C and concluded that this test method is inappropriate for testing cellulose insulation installed on the floor of an attic. According, to NBS, cellulose insulation is not normally applied over a metal screen and is not likely to be exposed to flames from below, as is done in the Steiner tunnel test. In addition, NBS stated that in a typical attic fire, the cellulose insulation is not subjected to a 5000 Btu/min fire and/or a wind velocity of 240 ft/min, as is done in the Steiner tunnel test. According to NBS the Steiner tunnel test has been shown to be invalid for low density fire retardant treated plastic foams, so that the applicability and appropriateness of this thest method for other low density materials is also questionable. According to NBS, cellulose insulation that has not been treated with fire retardant chemicals has been reported to have flame spread classifications from 50 to 120 when tested in the Steiner tunnel. However, in actual fire situations these materials burn more rapidly than plywood having supposedly less flame resistant flame spread classifications, ranging from 150 to 200.

Unlike the Steiner tunnel test, the requirements and test procedures for critical radiant flux in the proposed amendment are intended to address the hazard scenario where insulation that is installed on the floor of the attic in still air and exposed to radiation from the roof is subjected to a small ignition source. According to NBS, cellulose insulation in this end-use configuration could become involved in such a hazard scenario. In this common end-use configuration, cellulose insulation is applied between and over floor joists in an attic, where the air is relatively still and the most severe exposure is likely to develop during periods of elevated outdoor temperatures plus solar radiation. A small ignition source, such as a dropped match or a carelessly applied propane torch, would be typical ignition sources.

The test method in the proposed amendment involves a radiant exposure varying from 0.1 to 1.1 W/cm^2, corresponding to the differences between direct solar radiation in the summer and the irradiance on the floor from a moderately severe flaming fire on the ceiling. Although the test method was originally developed for evaluating flooring systems in corridors that are exposed to radiation from fully developed fires in adjoining rooms, the test method was adapted for cellulose insulation. The test method provides that the cellulose insulation is exposed to a graded irradiance and ignited with a pilot burner at the high flux end of the specimen. The flux at the farthest point where the burning extends is the critical radiant flux. The proposed amendment would require cellulose insulation to have a critical radiant flux of greater than or equal to 0.12 W/cm^2.

According to NBS, this test requirement represents a minimum level for safety. NBS obtained the test requirement by estimating attic temperatures and adding a safety factor. If insulation meets the test requirement, then a fire should not propagate in the attic insulation. NBS has conducted large scale attic mock-up tests which support the attic floor radiant panel test and the criterion for passing the test. According to NBS, Underwriters Laboratories has conducted tests which lead to the conclusion that cellulose insulation meeting the test requirements resists flame propagation under the highest ambient temperature conditions of the attic simulation fire test.

The NBS technical rationale points out that there is limited data to support a correlation between the critical radiant flux measurement used in the proposed amendment and the flame spread classification measurement obtained in the present interim standard. The flame spread classification of 25 required to pass the present interim standard may be either above or below the critical radiant flux of 0.12 W/cm^2 that would be required to pass the proposed amendment.

Test Method Precision for Flame Resistance. As part of the development of the flammability test methods for HH-I-515D, NBS conducted an interlaboratory program to evaluate the repeatability and reproducibility of the flame resistance test methods for cellulose insulation. The results of this study are in a report titled, "Interlaboratory Evaluation of the Attic Flooring Radiant Panel Test and Smoldering Combustion Test for Cellulose Thermal Insulation", J. Randall Lawson, Center for Fire Research, National Bureau of Standards, January 1979. A copy of this study is available in the Office of the Secretary of the Commission.

The results of the interlaboratory program for the critical radiant flux determination showed that the pooled coefficient of variation for repeatability between test results in the same laboratory was 12 percent and the average coefficient for reproducibility between test results in different laboratories was 21 percent. According to NBS, these values are not significantly greater for cellulose insulation than for other materials. In addition, these values compare favorably with precision estimates available from other standard fire tests.

For the smoldering combustion test, eight of ten laboratories agreed for six of the seven materials tested. Seven of ten laboratories agreed on the seventh material. Although, as a result of the split test results, NBS did not place the data for the smoldering combustion test through a rigorous statistical analysis, agreement among the laboratories was relatively good. According to NBS, some variation in laboratory procedures may have contributed to the split test results.

Based on the information obtained from the interlaboratory study, NBS concluded that there is reasonable assurance that there will be consistent results from different laboratories evaluating the same material for compliance with the smoldering combustion and radiant panel tests.

Test procedures and requirements for corrosiveness (1209.3(a) and 1209.5). The Commission has the following information that would support a determination that the corrosiveness requirements and test procedures of the

proposed amendment are necessary to protect the public. NBS prepared a critiques of the corrosiveness test methods for the present interim standard and the proposed amendment based on HH-I-515D. A copy of this critique is available in the Office of the Secretary of the Commission.

The corrosiveness test procedures in HH-I-515D, which form the basis of the corrosiveness test procedures in the proposed amendment, differ from the test procedures in the present interim standard in the procedure for preparing the metal coupons and insulation specimens, the type of coupons used in the test, the amount of time the specimens are left in the humidity chamber and the coupon post-cleaning. Based on the NBS critique, the Commission has included several changes to the corrosiveness test procedures of HH-I-515D in the proposed amendment. These changes are explained in greater detail in the section of this notice titled: *III. Commission Proposed Changes to the Flame Resistance and Corrosiveness Provisions of HH-I-515D.* The most significant changes involve improvements for cleaning and handling the test coupons so that the test is conducted on metal coupons that are free of contaminants; preparation of the test specimens to address variability due to possible separation of dry chemicals from the insulation, to improve the homogeneity of the test specimens, and to ensure continuity between composite specimens; and changes to avoid moisture evaporation from the specimens after they have been prepared. NBS has evaluated and concurred in these changes.

Based on presently available information, the Commission believes that the corrosiveness requirements and test procedures in the proposed amendment are a significant improvement over the requirements and test procedures of the present interim standard. The Commission believes that the test procedures in the proposed amendment should be more reproducible than the procedures in the present interim standard, since the proposed amendment has eliminated much of the subjectivity and other sources of potential variability in the present interim standard.

B. DETERMINATION WHETHER THE AMENDMENT WOULD CREATE AN UNDUE BURDEN

At the present time, the Commission has the following information regarding the degree of burden of the proposed amendment on persons subject to the interim standard.

The Commission has prepared a draft economic analysis of the potential economic impacts of the proposed amendment. This economic analysis is based on research conducted for the Commission. A copy of the Commission's Economic Analysis dated December 6, 1978 and a draft final copy of the research report dated November 29, 1978 is available in the Office of the Secretary of the Commission.

The economic analysis assesses the incremental impact of the proposed amendment relative to the interim standard that is presently in effect. In order to determine the potential impact of the interim and proposed standard, a "base line" has been established from which the economic impact can be estimated.

The base line considers the supply and demand situation for cellulose insulation that existed before the interim standard as well as an estimate of the situation that would have existed in the future if the interim standard had not been enacted. The base line is important since much of the present decline in cellulose insulation industry sales volume may be attributed to a shift in demand unrelated to the implementation of the safety standard. The base line analysis reveals the following:

(1) Between 1977 and 1978, the production of cellulose insulation has decreased 66 percent;

(2) A large percentage of the total decrease in production of cellulose insulation occurred during the first half of 1978; and

(3) The demand for cellulose insulation should remain between 400 million and 550 million pounds per year during most of the next decade.

Some of the cellulose insulation manufacturers who commented on the Commisssion's notice of intent or were interviewed supported the requirements and test procedures that form the basis of the proposed amendments, while others disagreed with the proposed changes and have indicated that the tests are not specified in sufficient detail and that, consequently, test results are conflicting and nonreproducible. Where necessary, the Commission has made several changes in the proposed amendment in order to address these criticisms.

In light of the significant differences of opinion among manufacturers on technical aspects of the standards, the Commission's economic analysis is based upon two sets of assumptions. These assumptions represent the most optimistic and most pessimistic situations which could result rom the interim standard and the proposed amendment.

The most optimistic assumptions are that 90 percent of the present cellulose manufacturers are able to comply with the present interim standard, while the remaining 10 percent, small firms which represent approximately 3 to 6 percent of the industry's capacity, will go out of business. (For the purposes of the Commission economic analysis, the Commission believes that smaller cellulose insulation firms should be considered to be firms with annual sales under $1 million. In 1977, a period of high demand, the average annual sales for small firms was $200,000. The Commission recognizes, however, that demand has declined significantly since the 1977 levels.) Under the most optimistic assumption, of the 90 percent of cellulose insulation manufacturers that complied with the interim standard based on HH-I-515C, approximately 75 percent will also be able to comply with the proposed amendment based on HH-I-515D. Companies who are unable to comply with the proposed amendment will leave the cellulose insulation business.

The most pessimistic assumptions are that only 10 percent of the cellulose insulation manufacturers are complying with the present interim standard. These companies are large and medium size companies that currently represent 55 to 65 percent of the production capacity of the industry. The remaining 90 percent of the manufacturers will discontinue their cellulose insulation business. Under the most pessimistic assumption, of the 10 percent of the cellulose insulation manufacturers who are able to comply with the present interim standard, all will be able to comply with the proposed amendment.

Based on presently available information, the Commission believes that the proposed amendment, if adopted, would increase chemical costs by 1 or 2 percent depending on the type and quantity of fire retardant chemicals being utilized. Because the chemical loading that would be necessary to meet the requirements of the proposed amendment is similar to that necessary to meet the present interim standard, the chemical loading should not influence the thermal properties of the insulation. As a result, an additional amount of insulation should not be necessary to achieve the appropriate thermal resistance for any given application. The Commission's economic analysis concludes that the proposed amendment to the interim standard would have little impact on retail prices.

Based on the aforementioned assumptions, the maximum adverse impact of the proposed amendment would include the following:

(1) About 100 small companies would be forced to leave the insulation manufacturing business;

(2) Approximately 500 workers would become unemployed;

(3) Cellulose insulation prices probably would increase by about 1 percent at the retail level;

(4) A consumer would pay $1 to $2 more to insulate a 1,200 square foot attic to a value of R-19.

The Commission estimates that the labeling requirement of the proposed amendment will have a minimal economic impact, since this provision would not require manufacturers and private labelers to alter the product and since manfacturers and private labelers are currently required to label their product under the interim standard. The Commission believes that the proposed effective date of October 16, 1979 will allow most manufacturers and private labelers time to draw down inventories of bags with non-complying labels and therby avoid the need for hand-stick-on labels. At worst, even if inventories are not depleted and hand-stick-on labels are use, the Commission estimates that these labels would add approximately 2½ cents to the cost of each bag of insulation, as well as an application cost of at most 4 cents per bag during the limited production period.

Testing and certification costs resulting from the Commission's certification requirements (proposed elsewhere in this issue of the FEDERAL REGISTER) will vary depending on the size and technical competence of the manufacturer or private labeler. In most cases, the testing costs associated with finding an acceptable chemical formulation will be relatively small since (1) most large manufacturers and private labelers will have the internal capability of performing these tests and, (2) most of the remaining manufacturers and private labelers will probably purchase the appropriate chemical formulation as a premix, thus experiencing no direct development and testing costs. The potential economic impact of the proposed certification rule is discussed in greater detail in the preamble of the proposal.

VI. ENVIRONMENTAL CONSIDERATIONS

The Commission has examined the potential environmental impacts of the proposed amendment, including the potential environmental impact of the proposed amendment on energy usage, the substitution of urea-formaldehyde insulation and increased demand for boric acid. (There potential environmental impacts are further discussed in the preamble to the proposed certification rule, published elsewhere in this issue of the FEDERAL REGISTER.) Based on a draft environmental assessment of the proposed amendment, the Commission believes that the proposed amendment will have no significant environmental impact affecting the quality of the environment that would require the Commission to prepare an environmental impact statement. A copy of the draft environmental assessment is available in the Office of the Secretary of the Commission.

VII. REQUEST FOR COMMENTS

In the Congressional *Conference Report* on Pub. L. 95-319, the conferees stated there expectation that any member of the public who objects to the proposed amendment will make available to the Commission whatever information is necessary in order for the Commission to fully analyze the impact of the amendment (H. R. Rept. No. 95-1322, 95th Cong., 2d. Sess. 8 (1978)). The Commission is especially interested in receiving comments that address the issues: (1) whether the amendment is necessary to protect consumers from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation and (2) whether implementation of the amendment will create an undue burden on the persons subject to the interim standard. As emphasized in the *Conference Report*, the Commission will issue the amendment unless the Commission finds that the amendment is not necessary or will create an undue burden.

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 commentors believe are important. Whenever possible comments should include all of the information and data forming the basis of any conclusions or opinions stated in the comment.

The Commission has only a short amount of time (90 days) to consider comments and decide whether to issue a final amendment. In order to help the Commission evaluate comments in this short time, commentors should carefully organize their comments and refer specifically to each section number of the proposal that is relevant to the issue being discussed. Where the commentor raises a general issue or miscellaneous issue not related to a specific section of the proposal, the commentor should group these issues in a separate section of the comment.

Comments must be received in the Office of the Secretary of the Commission by April 9, 1979. The 30 day comment period is specifically provided by section 35(c)(2)(E) of the act, as amended, and may not be extended by the Commission. As a result of the short amount of time provided by the act for issuing any final amendment, it will not be practicable for the Commission to consider any comments that are received after April 9, 1979. Comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

VIII. OPPORTUNITY TO SEEK JUDICIAL REVIEW

Section 35(c)(2)(G) of the act, as amended by Pub. L. 95-319, provides that the provisions of section 11 do not apply to judicial review of any amendment to the interim standard. For the purposes of fairness to all interested parties concerning the opportunity to seek judicial review of any final amendment, the Commission believes it is important to set a specific date and time at which the final amendment is considered to be final agency action under section 704 of the Administrative Procedure Act (5 U.S.C. 704). The Commission proposes that this date and time shall be at one o'clock p.m. Eastern Daylight Time, on the date that is ten days, as computed under the Federal Rules of Civil Procedure, after the date any final amendment is published in the FEDERAL REGISTER. The Commission believes that this date and time is reasonable since it will provide all interested parties an equal and fair opportunity to review the final amendment before deciding whether they wish to seek judicial review. Moreover, the Commission does not believe that interested parties will be adversely affected by having to wait the ten day period before seeking judicial review, since the Commission intends to publish any final amendment on or before July 6, 1979. A ten day period after this date would be substantially before the proposed delayed effective date of October 16, 1979.

IX. CONCLUSION AND PROPOSAL

In accordance with the provisions of the "Emergency Interim Consumer Product Safety Standard Act of 1978", Pub. L. 95-319, the Commission proposes the revised flame resistance and corrosiveness provisions of GSA Specification HH-I-515D, along with the changes described below, as an amendment to the Commission's interim standard for cellulose insulation.

Therefore, pursuant to provisions of the Consumer Product Safety Act, as amended (sec. 35 (c)(2), Pub. L. 95-319, 92 Stat. 388-389, 15 U.S.C. 2082), the Commission proposes to amend the Interim Safety Standard for Cellulose Insulation by substituting a new Part 1209 of Title 16 CFR, for the present 16 CFR Part 1209 published at 43 FR 35240 (August 8, 1978), as follows:

PART 1209—INTERIM SAFETY STANDARD FOR CELLULOSE INSULATION

Subpart A—The Standard

Sec.
1209.1 Scope and application.
1209.2 Definitions.
1209.3 General requirements.
1209.4 Test procedures for settled density.
1209.5 Test procedures for corrosiveness.

1209.6 Test procedures for critical radiant flux.
1209.7 Test procedures for smoldering combustion.
1209.8 Procedure for calibration of radiation instrumentation.
1209.9 Labeling requirement.
1209.10 Certification and enforcement.
1209.11 Effective date.

AUTHORITY: Sec. 35(c)(2), Pub. L. 95-319, 92 Stat. 388-389; (15 U.S.C. 2082).

Subpart A—The Standard

§ 1209.1 Scope and application.

(a) *Scope.* This part 1209, and interim consumer product safety standard, prescribes flame resistance and corrosiveness requirements for cellulose insulation that is a consumer product. These requirements are intended to reduce or eliminate an unreasonable risk of injury to consumers from flammable and corrosive cellulose insulation. The requirements are based upon the flame resistance and corrosiveness requirements of General Services Administration Specification HH-I-515D.

(b) *Application.* This part 1209 shall apply to cellulose insulation that is a consumer product, that is, cellulose insulation produced or distributed for sale to, or for the personal use, consumption, or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation, or otherwise. The interim standard applies to cellulose insulation that is produced or distributed for sale to consumers for their direct installation or use, as well as cellulose insulation that is produced or distributed for installation by professionals. This part 1209 applies only to cellulose insulation manufactured after October 15, 1979.

§ 1209.2 Definitions.

As used in this part 1209:

(a) "Cellulose insulation" means cellulosic fiber, loose fill, thermal insulation that is suitable for blowing or pouring applications. The definition includes insulation installed using the "wet process" method of installation. The "wet process" insulation is blown into an area with a spray or mist of water applied at the nozzle during installation.

(b) The definitions given in section 3 of the Consumer Product Safety Act are applicable to this part 1209.

(c) For the purposes of conformance with the technical requirements of this standard, the figures are given in the metric system of measurement. The inch-pound system approximations of these figures are provided in parentheses for convenience and information only. For numerical quantities for which no specific tolerances are given, the tolerance shall be one half of the unit value of the last significant digit given in the dimension. Where numerical quantities are given without tolerances in both the metric and inch-pound system of measurements, the tolerance shall be one half of the last significant digit of the metric equivalent of the numerical quantity.

(d) The specifications and dimensions in the test methods below are given in metric units, with the English equivalents in parentheses. For enforcement purposes the Commission will use metric units.

§ 1209.3 General requirements.

(a) All cellulose insulation to which this interim standard applies, as described in § 1209.1, shall be noncorrosive when tested in accordance with the test procedures at § 1209.5 and evaluated using the criteria at § 1209.5(c). This means that after the product is tested, the six metal coupons used in the test shall not have any perforations (excluding notches extending into the coupon 1 mm or less from any edge) when the coupons are observed over a 40-W appliance light bulb.

(b) All cellulose insulation to which this interim standard applies, as described in § 1209.1, shall have a critical radiant flux equal to or greater than 0.12 w/cm² for each of the three specimens when tested in accordance with the test procedures as § 1209.6.

(c) All cellulose insulation to which this interim standard applies, as described in § 1209.1, shall have no evidence of flaming combustion and shall also have weight loss of 15 percent or less of the initial weight, for each of the three speciments, when tested in accordance with the test procedures at § 1209.7.

(d) All containers of cellulose insulation to which this interim standard applies, as described in § 1209.1, shall have a labeling statement in accordance with the labeling requirements at § 1209.9.

§ 1209.4 Test procedures for determining settled density.

The settled density of loose fill insulation must be determined before the corrosiveness test (1209.5) and the smoldering combustion test (1209.7) can be performed. This section decribes the procedure for determining the settled density of loose fill insulation.

(a) *Apparatus and materials:* (1) An insulation specimen container constructed of glass with a flat bottom (approximate inside diameter of 15 cm (5.9 in), straight sides (without a flared lip or spout), and a total volume of 3.5 to 5 liters (213.6 to 305.1 cu in) (Apparatus #1).

(2) A flat-rigid disc with a total weight of 75±5 g (2.65±0.18 oz) and of a suitable diameter to fit loosely into the specimen container. Weight may be added to the center of the disc to bring the total weight to the required 75±5 g (Apparatus #2).

(3) A balance of 2 kg (4.4 lbs) capacity accurate at least to 0.2 g (0.007 oz) (Apparatus #3).

(4) Blower apparatus, two units (supply and overflow) meeting the following specifications: (The Commission staff has found that a Breuer Electric Manufacturing Co., Model 98805 blower is suitable for this purpose, although other blowers may be suitable.) (Apparatus #4).

(i) Each blower apparatus shall be capable of blowing an average of 272.2 kg (600 lbs.) of insulation per hour.

(ii) Each blower apparatus shall have a nominal air flow of 2.1 cm³/min. (75 ft³/min.)

(iii) Each blower apparatus shall have a nominal motor speed of 16,450 revolutions per minute at 115 VAC.

(5) A shaker unit capable of shaking 4.5kg (10 lb) of weight with a vertical motion of 0.5 g Root Mean Square (RMS) acceleration at an approximate frequency of 9 Hertz (Hz) and displacement of approximately .25 cm (0.1 in) peak to peak. (The Commission staff has found that a Tyler Industries, Portable Sieve Shaker Model Rx-24 is suitable for this purpose, although other shakers may be suitable.) (Apparatus #5).

(6) Fill chamber—45.7 cm (18 in) high × 38.1 cm (15 in) wide × 38.1 cm (15 in) deep (see Figure 1 for details) (Apparatus #6).

(7) A cyclone receiver (see Figure 2 for complete details.) (Apparatus #7).

(8) Various lengths of nominally 2-inch diameter hose (see Figure 1 for details), as follows:

(i) A supply source hose, 274.3 ± 5.1 cm (9 ft ± 2 in) (Apparatus #8(i)).

(ii) A cyclone receiver hose, 182.9 ± 5.1 cm (6 ft ± 2 in) (Apparatus #8(ii)).

(iii) A fill chamber exit hose, 91.4 ± 5.1 cm (3 ft ± 2 in) (Apparatus #8(iii)).

(iv) An overflow exhaust hose, length as needed (Apparatus #8(iv)).

(9) Blower Control(s) capable of operating the two blowers at 40 volts RMS. As an example, a variac for each of the two blowers with sufficient rating to operate at 40 volts and 12 amperes RMS would be acceptable (Apparatus #9).

(10) An insulation holding box to hold a sufficient quantity of insulation to fill the specimen container four times.

(11) A garden rake, 50.8 cm (20 in) wide (Apparatus #11).

(12) A shovel (Apparatus #12).

(b) *Conditioning:* Specimens shall be conditioned to equilibrium at 21 ± 5°C (69.8 ± 9°F) and 50 ± 5% relative humidity. A less than 1% change in net weight of the specimen in two consecutive weighings with two hours be-

tween each weighing constitutes equilibrium.

(c) *Test specimen preparation:* (1) *Insulation intended for pneumatic applications.* If the insulation is intended for pneumatic applications, the test specimens shall be prepared in the following manner:

(i) If ambient laboratory conditions are different from the conditioning requirements specified in (b) above, begin testing the specimen within 10 minutes after it has been removed from the conditioned area.

(ii) Pour the conditioned insulation into the holding box (Apparatus #10) in sufficient quantity to fill the specimen container (Apparatus #1 shown in Figure 1) four times. Manually break up any large clumps of material that might cause feeding problems.

(2) *Insulation intended for pouring applications:* If the insulation is intended for pouring applications, the test specimens shall be prepared in the following manner:

(i) If ambient laboratory conditions are different from the conditioning requirements specified in (b) above, begin testing 10 minutes after it has been removed from the conditioned area.

(ii) Pour loose fill insulation into a simulated attic space until full. The attic space shall be formed by two nominal 2 x 6 243 cm (8 ft) long joists placed 40.6 cm (16 in) on center with 1.27 cm (½ in) plywood nailed to the ends and bottom. Fluff the material with a garden rake (Apparatus #11), applying a series of small amplitude strokes while moving the rake slowly along the joist. Repeat the fluffing process six times.

(d) *Procedures:*

(1) *Procedures for insulation intended for pneumatic applications.* If the insulation is intended for pneumatic applications, conduct the following procedures:

(i) The apparatus shall be set up as shown in Figure 1. (Apparatus #9 and #10 are not shown in Figure 1, but are described at § 1209.4(a)). Connect one end of the supply source hose (Apparatus #8.i) to the intake of the supply blower (Apparatus #4). The other end will be used to pick up insulation from the holding box (Apparatus #10). Connect one end of the cyclone receiver hose (Apparatus #8ii) to the outlet of the supply blower and the other end to the cyclone receiver (Apparatus #7). Connect one end of the fill chamber exit hose (Apparatus #8.iii) to the intake of the overflow blower (Apparatus #4) and the other end to the fill chamber (Apparatus #6). Connect one end of the variable length overflow exhaust hose (Apparatus #8.iv) to the outlet of the overflow blower. The other end should be conveniently placed to reduce insulation dust in the test area.

(ii) Weigh the empty insulation specimen container and record its weight.

(iii) Place the empty insulation specimen container in the fill chamber (Apparatus #6) centered under the cyclone receiver (Apparatus #7), and close the front cover.

(iv) Adjust the blower control(s) (Apparatus #9) such that the supply and overflow blowers will operate at a no load voltage of 40 volts RMS.

(v) Turn on the blowers simultaneously and proceed to fill the container by picking up material from the box using the supply source hose.

(vi) The container may fill unevenly, i.e. a void may tend to form off center in the container. If this occurs, stop the blowing process and rotate the container 180 degrees and continue the blowing process until the container just begins to overflow. If, for any reason, the filling process is interrupted for more than one minute or for more than the one time allowed to rotate the container, begin the process again.

(vii) Gently screed the excess material using a straight edge so as to leave a uniform surface of the insulation flush with the top of the container.

(viii) Weigh the filled and leveled container and record the weight. Take care not to bump or jar the container so as not to introduce any extraneous settling of the insulation.

(ix) Cover the container with the disc (Apparatus #2) to prevent spilling and secure the container to the shaker. Operate the shaker for a period of 5 minutes ± 15 seconds.

(x) Remove the container from the shaker and uncover, taking care not to bump or jar it. Lower the disc very slowly into the container until it starts to contact the insulation. At this point, release the disc and allow it to settle onto the insulation under its own weight.

(xi) Measure the volume of the space occupied by the settled insulation using the bottom edge of the disc as the upper datum point. If the disc is not level, measure the high and low points of the bottom of the disc and average the readings and use this as the height measurement in calculating the volume (V_s). This settled insulation volume and insulation weight (w) shall be used to calculate the settled density.

(xii) Repeat this procedure [steps (i through xi)] using another specimen of the insulation until four settled densities are obtained for a given material. Then average these figures to arrive at a final settled density.

(2) *Procedures for insulation intended for pouring applications.* If the insulation is intended for pouring applications, conduct the following procedures:

(i) Weigh the empty insulation specimen container and record its weight.

(ii) Using a shovel (Apparatus #12) remove insulation from the simulated attic space and place it into the specimen container until the container just begins to overflow.

(iii) Follow steps (vii) through (xi) as specified under *Procedures for insulation intended for pneumatic applications.*

(iv) Repeat this procedure (steps (i) through (iii)) using another specimen of the insulation until four settled densities are obtained for a given material. Then average these figures to arrive at a final settled density.

(e) *Insulation intended for pouring and pneumatic applications.* If the insulation is intended for both pouring and pneumatic applications, or if it is uncertain whether the insulation will be poured or installed pneumatically, the insulation shall be tested using the test specimen preparation and test procedures at § 1209.4(c) and (d) for each of the applications. The larger of the two settled density values shall be used in performing the corrosiveness test at § 1209.5 and the smoldering combustion test at § 1209.7.

(f) *Calculations:*

Calculate the settled density of each specimen using the following formula:

Settled Density in $kg/m^3 = W/V_s$, where

W = combined weight of the container and insulation in grams, minus the weight of the container in grams.

V_s = volume of insulation in liters after shaking.

§ 1209.5 Test procedures for corrosiveness.

This section prescribes the procedures for determining the corrosiveness of cellulose insulation. Cellulose insulation shall be tested for corrosiveness using the measured settled density, obtained by following the test procedure at § 1209.4, to calculate the amount of distilled or deionized water to add to the test specimens. Determination of corrosiveness shall be in accordance with the following test procedure:

(a) *Apparatus and materials.* (1) Humidity chamber. A forced-air humidity chamber capable of maintaining 48.9±1.7°C (120±3°F) and 97±1.5 percent relative humidity.

(2) *Crystallizing dishes.* Six glass crystallizing dishes, 90 mm (3.54 in) diameter by 50 mm (1.9 in) height.

(3) *Test coupons.* (i) Two aluminum coupons. 3003 bare aluminum, zero temper.

(ii) Two copper coupons. ASTM B 152, type ETP, Cabra No. 110 soft copper.

(iii) Two steel coupons. Low carbon, commercial quality, cold rolled, less than 30% carbon content, shim steel.

Each coupon shall be 50.8 by 50.8 mm (2 by 2 in) by 0.76 mm (0.0003 in) thick metal free of tears, punctures, or crimps.

(4) Test specimens: Six test specimens of insulation shall be used for one test. Each specimen shall weigh 20 g (0.7 oz).

(b) *Procedure.* (1) The metal coupons shall be cleaned by the following method, which provides first, a general procedure for all metal coupons and then specific procedures for the three types of metal coupons.

(i) *General procedures for cleaning all metal coupons.*

(A) At no time during the fabrication, cleaning or testing shall the metal coupons be touched by ungloved hands.

(B) Gloves shall be clean and in good condition.

(C) All chemicals used shall be of certified American Chemical Society reagent grade or better, free from oily residues and other contaminants.

(D) Water shall be distilled or deionized water.

(E) Handle cleaned coupons only with clean forceps.

(F) In order to avoid exposing laboratory personnel to toxic fumes, the Commission recommends that all cleaning procedures be performed in a fume hood.

(ii) *Specific procedure for cleaning copper coupons.* Clean copper coupons until completely free of water-breaks. A water-break is a break, separation, beading, or retraction of the water film as the coupon is held vertically after wetting. As the coupons are cleaned, the water film should become gradually thinner at the top and heavier at the bottom. Immerse the coupons in refluxing or boiling 1,1,1-trichloroe-thane (TCE) for 2 hours, or clean the coupons ultrasonically in TCE for at least 12 minutes. Rinse the coupons twice with fresh TCE. Air dry. Rinse the coupons with water. Inspect the coupons for water-break free surface. Hot air dry.

(iii) *Specific procedure for cleaning steel coupons.* Clean steel coupons until completely free of water-breaks. Immerse the coupons in room temperature TCE for 15 minutes with agitation. Rinse the coupons twice with fresh TCE. Air dry. Immerse the coupons in 5% by weight aqueous sodium hydroxide at 60°C for 15 minutes with occasional agitation. Rinse the coupons with water until no residual substance is present. Immerse the coupons in refluxing or boiling ethanol for 5 minutes. Rinse the coupons in fresh, room temperature ethanol twice. Rinse the coupons with water and inspect for a water-break free surface. Rinse with fresh ethanol and air dry.

(iv) *Specific procedure for cleaning aluminum coupons.* Clean aluminum coupons until completely free of water-breaks. Immerse the coupons with occasional agitation in room temperature TCE for 15 minutes, followed by rinsing the coupons with fresh TCE twice. Air dry. Immerse the coupons for one minute in 1.42 specific gravity nitric acid. Rinse the coupons with water until no residual acid is present. Inspect the coupons for water-break free surface. Hot air dry.

(2) Specimens of cellulose insulation submitted for testing shall be blown, combed, or otherwise mixed to reasonably assure homogeneity in the cellulose insulation test specimens.

(3) Before presaturating each 20g (0.7 oz) test specimen, subdivide it into two 10g (.35 oz) portions. The quantity of distilled or deionized water to be used for each 10g (.35 oz) portion shall be determined using the following the formula:

$$\text{ml distilled water} = \frac{40}{\text{settled density, Kg/m}^3} \times 75$$

or

$$\frac{2.5}{\text{settled density, lb/ft}^3} \times 75$$

(4) Presaturate each 10g (.35 oz) portion with the determined amount of water. Place one presaturated 10g (.35 oz) portion into a crystallizing dish, tamp level using the bottom of a clean suitably sized glass beaker. Place a metal coupon onto the presaturated insulation portion and center it in a horizontal plane. Place the other presaturated 10g (.35 oz) portion into the crystallizing dish on the metal coupon and tamp the composite specimens (metal coupon plus saturated insulation in the crystallizing dish) to assure an even distribution of this material and to assure good contact of the insulation with the metal.

(5) Do not cover the crystallizing dish. (Care should be taken to avoid evaporation from the composite specimen while it is being prepared until it is placed in the humidity chamber.) 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 other metal coupons. Place all six composite specimens into the humidity chamber. The chamber shall be preconditioned to 48.9±1.7°C (120±3°F) and 97±1.5 percent relative humidity. The specimens shall remain in the chamber for 336±4 hours. (Keep the chamber door open a minimum of time while placing composite specimens in and removing them from the chamber.)

(6) Upon completion of the test, disassemble the composite specimens. Thoroughly wash the metal coupons under running water and lightly brush them using a nylon bristle brush or equivalent to remove loose corrosion products. Remove the remaining corrosion products from the metal coupons by cleaning them in accordance with the following practices: [1]

(i) *Technique No. 1—Electrolytic Cleaning.* This technique can be used for post-cleaning the tested copper, steel and aluminum coupons. Description. Electrolyze the coupons as follows: Make a solution containing 28 ml of sulfuric acid (specific gravity 1.84), 2 ml of organic inhibitor, e.g. about 0.5 g/liter of such inhibitors as diorthotolyl thiourea, quinoline ethiodide, or betanaphthol quinoline may be used, and 970 ml of water. The solution shall be at 75°C (167°F). The anode shall be carbon or lead, and the cathode shall be one metal coupon. The electrolyzing shall run for 3 minutes at a current density of 20 A/dm². *Caution:* If lead anodes are used, lead may deposit on the coupon. If the coupon is resistant to nitric acid, the lead may be removed by a flash dip in 1+1 nitric acid (plus water).

(ii) *Technique No. 2—Copper.* This technique or Technique No. 1 can be used for post-cleaning the tested copper coupons only.

Description. Make a solution containing 500 ml of hydrochloric acid (specific gravity 1.19), 100 ml of sulfuric acid (specific gravity 1.84), and 400 ml of water. The solution shall by at room temperature. Dip the coupons in the solution for 1 to 3 minutes.

(iii) *Technique No. 3—Steel.* This technique or technique No. 1 can be used for post-cleaning the tested steel coupons only.

Description. Use one of the following two solutions:

Solution No. 1. Add 100 ml of sulfuric acid (specific gravity 1.84), 1.5 ml organic inhibitor, and water to make a 1 liter solution. The solution shall be 50°C (120°F). Dip the coupons in this solution.

Solution No. 2 (also referred to as Clarke's solution). Add 20 g of antimony trioxide and 50 g of stannous chloride to 1 liter of hydrochloric acid (specific gravity 1.19). The solution shall be stirred and be used at room

[1] These practices are the recommended practices in "ASTM G1—Standard Recommended Practice for Preparing, Cleaning, and Evaluating Corrosion Test Specimen," published by American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.

temperature. Dip the coupons in this solution stirring the solution at a rate such that deformation of the coupons does not occur. This dipping shall last for up to 25 minutes.

(iv) *Technique No. 4—Aluminum.* This technique or technique No. 1 can be used for post-cleaning the tested aluminum coupons only.

Description. Make a 1 liter solution by adding 20 g of chromic acid, and 50 ml of phosphoric acid (specific gravity 1.69), to water. The solution shall be 80°C (176°F). Dip the coupons in this solution for 5—10 minutes. If a film remains, dip the coupons in nitric acid (specific gravity 1.42) for 1 minute. Repeat the chromic acid dip. Nitric acid alone may be used if there are no deposits.

(7) After cleaning, examine the metal coupons over a 40-W appliance light bulb for perforation.

(c) *Noncorrosiveness.* Noncorrosiveness shall be determined by the absence of any perforations (excluding notches which extend into the coupon 1 mm or less from any edge) on each of the six test coupons when the coupons are observed over a 40-W appliance light bulb.

§ 1209.6 Test procedures for critical radiant flux.

This section provides the test procedure for determining the critical radiant flux of exposed attic floor insulation using a radiant heat energy source.

(a) *Apparatus and description of test procedure.* Test chamber (Figure 3 and 4 and subsection (b) of this section). An air-gas fueled radiant heat energy panel or equivalent panel inclined at 30° above and directed at a horizontally-mounted attic floor insulation specimen. 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 W/cm² to a minimum of 0.1 W/cm² The test is initiated by open flame ignition from a pilot burner. The distance burned to flame-out is converted to W/cm² from the flux profile graph (Figure 10) and reported as critical radiant flux, W/cm². Section 1209.8 provides a procedure for calibrating the radiation pyrometer used to standardize the thermal output of the panel.

(b) *Construction and instrumentation of the radiant panel test chamber.* The radiant panel test chamber shall be constructed and instrumented as follows:

(1) The radiant panel test chamber employed for this test shall be located in a draft protected area. The radiant panel test chamber, (Figures 5 and 6) shall consist of an enclosure 140 cm (55 in) long by 50 CM (19½ in) deep by 71 cm (28 in) above the test specimen. The sides, ends, and top shall be of 1.3 cm (½ in) calcium silicate board, such as Mirinite I, 0.74 g/cm³ (46 lb/ft³) nominal density, with a thermal conductivity at 177°C (350°F) of 1.11 cal (g)/hr cm²°C/cm [0.89 Btu/(hr) (ft²) (°F/in)]. One side shall be provided with an approximately 10 cm × 110 cm (4 × 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.

(2) 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 1935–3225 cm² (300–500 square in). The top of the chamber shall have an exhaust stack with interior dimensions of 10.2 cm (4 in) wide by 38 cm (15 in) deep by 31.8 cm (12.5 in) 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 × 45.7 cm (12 by 18 in). The panel fuel system shall consist of a venturi-type aspirator or equivalent system for mixing gas and air at approximately atmospheric pressure, a clean dry air supply capable of providing 28.3 NTP (Normal Temperature and Pressure) m³ per hr (1000 standard cubic feet per hour) at 7.6 cm (3.0 in) of water, and suitable instrumentation for monitoring and controlling the flow of fuel to the panel.

(3) 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 in). The panel to specimen vertical distance is 14.0 cm (5½ in) (see Figure 5). 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 25.0 cm (10 in) in diameter at a range of about 1.37 m (54 in). It shall be calibrated over the black body temperature range of 490–510°C (914–950°F) in accordance with the procedure described in Section 1209.8. A high impedance voltmeter with a suitable millivolt range shall be used to monitor the output of the radiation pyrometer described. The dummy holder (see Figure 7), shall be constructed from heat-resistant stainless steel (AISI Type 300 (UNA-N08330)) or equivalent, thickness 0.198 cm (0.078 in), having overall dimension of 114 cm (45 in) by 32 cm (12¾ in) with a specimen opening of 20 cm (7.9 inches) by 100 cm (39.4 in). 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.

(4) The specimen tray (see Figure 8) shall be constructed from heat-resistant stainless steel (AISI Type 300 (UNA-N08330)) or equivalent, thickness 0.198 cm (0.078 in), having overall dimensions of 110 cm (43.3 in) by 27.3 cm (10.8). The depth of the tray is 5.0 cm (2 in). 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 in) below the top edge of the specimen tray.

(5) The pilot burner, used to ignite the specimen shall be a propane venturi torch with an axially symmetric burner tip having a propane supply tube with an orifice diameter of 0.0076 cm (0.003 in). In operation, the propane flow is adjusted to give a pencil flame blue inner cone length of 1.3 cm (½ in). The pilot burner is positioned so that the flame generated will impinge on the centerline of the specimen at the 0 distance burned point and at right angles to the specimen length (see Figures 5 and 6). 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 in) above the specimen plane.

(6) Two 3.2 mm (⅛ in) diameter stainless steel sheathed, grounded junction chromel alumel thermocouples are located in the flooring radiant panel test chamber (see Figures 5 and 6). Thermocouples shall be kept clean to ensure accuracy of readout. The chamber thermocouple is located in the longitudinal central vertical plane of the chamber 2.5 cm (1 in) down from the top and 10.2 cm (4 in) back from the inside of the exhaust stack. The exhaust stack thermocouple is centrally located 15.2 cm (6 in) from the top. A temperature indicating device with a range of 100–500°C (212–932°F) may be used to determine the chamber temperatures prior to a test.

(7) An exhaust duct with a capacity of 28.3–85 NTP m³ per minute (1000–3000 standard cubic feet per minute) decoupled from the chamber stack by at least 7.6 cm (3 in) 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.

(8) The dummy specimen which is used in the flux profile determination shall be made on 1.9 cm (¾ in) 0.74 g/cm³ (46 lb/ft³) nominal density calcium silicate board, such as Marinite I (see Figure 7). It is 25 cm (10 in) wide by 107 cm (42 in) long with 2.7 cm (1 1/16 in) 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 chamber in conjunction with the dummy specimen should be of the Schmidt-Boelter type, having a range of 0-1.5 W/cm² (0-1.32 Btu/ft² s), and shall be calibrated over the operating flux level range of 0.10 to 1.5 W/cm² in accordance with the procedure outlined in Section 1209.8. The incoming cooling water flowing through the instrument shall be 15-25°C (59-77°F). A high impedance voltmeter with a resolution of at least 0.01 mV 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.

(c) *Safety procedures.* The possibility of a gas-air fuel explosion in the test chamber should be recognized. Suitable safeguards consistent with 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 cut-off 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 shut-off, which is activated when the gas supply fails, or other suitable and approved device. Manual reset is considered a desirable feature 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 exposure to combustion products by following sound safety practices, such as ensuring that the exhaust system is working properly and wearing appropriate clothing, including gloves.

(d) *Test specimens*—(1) *Specimens of insulation intended for pneumatic applications.* Test specimens intended for pnuematic applications shall be blown into the tray. The tray shall be filled by blowing the insulation through a commercial blower using 30.48 m (100 ft) of nominal 2 inch flexible blower hose. (The Commission staff has found that a Breuer Electrical Manufacturing Company Blower, Model 98805, is suitable for blowing, although other blowers may also be suitable.) The tray shall be locate at the same level as the blowing machine on a level floor. When blowing, the hose shall be pointed 10 ± 1 degrees upward. The bottom end of the hose orifice shall be 17.7 cm (7 in) above the floor surface. When the insulation is blowing at a steady rate, start filling the tray so that the main stream of the material is falling over the rear wall; slowly move backward maintaining the height and direction of the hose as specified. Continue filling the tray at an even rate until the material falls over the front wall of the tray. Screed the insulation to the top of the tray, taking care not to compact the insulation or leave large voids in the surface of the material.

(2) *Specimens of insulation intended for pouring applications.* Insulation intended for pouring applications shall be poured into the tray until the tray is overfilled and then carefully screeded to the top of the tray taking care not to compact the insulation or leave large voids in the surface of the material.

(3) *Specimens of insulation intended for pouring and pneumatic applications.* If the insulation is intended for both pouring and pneumatic applications, or if it is uncertain whether the insulation will be poured or blown, the insulation shall be tested using the test procedures at § 1209.6(d) (1) and (2) for each of the applications. Three specimens shall be tested under the test procedure for each application. All of the specimens shall meet the criteria at § 1209.3(b) for passing the attic floor radiant panel test.

(e) *Radiant heat energy flux profile standardization.* In a continuing program of tests, determine the flux profile at least once a week. Where the time interval between tests is greater than one week, determine the flux profile at the start of the test series.

(1) 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 approximately 500°C (932°F), and bring the chamber to a temperature of approximately 180°C (356°F). When equilibrium has been established, move the specimen platform into the chamber. Allow 0.5 hour for the closed chamber to reach equilibrium.

(2) 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 the panel fuel flow. A suggested flux profile data log format is shown in Figure 11.

(3) The test shall be run under chamber operating conditions which give a flux profile as shown in Figure 10. 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 to 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.

(4) 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 reach equilibrium. Read the radiation pyrometer output and record the apparent black body temperature. 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.

(f) *Conditioning.* Test specimens shall be conditioned to equilibrium at 21±3°C (69.8±5.4°F) and a relative humidity of 50±5 percent immediately prior to testing. A less than 1% change in net weight of the specimen in two consecutive weighings with two hours between each weighing constitutes equilibrium.

(g) *Test Procedure.* (1) 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 (±9°F) with those determined previously, during the flux profile standardization procedure, the chamber is ready for use.

(2) 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 mark. Leave the pilot burner flame in contact with the specimen for 2 minutes, or until all flaming other than in the area of the pilot burner has ceased, then remove to a position of at least 5 cm above the specimen and leave burning until the test is terminated.

(3) If the specimen does not ignite within 2 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, and the specimen platform is pulled out.

(4) Measure the distance burned, (the point of farthest advance of the flame front) to the nearest 0.1 cm (.03 in). From the flux profile curve, convert the distance to W/cm^2 (Btu/ft^2 sec) critical radiant heat flux at flame out. Read to two significant figures. A suggested data log format is shown in Figure 12.

(5) Remove the specimen tray from the moveable 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 before the next specimen is inserted.

§ 1209.7 Test procedures for smoldering combustion.

This section provides the test method for determining smoldering combustion characteristics of materials used for thermal insulation. This test shall be conducted on materials at the measured settled density as provided in § 1209.4.

(a) *Apparatus.* (1) The specimen holder shall be an open-top 20±0.2 cm (7.87±.08 in) square box, 10±0.2 cm (3.94±.08 in) 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 7 mm (.28 in) in seam width, and soldered so as to be watertight. The specimen holder during test use shall rest upon a pad of unfaced glass fiberboard or equivalent having dimensions equal to or greater than those of the bottom of the specimen holder. The unfaced glass fiberboard shall be approximately 2.5 cm (1 in) thick with a thermal conductivity of 0.30±0.05 cal(g)/hr cm^2 °C/cm (0.24±0.04 Btu/hr ft^2 °F/in) at 23.9°C (75°F).

(2) *Ignition source.* The ignition source shall be a cigarette without filter tip made from natural tobacco, 85±2 mm (3.35±.08 in) long with a tobacco packing density of 0.270±0.020 g/cm^3 (16.9±1.25 lb/ft^3) and a total weight of 1.1±0.1 gm (0.039±0.004 oz).

(3) *Balance.* A balance of 1 kg (2.2 lb) capacity, accurate at least to 0.1 g (0.004 oz), is required.

(4) *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 specimen shall not exceed 0.5 m/sec (1.64 ft/sec). The test area shall be at 21±3°C (69.8±5.4°F) and 50±5 percent relative humidity at the time the test begins.

(b) *Test procedure.* (1) Specimens 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 to equilibrium prior to test. A change of less than 1% in net weight of the specimen in two consecutive weighings with two hours between each weighing constitutes equilibrium. 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 4,000 cm^3 or 0.14 ft^3) at the settled density as determined in 1209.4(e). The material shall be blown, combed, or otherwise mixed to remove lumps and shall be loaded uniformly into each specimen holder, level and flush to the top of the holder. The weight of each speciment shall be measured to the nearest 0.2 g (0.007 oz) 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 7.6 cm. (3 in) 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 specimen in the holder and placed on the insulated pad, a rod of 8 mm (.31 in) diameter with a pointed end shall be inserted vertically into the approximate center of the material being tested and withdraw 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 (0.31 in), shall be inserted in the formed cavity, with the lit end upward and flush with the specimen 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, whichever period is longer.

(2) After completion of burning and after the holder has cooled down to approximately room temperature, the specimen holder with its material residue shall be weighed, at least to the nearest 0.1 g (0.003 oz), and the percent weight loss of the original specimen calculated. The weight of the cigarette residue is ignored in this calculation. (That is, the weight of the cigarette residue is not subtracted from the net weight of the specimen holder's contents at the conclusion of the test.)

(3) Three specimens per sample shall be tested.

§ 1209.8 Procedure for calibration of radiation instrumentation.

This procedure is used to calibrate the radiation instruments used in the test procedures for measuring critical radiant flux.

(a) *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, and 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 reach the appropriate temperature equilibrium, read the output of the radiation pyrometer. Repeat for each temperature.

(b) *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: Radiometric Physics Division, 534, National Bureau of Standards (NBS),

Washington, DC 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.

(c) *Recommendation.* 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 this procedure at least once per year.

§ 1209.9 Labeling requirement.

(a) Manufacturers and private labelers of cellulose insulation shall place on all containers of cellulose insulation the following statement: "This product meets the amended CPSC standard (effective October 16, 1979) for flame resistance and corrosiveness of cellulose insualtion."

To meet this requirement manufacturers and private labelers may use any type of label, including one which is pressure sensitive or glued on, provided the label is made in such a manner that it will remain attached to the container for the expected time interval between the manufacture of the product and its installation.

(b) This label shall appear prominently and conspicuously on the container in letters which are at least one-fourth inch in height. The labeling statement shall be printed with legible type in a color which contrasts with the background on the which the statement is printed.

§ 1209.10 Certification and enforcement.

(a) While this Part 1209 prescribes test methods to determine whether cellulose insulation subject to this interim standard meets its requirements, the interim standard itself does not require that a manufacturer or private labeler test any cellulose insulation. However, section 14 of the Consumer Product Safety Act (15 U.S.C. 2063) requires manufacturers and private labelers of products subject to safety standards to certify that the product conforms to the standard based on either a test of each product or a reasonable testing program. (Elsewhere in this issue of the FEDERAL REGISTER the Commission has proposed a certification rule that would prescribe requirements that manufacturers and private labelers would have to follow to certify that their cellulose insulation complies with the requirements of the amended standard.)

(b) The Commission intends to use the test procedures set forth in this Part 1209 to determine whether insulation subject to the interim standard meets the requirements of the interim standard.

§ 1209.11 Effective date.

All cellulose insulation that is a consumer product and that is manufactured after October 15, 1979 shall meet the requirements of this standard, including the labeling requirement of § 1209.9.

PROCEDURE FOR SUBMITTING COMMENTS

Comments regarding this proposal for amending the interim standard must be received by April 9, 1979. 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(c)(2), Pub. L. 95-319, 92 Stat. 388-389 (15 U.S.C. 2082).

Dated: March 2, 1979.

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

[6355-01-C]

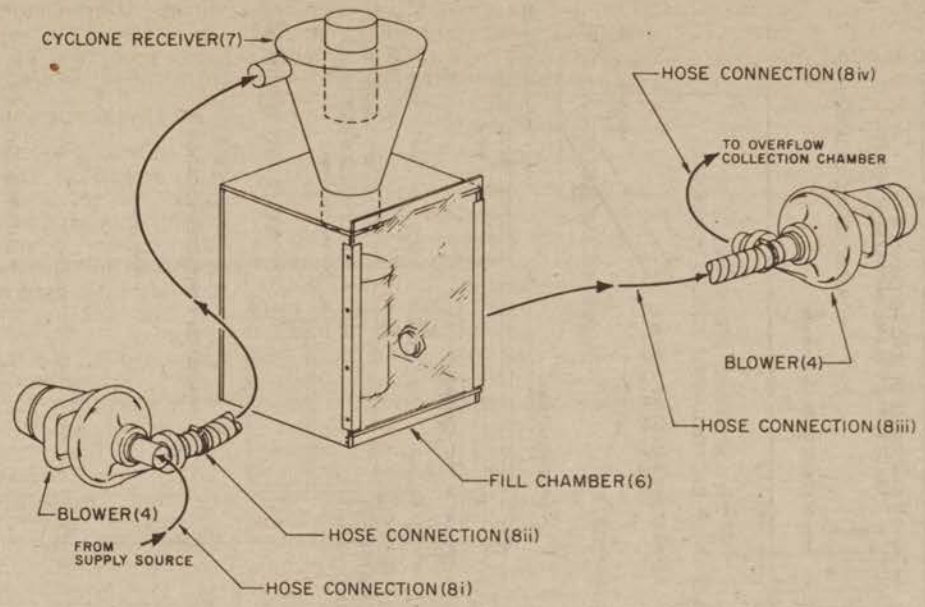


FIG I—PARTIAL INSULATION PREPARATION APPARATUS

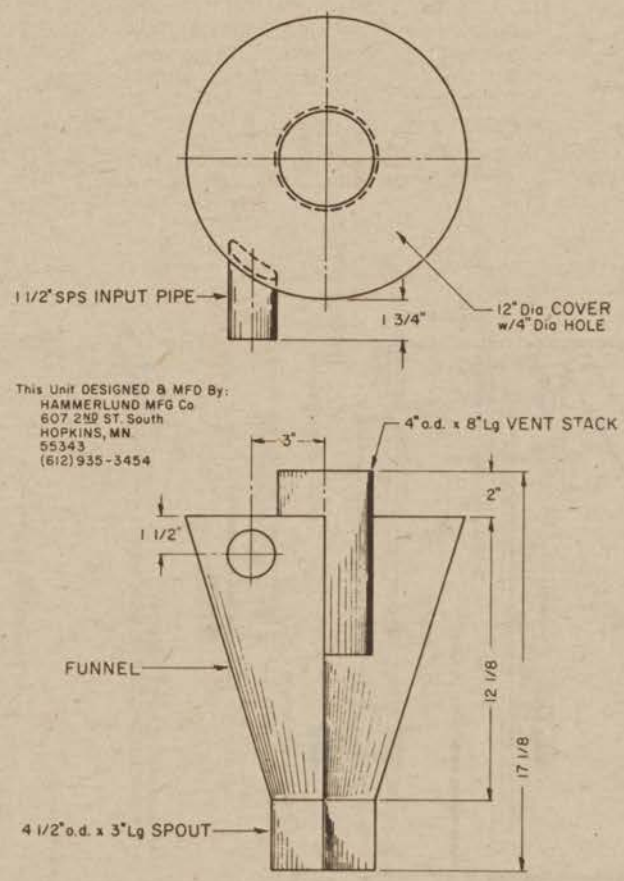


FIG 2—CYCLONE RECEIVER WELDMENT

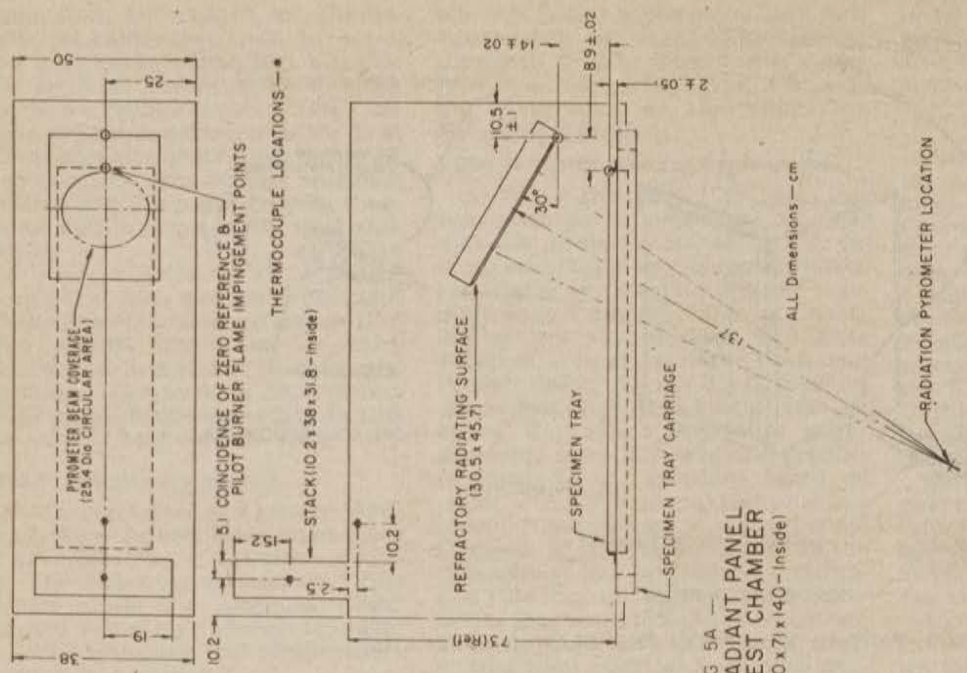
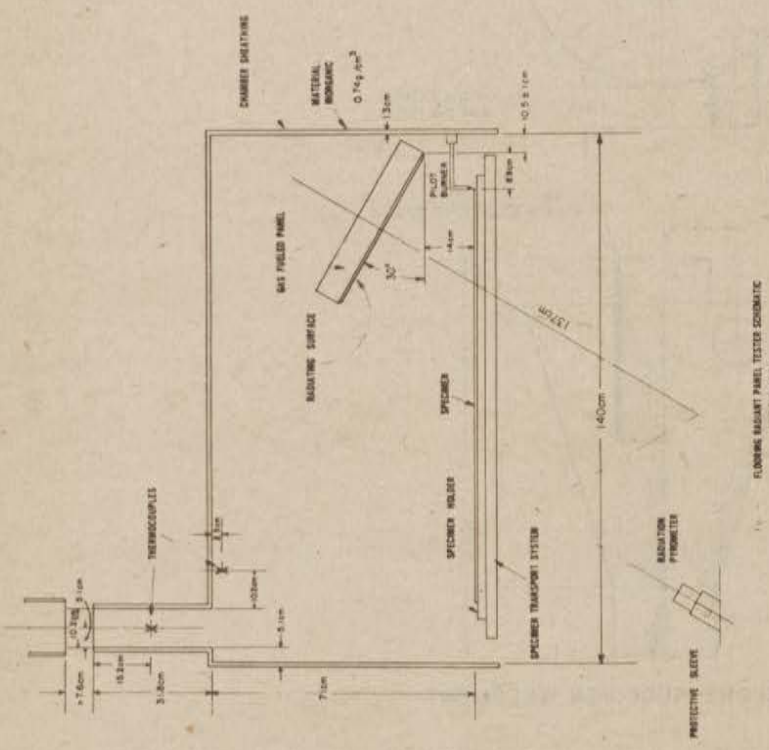


FIG 5A — RADIANT PANEL TEST CHAMBER (50 x 71 x 140 - Inside)



BASIC COMPONENT INTERRELATIONSHIPS

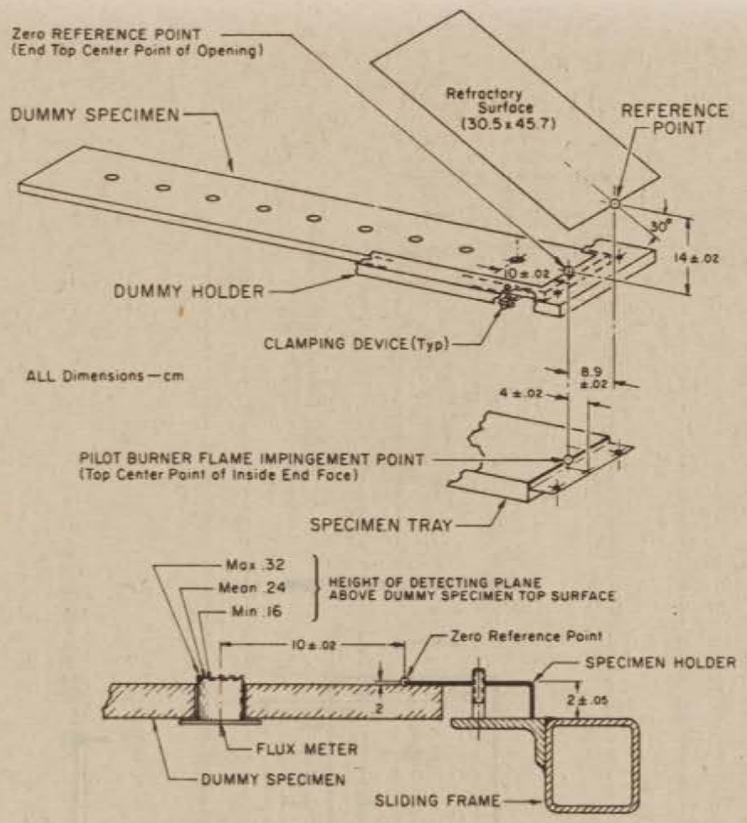


FIG 5B — ZERO REFERENCE POINT RELATED TO DETECTING PLANE

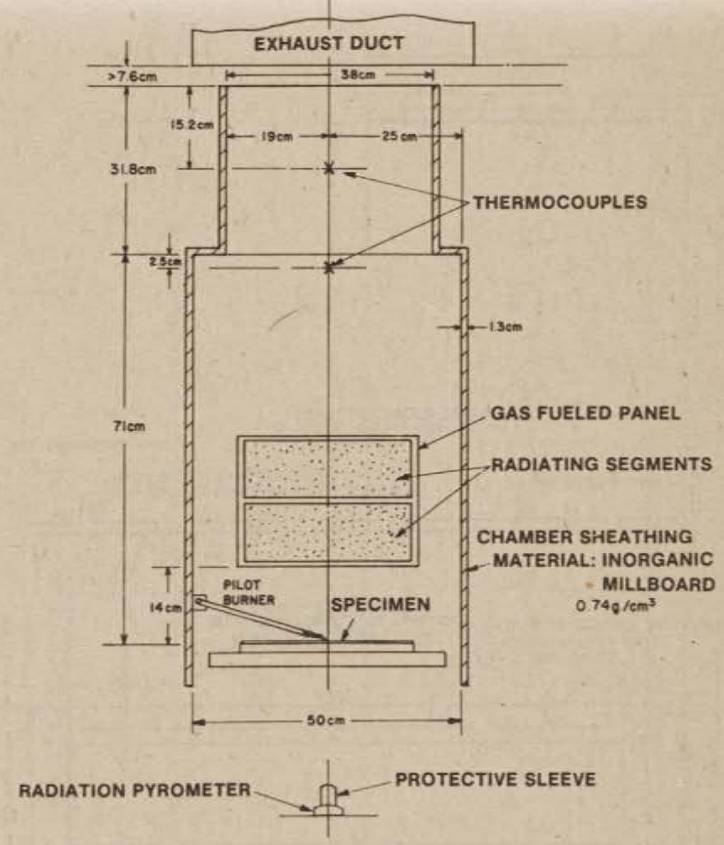


FIG 6 — FLOORING RADIANT PANEL TESTER SCHEMATIC LOW FLUX END, ELEVATION

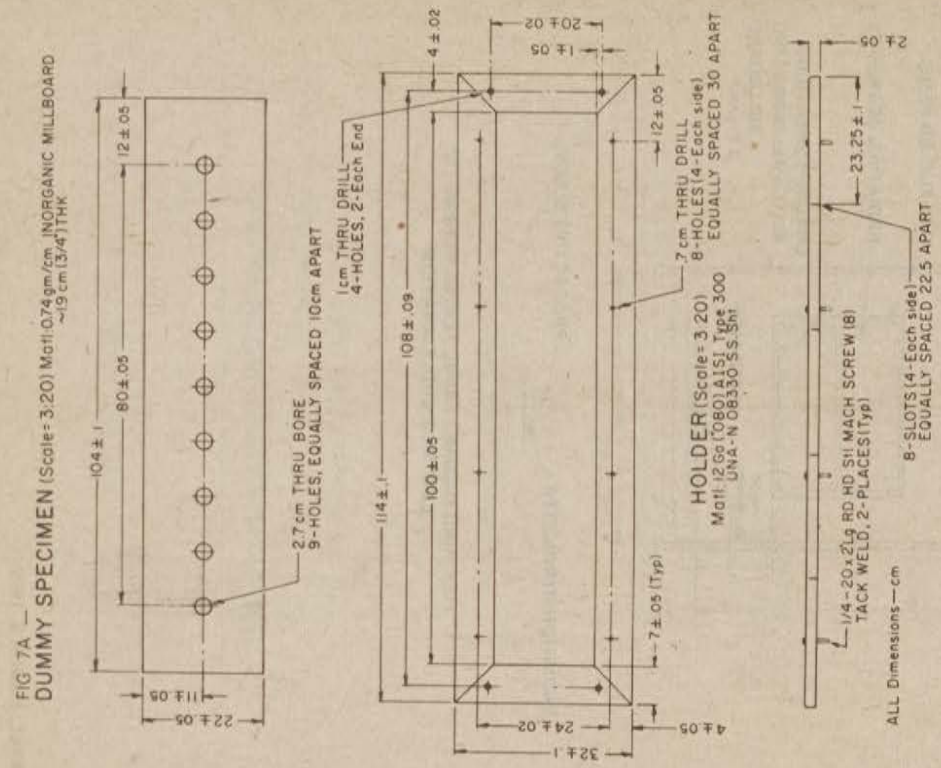


FIG 7A — DUMMY SPECIMEN

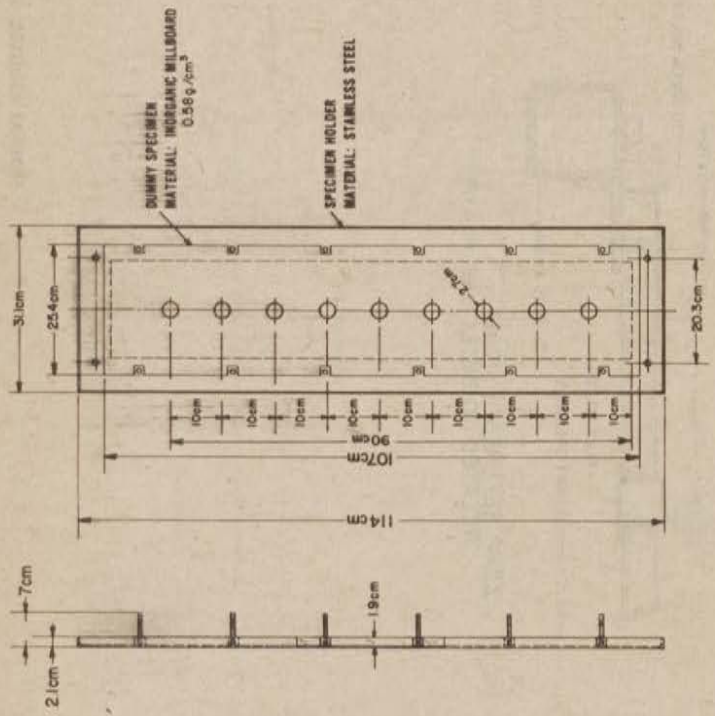


FIG 7 — DUMMY SPECIMEN IN SPECIMEN HOLDER

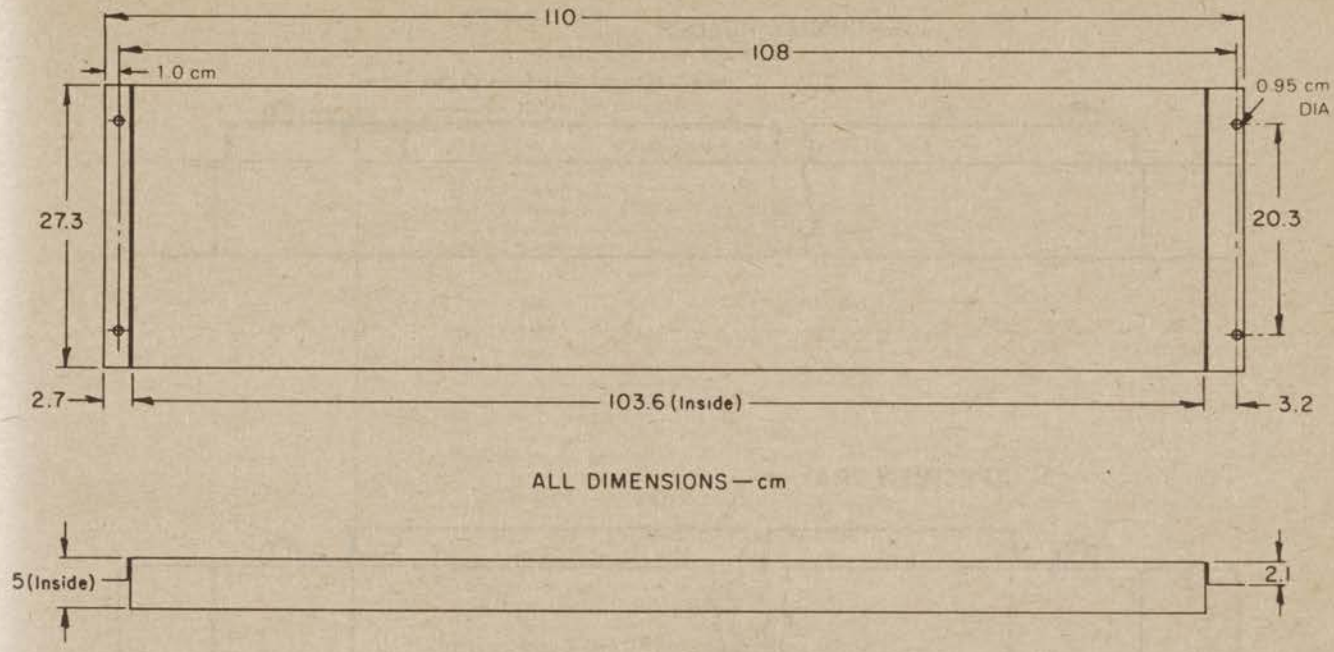
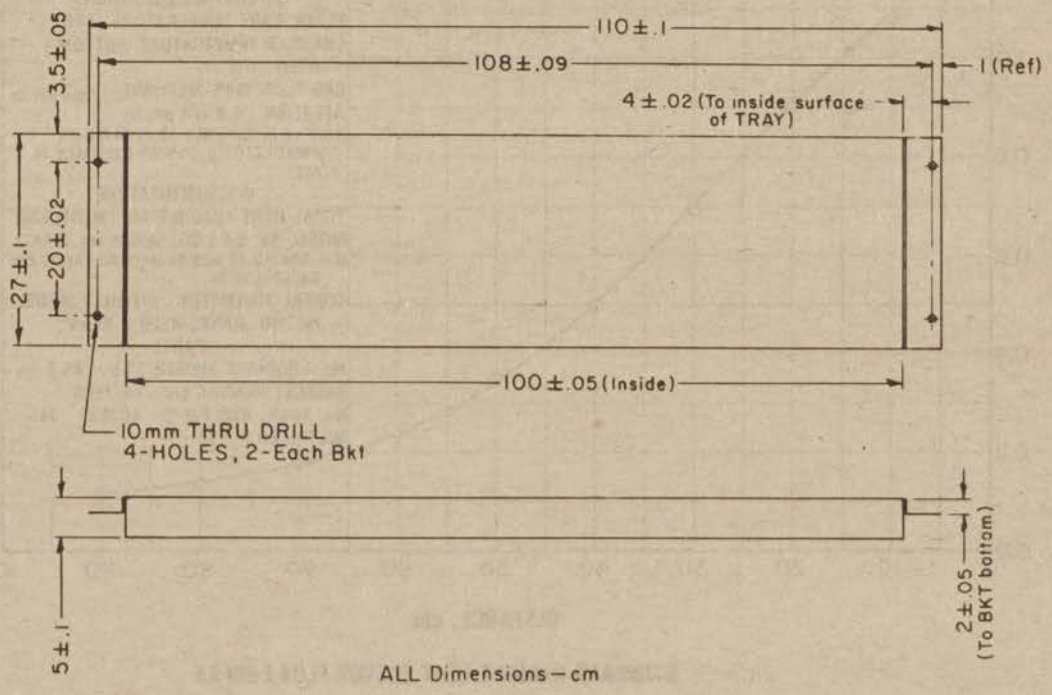


FIG 8—SPECIMEN TRAY

FIG 8A—
SPECIMEN TRAY (Scale = 3:20) Matl: See HOLDER Specs



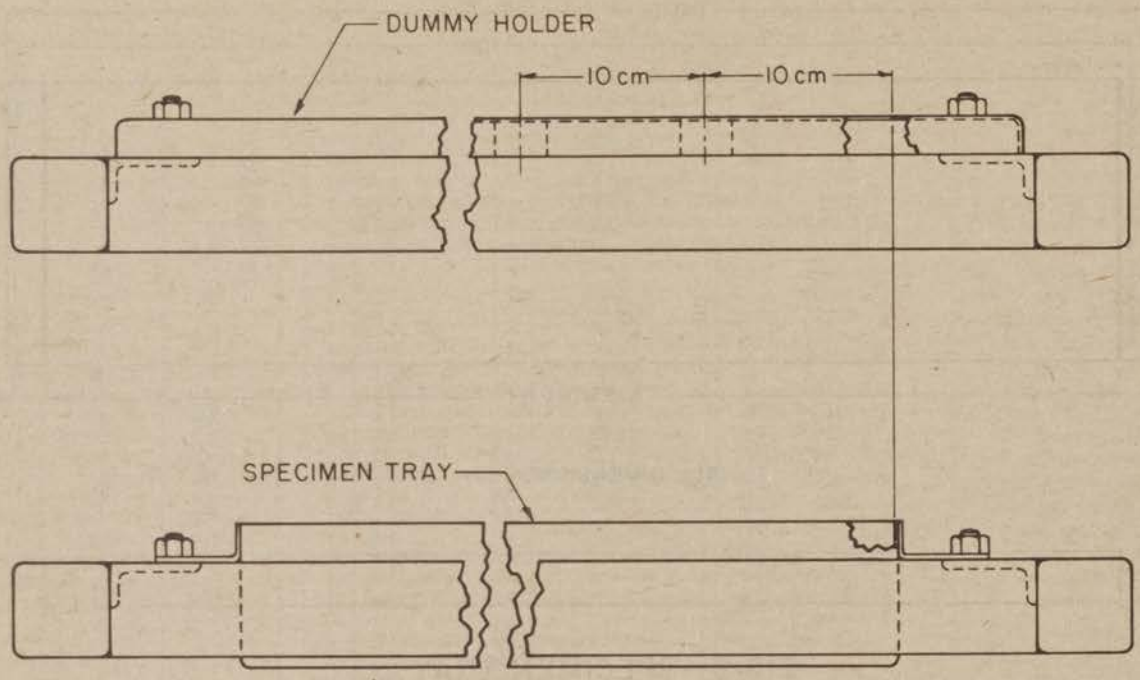


FIG 9 — SPECIMEN TRAY MOUNTING POSITION

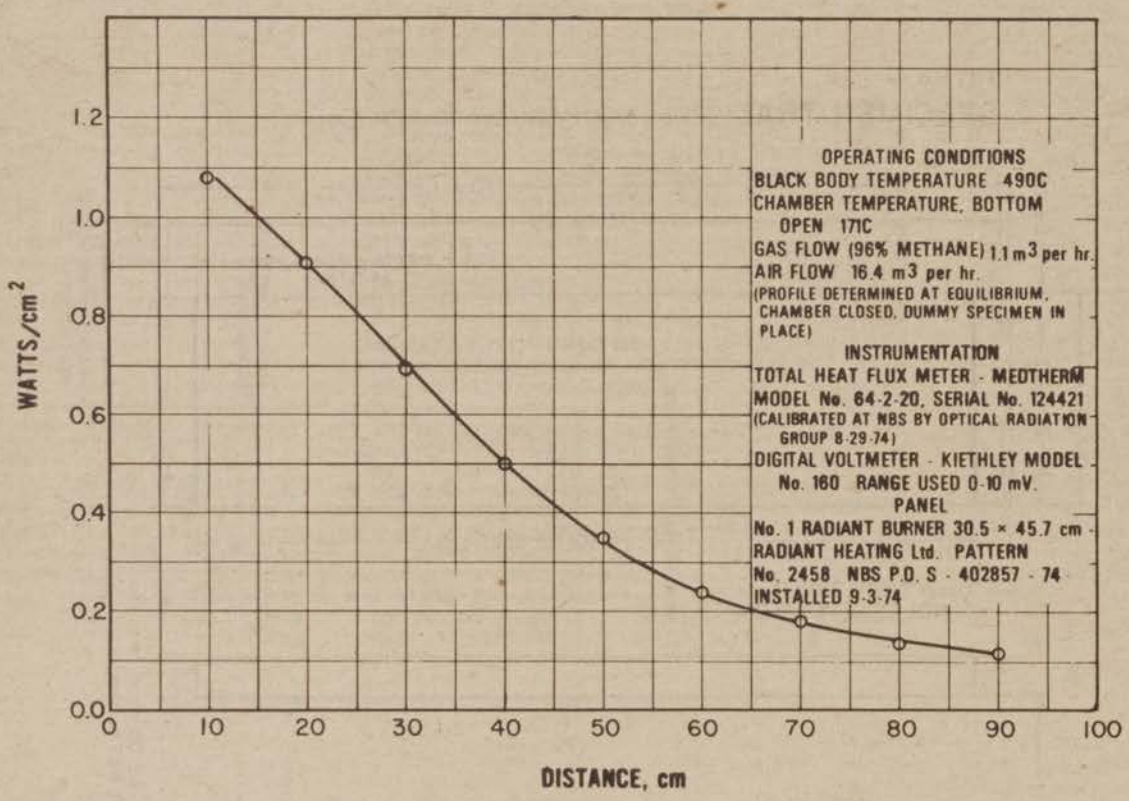


FIG 10 — **STANDARD RADIANT HEAT ENERGY FLUX PROFILE**

[6355-01-M]

RADIANT FLUX PROFILE

Date———————
Black Body Temperature —— m.v. —— °C (°F.)
Gas Flow —— NTPm³H (SCFH) Air Flow —— NTPm³H (SCFH)
Room Temperature —— °C (°F)
Air Pressure —— Gas —— cm (in) of H_2O
Flux Meter ——— Conversion Factor ——
Radiometer No. —— from Calibration on ——

Distance (cm)	MV	Watts/cm²
10	———	———
20	———	———
30	———	———
40	———	———
50	———	———
60	———	———
70	———	———
80	———	———
90	———	———

Signed ———————

FIG. 11 FLUX PROFILE DATA LOG FORMAT

Test Number —— Date —— Time ——
Laboratory ———————
Specimen Identification/Code No. ——
Test Assembly: ———
Panel: Angle —— ° Temperature —— °C (°F)
Flow: Gas —— NTPm³H (SCFH) Air —— NTPm³H
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/cm² ———
Flux Profile Reference ———
Observations:
Signed ———————

FIG. 12 INSULATION RADIANT PANEL TEST DATA LOG FORMAT

[FR Doc. 79-6863 Filed 3-7-79; 8:45 am]

federal register

THURSDAY, MARCH 8, 1979

PART V

DEPARTMENT OF ENERGY

Economic Regulatory Administration

■

FINAL ENERGY CONSERVATION CONTINGENCY PLANS

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-76-2]

FINAL ENERGY CONSERVATION CONTINGENCY PLANS

AGENCY: Department of Energy.

ACTION: Notice of Final Conservation Contingency Plans.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby is giving notice of the adoption by the President of three final energy conservation contingency plans as required by sections 202 and 523 of the Energy Policy and Conservation Act (Pub. L. 94-163) (EPCA). The three plans are: Emergency Weekend Gasoline Sales Restrictions (Standby Conservation Plan No. 1); Emergency Building Temperature Restrictions (Standby Conservation Plan No. 2); and Emergency Advertising Lighting Restrictions (Standby Conservation Plan No. 3). These plans have been submitted by the President to Congress for approval as standby plans pursuant to the procedures specified in sections 201 and 552 of the EPCA. The plans are intended for implementation only in the event of a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program.

The Emergency Weekend Gasoline Sales Restrictions Plan authorizes the Secretary of Energy to restrict retail sales of gasoline and diesel fuel to most motor vehicles during all or any portion of the period from noon Friday to mid-night Sunday.

The Emergency Building Temperature Restrictions Plan authorizes the Secretary of Energy to estalish thermostat restrictions for heating, hot water temperatures and air conditioning in public and commercial buildings.

The Advertising Lighting Restrictions Plan requires businesses to limit advertising lighting to that essential to identify the business, direct customers to it and indicate the goods and services available for sale.

Together with other DOE contingency programs, these conservation contingency plans will provide the Government with an array of options to deal with energy emergencies of varying types and degrees of severity.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTAL INFORMATION:

I. Background Information

On May 28, 1976, the Federal Energy Administration, a predecessor agency of the Department of Energy (DOE), issued a notice of opportunity for written comment and public hearings (41 FR 21908, May 28, 1976) with respect to five proposed energy conservation contingency plans. Public hearings were held in Washington, D.C.; Atlanta, Georgia; Kansas City, Missouri; San Francisco, California; and Anchorage, Alaska. In addition, over 1,000 written comments were received. Commenters included private citizens from every section of the Nation and representatives of a broad range of business activities, interest groups and Federal, State and local government units.

We are hereby giving notice that three final energy conservation contingency plans have been adopted by the President: Emergency Weekend Gasoline Sales Restrictions (Standby Conservation Plan No. 1); Emergency Building Temperature Restrictions (Standby Conservation Plan No. 2); and Emergency Advertising Lighting Restrictions (Standby Conservation Plan No. 3). Appended hereto are the three conservation contingency plans and a statement of the need, rationale and operation of each plan.

The prescription by the President of one or more energy conservation contingency plans is required by section 202 of the Energy Policy and Conservation Act (Pub. L. 94-163) (EPCA). If approved by Congress in accordance with the procedures specified in sections 201 and 552 of the EPCA, an energy conservation contingency plan would remain in standby status until the President finds that putting the plan into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program, and the President transmits such finding to the Congress together with a statement of the effective date and manner for exercise of such plan.

Because the conservation contingency plans require affirmative Congressional approval before they become effective, and because they may be in a standby status for a substantial period before a need would arise to implement them, the plans are general in their terms to meet changing circumstances. It is contemplated that rules, regulations or orders would be issued in order to provide the specifics of plan operation.

II. Discussion of Significant Changes From Proposed Plans

A. The Emergency Weekend Gasoline Sales Restrictions Plan essentially is unchanged from the proposed plan.

B. The Emergency Building Temperature Restrictions Plan has been reduced in scope from the proposal. Under the final plan, owners and operators of public, commercial, and industrial buildings would be required to maintain thermostats at no lower than 80°F for cooling, at no higher than 65°F for heating and at no higher than 105°F for hot water intended for personal hygiene, or at such other levels as the Secretary of Energy may establish. The proposed plan's restrictions on overhead lighting in covered buildings has been eliminated due to occupational safety problems which would have been created by the lighting restrictions.

C. The Emergency Advertising Lighting Restrictions Plan has significant changes from the proposed plan. The proposal required that no person use natural gas for outdoor lighting and restricted all use of electricity or natural gas for illumination of any advertising sign or window display.

All restrictions on use of natural gas have been removed from the final plan. The Natural Gas Policy Act, Pub. L. 95-621, has established similar restrictions on the use of natural gas, and thus it was determined that that section of the proposed plan would be redundant.

The most significant change the plan has proposed is the two-step restriction on use of electricity for illuminating advertising signs and window displays. Section 3(b) of the final plan provides that any business, when open, may use electricity for illumination of any advertising sign that is essential to direct customers to the open business by identifying it and/or by informing customers of the products or services supplied by it. When the business is closed, however, advertising signs and window displays may not be illuminated by electricity. This change was incorporated into the final plan as the result of comments to the effect that curtailment of advertising signs when businesses were open might have a significant negative impact on small businesses.

III. Discussion of Other Comments

Over 1,000 comments were received in response to the notice of the proposed plans. Some of these comments addressed issues leading to plan

changes discussed in the previous section. Many comments were general in nature, commenting on plan implementation as opposed to the specifics of a plan.

All comments were considered in the adoption of the final plans and are available for review in the DOE Freedom of Information Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C.

IV. ECONOMIC ANALYSIS

Section 201(f) of EPCA requires that any contingency plan submitted to Congress be based upon a consideration of the potential economic impacts of such plan, including an analysis of:

(1) Any effects of such plan on—(A) vital industrial sectors of the economy; (B) employment (on a national and regional basis); (C) the economic vitality of States and regional areas; (D) the availability and price of consumer goods and services; and (E) the gross national product; and

(2) Any potential anticompetitive effects.

An economic analysis which meets the requirements of section 201(f) of EPCA has been prepared for each of the three energy conservation contingency plans adopted at this time by the President. Copies of these documents are available for public review in the DOE Freedom of Information Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C.

V. OTHER CONSERVATION CONTINGENCY PLANS

In addition to the three energy conservation contingency plans adopted by the President today, the Department of Energy is developing for the President's consideration, pursuant to authority delegated by section 4(a) of Executive Order 11912, additional energy conservation contingency measures. Where appropriate, the Department will provide notice and opportunity for public comment on such additional plans before they are submitted to the President for his consideration.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; E.O. 11912, 41 FR 15825)

In consideration of the above, notice is hereby given that the foregoing energy conservation contingency plans have been prescribed by the President, subject to the approval by a resolution of each House of Congress in accordance with the procedures specified in section 552 of the Energy Policy and Conservation Act (Pub. L. 94-163), said plans to become effective only as provided in section 201(b) of the Act.

Issued pursuant to the express direction of the President of the United States, in Washington, D.C., March 1, 1979.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

APPENDIX—EMERGENCY WEEKEND GASOLINE SALES RESTRICTIONS (STANDBY CONSERVATION PLAN NO. 1)

Prepared by the Department of Energy and transmitted by the President to the Senate and the House of Representatives in Congress assembled, pursuant to the provisions of sections 6261, 6262, 6393(a) and 6422(a) of Title 42 of the United States Code.

CONDITIONS OF EXERCISE

SECTION 1. (a) This Plan shall not become effective unless the President:

(1) Has found that putting the Plan into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program; and

(2) Has transmitted such finding to the Congress with a statement of the effective date and manner for exercise of the Plan.

(b) This plan may remain in effect for no more than nine months, and may be earlier rescinded by the President.

DEFINITIONS

SECTION 2. As used in this Plan:

(a) "Combination" means a truck-tractor plus truck-trailer.

(b) "Commercial aircraft" means only aircraft for which either a commercial pilot's or an airline transport pilot's certificate, as defined in the Federal Aviation Regulations, Part 61, §§ 61.139 and 61.171 are required for the pilot in command.

(c) "Commercial marine craft" means a vessel designed and used primarily for commercial activities as evidenced by a Federal, State or local registration document, insurance document or the presence of commercial equipment or cargo.

(d) "Diesel fuel" means No. 2-D diesel fuel as defined in American Society of Testing and Materials (ASTM) D975-71 and No. 1-D diesel fuel as defined in ASTM D975-71. Excluded from the definition is No. 4-D diesel fuel as defined in ASTM D975-71.

(e) "DOE" means Department of Energy.

(f) "Emergency vehicle" means a motor vehicle equipped and used for law enforcement, emergency road service, fire fighting, emergency medical and health services (including private vehicles used for health services upon presentation of a statement of need from a licensed practitioner or health care institution) or emergency utility service.

(g) "Energy production vehicle" means any vehicle engaged in the exploration, drilling, mining, refining, processing, production or distribution of coal, natural gas, geothermal energy, petroleum or petroleum products, shale oil, nuclear fuels and electrical energy.

(h) "Federal, State and local motor vehicle" means a motor vehicle owned by or under lease to the Federal government, a State government or a local unit of government.

(i) "Gasoline" means a mixture of volatile hydrocarbons, suitable for operation of an internal combustion engine, whose major components are hydrocarbons with boiling points ranging from 140° or 390°F and whose source is distillation of petroleum and cracking, polymerization, and other chemical reactions by which the naturally occurring petroleum hydrocarbons are converted to those that have superior fuel properties.

(j) "Gross vehicle weight (GVW)" means the empty weight of the motor vehicle ready for the road with fuel and driver plus the weight of the heaviest load which the motor vehicle is licensed or registered to carry.

(k) "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the loaded weight of a single motor vehicle.

(l) "Heavy construction equipment" means a motor vehicle such as a crane, backhoe, or grader which is designed and used primarily as equipment for hoisting, digging, or grading in construction.

(m) "Heavy farm equipment" means a motor vehicle such as a tractor, harvester, or mowing machine which is designed and used primarily as farm equipment in agricultural production.

(n) "In charge of" means to have the care or custody of, or to be entrusted with the management, administration or direction of.

(o) "Motor vehicle" means every device which is self-propelled and equipped with driver controls in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(p) "Operator" means any person, whether lessee, manager, agent or other person, who is in charge of a retail filling station.

(q) "Owner" means the person in whom is vested legal title.

(r) "Person" means any individual, corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, the United States or any State or political subdivision thereof, the District of Columbia, Puerto Rico, and U.S. territory or possession, or any agency of the United States or any State or political subdivision thereof, or any other organization or institution.

(s) "Restricted hours" is the period of time between Friday noon and midnight Sunday, or any hours within such period as are established by the Secretary.

(t) "Retail filling station" means a station which purchases diesel fuel or gasoline in bulk for distribution of all or some portion of such supplies to the ultimate consumer. Included are stations which pump diesel fuel or gasoline primarily for marine vessels or aircraft. Excluded are gasoline or diesel fuel stations which are operated exclusively to pump gasoline or diesel fuel for the fleets of companies.

(u) "Secretary" means the Secretary of Energy or his delegate.

(v) "Single unit truck" means a truck on which the primary cargo space is permanently affixed.

(w) "Taxicabs, limousines, buses and other commercial passenger carriers for hire" means passenger carriers for hire which are registered as such at the Federal, State or local level.

(x) "Truck" means a motor vehicle designed and maintained primarily for the transportation of property.

(y) "Truck-tractor" means the power unit designed for drawing and/or supporting a truck-trailer.

(z) "Truck-trailer" means a vehicle with or without auxiliary motor power designed to be drawn by a truck or truck-tractor.

EMERGENCY WEEKEND RESTRICTIONS

SECTION 3. (a) The owner of a retail filling station shall not sell or otherwise transfer gasoline or diesel fuel during restricted hours.

(b) Notwithstanding the provisions of subsection (a) of this section, during restricted hours, the owner of a retail filling station may:

(1) Sell diesel fuel to trucks;

(2) Sell gasoline to single unit trucks with six tires or more in contact with the road surface and/or with a gross vehicle weight or gross vehicle weight rating of 10,000 pounds or more, or combinations; and

(3) Sell gasoline or diesel fuel to:

(A) Emergency vehicles;

(B) Vehicles operated pursuant to certificates and permits issued by the Interstate Commerce Commission;

(C) Taxicabs, limousines, buses and other commercial passenger carriers for hire;

(D) Federal, State and local motor vehicles;

(E) Heavy construction and farm equipment;

(F) Commercial marine craft;

(G) Commercial aircraft;

(H) Energy production vehicles;

(I) Such other vehicle classification as the Secretary may determine.

REPORTS AND RECORDKEEPING

SECTION 4. (a) The owner of a retail filling station shall, for such retail filling station, complete and post in a prominent location of the station, within 30 days after the effective date of this Plan, and shall update at such times as the Secretary may require, a Self-Certification Form which shall indicate compliance with the requirements of this Plan, in accordance with forms and instructions provided by the Secretary.

(b) In addition to the Self-Certification Form, the owner of a retail filling station shall keep such records and in such form, and shall submit reports and other information, as the Secretary may require.

OPERATORS

SECTION 5. Notwithstanding any other provisions of this Plan to the contrary, where the owner of a retail filling station is not the operator of such retail filling station, the operator and the owner shall be jointly and severally liable for the execution of owner responsibilities under this Plan.

RELATION TO STATE LAW

SECTION 6. (a) This Plan shall apply in every State (including the District of Columbia, Puerto Rico, or any territory or possession of the United States) and political subdivision thereof and shall preempt any law of any State or political subdivision thereof to the extent that such law is inconsistent with this Plan or any rule, regulation, or order promulgated pursuant to this Plan.

(b) Notwithstanding the provisions of subsection (a) of this section, the President or his delegate may, on his own initiative or in response to a request for exemption, exempt a State or political subdivision thereof from this Plan and any rule, regulation, or order promulgated pursuant to this Plan, in whole or in part, during a period for which (1) the President or his delegate determines a comparable program of such State or political subdivision is in effect, or (2) the President or his delegate finds special circumstances exist in such State or political subdivision.

(c) A state which seeks an exemption for itself or a political subdivision thereof on the ground that a comparable program is in effect shall submit to the Secretary a request for exemption which shall include: (1) A full description of the comparable program, (2) the amount of energy which such program will conserve, (3) the period of time during which such program will be in effect, and (4) such other information as the Secretary may require, and the Secretary shall review the request and make a recommendation thereon to the President or his delegate.

(d) A state which seeks an exemption for itself or a political subdivision thereof on the ground that special circumstances exist shall submit to the Secretary a request for exemption which shall include (1) a full description of the special circumstances, (2) a detailed explanation of why implementation of this Plan, in whole or in part, is not practicable, (3) an estimation of the period of time in which the special circumstances will exist, (4) any alternative energy conservation measures which may be practicable and their expected savings, and (5) such other information as the Secretary may require, and the Secretary shall review the request and make a recommendation thereon to the President or his delegate.

(e) For purposes of this section, "comparable program" means a mandatory program which deals with the same subject matter as this Plan, and which conserves at least as much energy in the State or political subdivision thereof as this Plan would be expected to conserve in such State or political subdivision.

ADMINISTRATIVE PROVISIONS

SECTION 7. (a) The Secretary is authorized and directed to implement, administer (including determination of exceptions), monitor and enforce this Plan, and to promulgate such additional rules, regulations or orders as are necessary or appropriate.

(b) Section 523 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6393) shall apply to any rule, regulation, or order having the applicability and effect of a rule as defined in Section 551(4) of Title 5, United States Code, issued under this Plan.

(c) The Secretary may delegate all or any portion of the authority granted to him under this Plan to such officers, departments or agencies of the United States, or to the Governor of any State, as he deems appropriate.

PUBLIC INFORMATION

SECTION 8. The Secretary may collect and disseminate such information in accordance with current law and policy, as he deems appropriate regarding the operation and goals of, and responsibilities under, this Plan.

PENALTIES

SECTION 9. Any person who fails to comply with any provision prescribed in, or pursuant to, this Plan shall be subject to the applicable penalties set forth in sections 524 and 525 of the Energy Policy and Conservation Act (42 U.S.C. 6394).

REPORT

SECTION 10. The Secretary shall report to Congress and the President, within 60 days after the termination of this Plan, on the operation of the Plan. Such report shall include an estimate of the energy conservation achieved and may include any recommendations deemed appropriate by the Secretary.

STATEMENT OF THE NEED FOR RATIONALE AND OPERATION OF THE PLAN

NEED FOR THE PLAN

The Emergency Weekend Gasoline Sales Restrictions Plan is intended for implementation in the event of a severe energy supply interruption or in order to fulfill obligations of the United States under the International Energy Program ("IEP"). An interruption of a significant portion of the United States' foreign oil supply could produce an energy crisis of even greater severity then that produced by the 1973-1974 oil embargo. At the time of that embargo, the Nation's inability to import sufficient quantities of oil resulted in an estimated $10 to $20 billion decline in gross national product and considerable economic and social disruption. Imports now exceed eight million barrels per day, and although domestic production increased from 1977-1978, it is still lower than in 1973. At the present time the United States imports, at an annual rate, almost 50 percent of domestic petroleum requirements, compared with less than 35 percent just prior to the 1973-1974 embargo. Thus, the Nation is in some respects more vulnerable to an interruption in foreign oil supply today than just five years ago.

Under the IEP, in an embargo or shortage situation in which only one or a few member nations lose more than seven percent of normal petroleum requirements, the targeted country or countries must absorb any shortfall up to seven percent. The other member nations would share the remaining shortfall among themselves. In the event of a widespread shortage, in which all oil-consuming countries sustain a reduction of not more than seven percent of the normal petroleum consumption rate, each participating country must absorb the shortfall itself. If the shortfall exceeds seven percent but is less than twelve percent, each member must reduce consumption by seven percent; the remaining shortfall would be shared proportionately among all countries according to the IEP sharing formula. If oil supplies should fall short by twelve percent or more, each participating country must restrain demand by ten percent and share whatever oil is still available with other member nations.

As a participant in the IEP, the United States has pledged to comply with its emergency provisions, whereby each member must have ready a program of contingency demand restraint measures which would be sufficient to reduce demand for oil by seven percent and ten percent of normal consumption. These measures would likely be implemented in conjunction with storage drawdown in case of an emergency, although the

IEP agreement allows signatory countries to substitute drawdown of storage for use of demand restraint measures.

In the event of a severe petroleum shortage, three types of actions are available to alleviate the adverse impact: actions to increase domestic petroleum supplies and use alternative forms of energy; actions to distribute the available supply in an equitable manner; and actions to reduce public and private demand for energy. The authorities available to the President and other public officials for taking such actions comprise the basis of the country's energy shortfall management program. The need for energy conservation contingency plans should be viewed in the context of the actions described below.

(1) *Increase domestic petroleum supplies and use alternative forms of energy.* The following is a discussion of several of the primary means available to the United States to increase petroleum supplies or substitute other forms of energy for petroleum on an emergency basis. In a serious emergency, the Federal government would aggressively pursue some or all of these options.

(a) *Increase domestic petroleum production.* In general the United States does not have in place substantial excess crude oil production capacity and therefore is unable to increase domestic production by significant amounts during an emergency. However, some flexibility in domestic production does exist, and steps will be taken to assure that production is maximized during an emergency. Important to this effort is the need to provide adequate price incentives during periods of relatively abundant supplies to assure that new reserves are discovered and developed, that enhanced oil recovery projects are undertaken, and that the production decline rate from existing wells is slowed and production is maintained as long as possible. In addition, in an emergency, section 106 (42 U.S.C. 6214) of the Energy Policy and Conservation Act ("EPCA") (Pub. L. 94-163) authorizes the President to require production of petroleum or natural gas at or in excess of the maximum efficient rate.

(b) *Draw down existing inventories.* During periods of normal supply the Nation has in inventory at various levels of distribution supplies of crude oil and refined petroleum products adequate to meet total national demand for several days. Much of this total inventory is necessary to maintain the supply system in normal operation (for example, oil pipelines must be kept full for their efficient operation), but in general stocks are usually adequate to provide for shortfalls of limited duration without any interruption of supply to consumers. At the beginning of January 1979, for example, crude oil stocks were estimated to be sufficient to deal with a crude oil shortfall of about 500,000 barrels a day for 60 days before reaching the level where refinery runs would have to be significantly curtailed.

Provisions of the Standby Petroleum Product Price and Allocation Regulations recently adopted by the Department of Energy (44 F.R. 3978, January 18, 1979) provide regulatory means by which stock levels can be properly managed in anticipation of and during a supply interruption. They provide that the Department can update allocation base periods to reflect the most recent 12-month period of normal supplies prior to the supply emergency, thus preventing purchasers from drawing upon outdated and unneeded supply entitlements, and they allow the imposition of a mandatory allocation fraction on all suppliers in anticipation of a shortage that will result in the building of inventories to desired levels.

(c) *Draw down strategic petroleum reserves.* The Strategic Petroleum Reserve (SPR) authorized in Title I of the EPCA is scheduled to reach 750 million barrels in the 1985-1986 time period. As of the end of February 1979, 76 million barrels of crude oil will be in underground storage, and the Department of Energy plans to have 248 million barrels in storage by May 1980. Initial withdrawal capability will be in place by September 1979 and can be put in place sooner if necessary.

(d) *Increase use of coal and other alternate fuels.* The Powerplant and Industrial Fuel Use Act of 1978 provides the President with emergency authority to ban the use of petroleum or natural gas as boiler fuel in an electric powerplant or other major fuel-burning installation capable of using coal or another alternate fuel. This Act also gives the President the authority to allocate coal as necessary. Emergency suspensions of air quality standards, also authorized by this law, would enable some expedited conversion from petroleum to coal during an emergency. Another way in which coal or other alternate fuels can be useful in a petroleum shortage involves the transfer of electricity through transmission lines from coal burning or other alternate fuel powerplants (including nuclear plants) to utilities which burn oil.

(e) *Increase use of natural gas.* The Natural Gas Policy Act eliminated the pricing distinction between the intrastate and the interstate gas markets. As a result of this action and other factors, gas supplies are relatively abundant and are available for use as substitutes for middle distillates and residual fuel oil in many markets. Propane, incremental supplies of which are derived from natural gas, is also currently available in abundant supplies.

During an interruption of petroleum supplies, utilities, industries and commercial establishments will be encouraged to use gas, propane and other abundant alternate fuels to the maximum extent practicable.

(2) *Distribute the available supply in an equitable manner.* Supply distribution mechanisms do not increase supply, and they have limited capability for use to generally reduce demand for energy. Their principal purpose during an emergency is to provide for the distribution of the available supply of crude and product in a manner designed to assure equity and serve national priorities.

The Department of Energy's Standby Crude Oil Allocation Regulations, issued on January 9, 1979 (44 FR 3418, January 16, 1979), provide for four separate, progressively broader crude oil allocation systems. Phase I, the current crude oil buy/sell program, orders one or more of the 15 major refiners to supply crude oil to those small refiners (that is, those with less than 175,000 BPD of refining capacity) which have demonstrated that they have lost their normal crude supplies.

Phase II, a modification of the current buy/sell program, would permit emergency allocation orders to supply major and large independent refiners.

Phase III, which could be activated in a more severe general crude oil shortage involving more than just a few major and large independent refiners, would require that the current program be maintained for small refiners and that a separate standby program be implemented for major and large independent refiners. Under such a scheme, the large firms would share their available oil with small refiners as under the present program and with each other on an historic usage/current supply basis. In this instance, a national average supply ratio for the larger firms would be determined. Firms having more oil than the average would sell crude to those having less.

The last standby allocation response, for use in more extreme emergencies, would involve every refiner in the country in the same allocation scheme, eliminating the current small refiner program. All refiners' available oil and historical runs to stills would be used to calculate a National Utilization Rate. Refiners with more oil than the national average, including small refiners, would sell to those with less. Under some circumstances certain small refiners could be exempted from sale obligations, and in any event they would receive a slightly better price on buy/sell transactions than large refiners.

The Standby Petroleum Product Allocation and Price Regulations, published in final by DOE on January 18, 1979, (44 FR 3978) provide DOE with broad new authority to allocate available supplies of refined petroleum products.

Most petroleum products are not currently subject to allocation and price controls. Only gasoline, naphtha for synthetic natural gas plant feedstocks, and natural gas liquid products are subject to controls. For those products that are not then subject to controls, DOE may in an emergency reactivate price and allocation controls through the standby product regulations, and DOE can also switch those products currently under control to the new regulations. These standby regulations may be activated to address a petroleum product supply shortage on a national basis, or on a regional basis if needed only to deal with localized supply dislocations.

A standby gasoline rationing plan is being submitted simultaneously with this conservation contingency plan to the Congress for its approval. Because of the high cost of rationing, the complexity of its administration, and the inevitable disruptions it would cause, this plan is intended for implementation only in the event of a severe gasoline supply shortfall to prevent motorists from having to wait in lines at service stations for long periods of time in order to obtain gasoline.

(3) *Reduce public and private demand for energy.* Conservation programs seek to reduce energy consumption by promoting greater efficiency and discouraging wasteful energy usage. During an emergency energy shortage, ongoing mandatory and voluntary conservation programs, such as the 55 mph speed limit and carpooling, could be intensified, and other steps for the elimination of nonessential energy usage could be taken. Individual States could implement their own conservation contingency plans, as provided for within Part C (42 U.S.C. 6321-6326), of Title III of the EPCA, and take other actions as appropriate.

During a severe and prolonged shortfall, however, even greater reductions in energy demand might be needed on a national level. When the demand for energy far

outweighs the supply, it is impossible to meet normal energy requirements and, even with the invocation of the above mandatory and voluntary measures, a large gap between supply and demand would remain. Assuming price controls, this gap would be narrowed only by temporarily curtailing or eliminating normal energy-consuming activities and habits.

The primary objective in formulating standby energy conservation plans is to identify those normal energy demands which can and should be cut back or eliminated on a short-term basis in order to minimize the impact of an energy shortage situation. The rationale for the selection of the Emergency Weekend Gasoline Sales Restrictions Plan as a standby energy conservation plan is described in the following section.

RATIONALE OF THE PLAN

In developing the standby energy conservation plans, DOE reviewed more than 250 potential measures relating to all types of energy consumption in the transportation, commercial, residential and industrial sectors. Each potential measure was evaluated in the light of various constraints that were imposed by the EPCA and other criteria developed by DOE.

The following evaluation criteria were used in the selection process.

(1) *No plan may be based on the use of rationing, taxes, tariffs, user fees, pricing mechanisms for petroleum products or tax credits or deductions.* This restriction is imposed by Section 202(a)(2) of the EPCA (42 U.S.C. 6262(a)(2)) and eliminates from consideration measures which would reduce demand through mechanisms such as a tax-rebate system, a tax on gasoline or an electricity bill surcharge.

(2) *Plans must be capable of rapid payoff.* This criterion is based on the assumption that certain types of emergencies will occur suddenly, and also on the provision in section 201(a)(1) of the EPCA (42 U.S.C. 6261(a)(1)) that no contingency plan may remain in effect more than nine months. Therefore, no measure was selected which could not have a significant demand restraint impact within 45 days following a decision to implement it.

(3) *Plans must be enforceable by Federal authorities.* although the States and localities might implement and enforce their own emergency conservation plans in the event of an energy shortage and will also be called upon to assume the delegation of enforcement and other functions under the Federal plans, these plans have been developed in such a way that they can be fully implemented and enforced at the Federal level if necessary. Coordination with State and local officials will be an essential element of the enforcement strategy.

(4) *The potential for energy demand reduction must be significant.* Only those measures were selected which offered the potential for a significant reduction in energy demand, either directly or through the capacity to heighten overall public awareness of the emergency situation and the need to conserve. In some cases, the lack of historical experience and the need to make many assumptions regarding human behavior make estimates of demand reduction for some proposed measures difficult to validate.

(5) *No measure should impose an undue hardship on any sector of the economy.* Section 521 of the EPCA (42 U.S.C. 6391), referring in part to the contingency plans, provides as follows:

"To the maximum extent practicable, any restriction * * * on the use of energy shall be designed to be carried out in such a manner so as to be fair and create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific class of industry, business, or commercial enterprise or any individual segment thereof."

This requirement of the EPCA was considered in the selection and development of plans. Such consideration is set forth in the economic analysis of each plan which was prepared pursuant to section 201(f) of the EPCA. Section 201(f) provides in part that any contingency plan "be based upon a consideration of * * * the potential economic impacts of such plans."

The impact of plans on the various sectors of the economy was analyzed from a baseline which assumes an energy shortfall that in and of itself would have a substantial impact upon the Nation's economy. In general, potential conservation plans that would not have a favorable overall impact measured from this baseline situation were rejected from consideration.

(6) *No plan should deal with more than one logically consistent subject matter.* EPCA further requires, in section 202(c), that a conservation contingency plan "shall not deal with more than one logically consistent subject matter." However, this plan should be viewed as one of a series of conservation contingency plans, allocation measures and other programs affecting transportation, residential, industrial and commercial energy consumption in a variety of economic sectors. It is our intention to have in place a range of standby energy emergency authorities, of varying degrees of stringency, which together would provide the President and the Congress with a total and flexible program for managing all types of energy shortfalls.

Based on the above criteria, this plan was selected for submission to Congress at this time. The Department of Energy is currently working on several additional plans directed primarily toward conserving fuel used for commuting, pleasure driving, and governmental functions. These plans are in earlier stages of preparation than this plan but could be made available for submission to Congress in a short period of time if emergency conditions warrant.

The Emergency Weekend Gasoline Sales Restrictions Plan provides great potential for curtailing discretionary vehicle usage on Friday, Saturday, and Sunday, since more than 50 percent of weekend vehicle miles travelled is for purposes other than earning a living. The plan is expected to reduce total VMT private households by approximately five percent.[1]

Restricting the sales of gasoline and diesel fuel on weekends would be an effective method of reducing private demand for petroleum. The economic analysis conducted concludes that approximately 246,000 bbl/day oil equivalent may be saved upon implementation of this energy conservation contingency plan. The measure has three advantages: (1) It can be put into effect in a span of a few weeks and, therefore, is capable of rapid payoff; (2) the potential for demand reduction is significant; and (3) the enforcement problems are not severe.[2] Preliminary estimated governmental costs over a nine-month period are approximately $5.2 million. Administrative costs to be borne by the private sector are negligible.

OPERATION OF THE PLAN

The Emergency Weekend Gasoline Sales Restrictions Plan requires that operators of retail filling stations restrict their gasoline and diesel fuel sales to certain types of commercial and emergency vehicles during specified weekend hours. The restricted hours, within the period of Friday noon to Sunday midnight, would be established by the DOE at the time of implementation of the plan and would be subject to revision while the plan is in operation.

During the restricted hours, retail filling station owners would be permitted to sell diesel fuel to all trucks. Gasoline could be sold only to combinations and to single-unit trucks which have six tires or more and/or a gross vehicle weight of at least 10,000 pounds. These exceptions would help assure that normal weekend transportation and delivery of most goods and services could continue. The absence of such an exception would have a significant adverse impact on the economy.

In addition, retail filling station owners would be permitted to sell gasoline or diesel fuel to the following types of vehicles:

- Emergency vehicles;
- Vehicles which are registered as common carriers with the Interstate Commerce Commission, or which are certified pursuant to I.C.C. regulations;
- Taxicabs, limousines, buses and other commercial passenger carriers for hire;
- Commercial marine craft;
- Commercial aircraft;
- Heavy construction and farm equipment;
- Energy production vehicles;
- Federal, State and local motor vehicles; and
- Any other priority vehicle classification as determined by the Secretary.

The results of a survey of state vehicle registration regulations undertaken during development of the plan revealed that there is no uniform procedure for registering or licensing vehicles that engage in essential emergency and commercial activities. Accordingly, a plan based on actual vehicle types constitutes the simplest mechanism by which retail filling station owners could identify who should receive fuel during the restricted hours. The vehicle types specified in this plan were selected following a careful analysis of the types of vehicles that normally engage in essential emergency and commercial activities on the weekend and which might have a requirement for more than one tankful of fuel. The restricted hours, to be established at the time of implementation and subject to revision, would be during at least a portion of the Firday noon to Sunday midnight period. Although the restricted hours may not cover this

[1] How this "most probable" case estimate was derived is explained fully in a separate economic analysis report prepared by DOE.

[2] DOE intends to work closely with state and local governments to develop the capacity to implement this program in the event it is needed. To the extent possible authority to provide for hardship exceptions and to enforce the requirements of the plan will be delegated to the States.

entire weekend period, the plan was designed to provide maximum flexibility.

Responsibility for implementation, administration (including determination of exceptions), monitoring and enforcement would be with DOE. However, DOE will delegate enforcement and exception functions to those States that are willing to accept them on a cost reimbursable basis, and in those cases DOE will provide general guidance and assistance, plus concurrent enforcement authority to deal with cases of great public importance. It is contemplated that where DOE retains enforcement authority, enforcement actions would follow procedures used by DOE to enforce other programs for which it has responsibility. These procedures would include onsite inspections conducted by DOE enforcement personnel.

The plan would apply in each State (including the District of Columbia, Puerto Rico, or any territory or possession of the United States) or political subdivision thereof and preempt inconsistent State or local law. The plan would provide, however, that the President or his delegate may, on his own initiative or in response to a request for exemption, exempt a State or political subdivision thereof from its application, in whole or in part, if the President or his delegate determines a comparable program is in effect or finds special circumstances exist in such State or political subdivision. These provisions are pursuant to section 202(b) of the EPCA.

Based on these assumptions pertaining to the operation of the plan, the plan could be implemented for the maximum nine months' duration at a general estimated cost to the Federal government of $5.2 million, including the cost of reimbursing the States for functions delegated to them. This estimate is very preliminary and is subject to budget review.

EMERGENCY BUILDING TEMPERATURE RESTRICTIONS (STANDBY CONSERVATION PLAN NO. 2)

Prepared by the Department of Energy and transmitted by the President to the Senate and the House of Representatives in Congress assembled, pursuant to the provisions of sections 6261, 6262, 6393(a) and 6422(a) of Title 42 of the United States Code.

CONDITIONS OF EXERCISE

SECTION 1. (a) This Plan shall not become effective unless the President:

(1) Has found that putting the Plan into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program; and

(2) Has transmitted such finding to the Congress with a statement of the effective date and manner for exercise of the Plan.

(b) This Plan may remain in effect for no more than nine months, and may be earlier rescinded by the President.

DEFINITIONS

SECTION 2. As used in this Plan:

(a) "Covered building" means every building, but excludes residential buildings, hotels and other lodging facilities, hospitals and other health care facilities, and such other buildings and facilities as the Secretary may determine.

(b) "DOE" means Department of Energy.

(c) "Domestic hot water" means hot water which is intended for use in covered buildings for personal hygiene or general cleaning.

(d) "Fuel distributor" means any person who delivers oil or other fuel for use in a covered building.

(e) "In charge of" means to have the care or custody of, or to be entrusted with the management, administration, or direction of.

(f) "Operator" means any person, whether lessee, manager, agent or other person, who is in charge of the heating, cooling or hot water of a covered building.

(g) "Owner" means the person in whom is vested legal title.

(h) "Person" means any individual, corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, the United States or any State or political subdivision thereof, the District of Columbia, Puerto Rico, any U.S. territory or possession, or any agency of the United States or any State or political subdivision thereof, or any other organization or institution.

(i) "Public utility" means a publicly regulated utility, whether publicly or privately owned and operated, which is engaged in the sale of electric power or natural gas to end-users.

(j) "Publication" means publication in the FEDERAL REGISTER and any additional notice deemed appropriate by DOE.

(k) "Residential building" means any building in which over 50% of the gross square footage is used for residential purposes.

(l) "Secretary" means the Secretary of Energy or his delegate.

(m) "Special equipment" means equipment for which carefully controlled temperature levels are necessary for proper operation or maintenance.

(n) "United States" means any State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

HEATING AND COOLING

SECTION 3. (a) The owner of a covered building shall, with respect to such covered building:

(1) Maintain the thermostat or thermostats controlling the temperatures of areas being heated, at no higher than 65°F. or any other levels which the Secretary determines are reasonable and necessary to reduce energy consumption;

(2) Maintain the thermostat or thermostats controlling the temperatures of areas being cooled at no lower than 80°F. or any other levels which the Secretary determines are reasonable restric-and necessary to reduce energy consumption; and

(3) Maintain all thermostats controlling the temperatures of areas being heated or cooled within reasonable tolerances of accuracy.

(b) Notwithstanding paragraphs (1) and (2) of subsection (a) of this section, where a "manufacturer's warranty" requires specific temperature levels for the operation of special equipment, such specified levels are permissible, and if a range is specified, that level within the range is permissible which is consistent with maximum energy savings.

(c) Notwithstanding paragraphs (1) and (2) of subsection (a) of this section, where special environmental conditions are required to protect animal or plant life or materials, such conditions may be maintained.

HOT WATER

SECTION 4. The owner of a covered building shall:

(a) maintain the thermostat or thermostats controlling the temperature of domestic hot water in such covered building at a level not in excess of 105°F. or any other levels which the Secretary determines are reasonable restrictions on the use of energy which are necessary to reduce energy consumption; and

(b) maintain all thermostats controlling the temperatures of domestic hot water within reasonable tolerances of accuracy.

(c) Notwithstanding subsection (a) of this section, water temperatures in excess of the level established pursuant to subsection (a) are permissible for water which is the only available source for dishwashing for which health codes require higher sanitizing water temperatures.

REPORTS AND RECORDKEEPING

SECTION 5. (a) The owner of a covered building shall, for such covered building, complete and post in a prominent location of the covered building, within 30 days after the effective date of this Plan, and shall update at such times as the Secretary may require, a Building Owners Certificate certifying compliance with the requirements of this Plan, in accordance with forms and instructions provided by the Secretary.

(b) In addition to the Building Owners Certificate, the owner of a covered building shall keep such records and in such form, and shall submit such reports and other information, as the Secretary may require.

OPERATORS

SECTION 6. Notwithstanding any other provisions of this Plan to the contrary, where the owner of a covered building is not the operator of such covered building, the operator and the owner shall be jointly and severally liable for the execution of owner responsibilities unde this Plan.

CUSTOMER LISTS

SECTION 7. Any public utility or fuel distributor shall make available to the Secretary, upon request, information deemed necessary by the Secretary to administer and enforce the Plan.

RELATION TO STATE LAW

SECTION 8. (a) This Plan shall apply in every State (including the District of Columbia, Puerto Rico, or any territory or possession of the United States) and political subdivision thereof and shall preempt any law of any State or political subdivision thereof to the extent that such law is inconsistent with this Plan or any rule, regulation, or order promulgated pursuant to this Plan.

(b) Notwithstanding the provisions of subsection (a) of this section, the President or his delegate, may, on his own initiative in response to a request for exemption, exempt a State or political subdivision thereof from this Plan and any rule, regulation, or order promulgated pursuant to this Plan, in whole or in part, during a period for which (1) the President or his delegate determines a comparable program of such State or political subdivision is in effect, or (2) the President or his delegate finds special circumstances exist in such State or political subdivision.

(c) A State which seeks an exemption for itself or a political subdivision thereof on

the ground that a comparable program is in effect shall submit to the Secretary a request for exemption which shall include (1) a full description of the comparable program, (2) the amount of energy which such program will conserve, (3) the period of time during which such program will be in effect, and (4) such other information as the Secretary may require, and the Secretary shall review the request and make a recommendation thereon to the President, or his delegate.

(d) A State which seeks an exemption for itself, or a political subdivision thereof, on the ground that special circumstances exist shall submit to the Secretary a request for exemption which shall include (1) a full description of the special circumstances, (2) a detailed explanation of why implementation of this Plan, in whole or in part, is not practicable, (3) an estimation of the period of time in which the special circumstances will exist, (4) any alternative energy conservation measures which may be practicable and their expected savings, and (5) such other information as the Secretary may require, and the Secretary shall review the request and make a recommendation thereon to the President or his delegate.

(e) For purposes of this section, "comparable program" means a program which deals with the same subject mater as this Plan, which is mandatory, and which conserves at least as much energy in the State or political subdivision thereof as this Plan would be expected to conserve in such State or political subdivision.

ADMINISTRATIVE PROVISIONS

SECTION 9. (a) The Secretary is authorized and directed to implement, administer (including determination of exceptions), monitor, and enforce this Plan, and to promulgate such additional rules, regulations or orders as are necessary or appropriate.

(b) Section 523 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6393) shall apply to any rule, regulation, or order having the applicability and effect of a rule as defined in Section 551(4) of Title 5, United States Code, issued under this Plan.

(c) The Secretary may delegate all or any portion of the authority granted to him under this Plan to such officers, departments or agencies of the United States, or to the Governor of any State, as he deems appropriate.

PUBLIC INFORMATION

SECTION 10. The Secretary may collect and disseminate such information in accordance with current law and policy, as he deems appropriate regarding the operation and goals of, and responsibilities under, this Plan.

PENALTIES

SECTION 11. Any person who fails to comply with any provision prescribed in, or pursuant to, this Plan shall be subject to the applicable penalties set forth in sections 524 and 525 of the Energy Policy and Conservation Act (42 U.S.C. 6394, 6395).

REPORT

SECTION 12. The Secretary shall report to Congress and the President, within 60 days after the termination of this Plan, on the operation of the Plan. Such report shall include an estimate of the energy conservation achieved and may include any recommendations deemed appropriate by the Secretary.

STATEMENT OF THE NEED FOR, RATIONALE AND OPERATION OF THE PLAN

NEED FOR THE PLAN

The Emergency Building Temperature Restrictions Plan is intended for implementation in the event of a severe energy supply interruption or in order to fulfill obligations of the United States under the International Energy Program ("IEP"). An interruption of a significant portion of the United States' foreign oil supply could produce an energy crisis of even greater severity than that produced by the 1973-1974 oil embargo. At the time of that embargo, the Nation's inability to import sufficient quantities of oil resulted in an estimated $10 to $20 billion decline in gross national product and considerable economic and social disruption. Imports now exceed eight million barrels per day, and although domestic production increased from 1977-1978, it is still lower than in 1973. At the present time the United States imports, at an annual rate, almost 50 percent of domestic petroleum requirements, compared with less than 35 percent just prior to the 1973-1974 embargo. Thus, the Nation is in some respects more vulnerable to an interruption in foreign oil supply today than just five years ago.

Under the IEP, in an embargo or shortage situation in which only one or a few member nations lose more than seven percent of normal petroleum requirements, the targeted country or countries must absorb any shortfall up to seven percent. The other member nations would share the remaining shortfall among themselves. In the event of a widespread shortage, in which all oil-consuming countries sustain a reduction of not more than seven percent of the normal petroleum consumption rate, each participating country must absorb the shortfall itself. If the shortfall exceeds seven percent but is less than twelve percent, each member must reduce consumption by seven percent; the remaining shortfall would be shared proportionately among all countries according to the IEP sharing formula. If oil supplies should fall short by twelve percent or more, each participating country must restrain demand by ten percent and share whatever oil is still available with other member nations.

As a participant in the IEP, the United States has pledged to comply with its emergency provisions, whereby each member must have ready a program of contingency demand restraint measures which would be sufficient to reduce demand for oil by seven percent and ten percent of normal consumption. These measures would likely be implemented in conjunction with storage drawdown in case of an emergency, although the IEPO agreement allows signatory countries to substitute drawdown of storage for use of demand restraint measures.

In the event of a severe petroleum shortage, three types of actions are available to alleviate the adverse impact: actions to increase domestic petroleum supplies and use alternative forms of energy; actions to distribute the available supply in an equitable manner; and actions to reduce public and private demand for energy. The authorities available to the President and other public officials for taking such actions comprise the basis of the country's energy shortfall management program. The need for energy conservation contingency plans should be viewed in the context of the actions described below.

(1) *Increased domestic petroleum supplies and use alternative forms of energy.* The following is a discussion of several of the primary means available to the United States to increase petroleum supplies or substitute other forms of energy for petroleum on an emergency basis. In a serious emergency, the Federal government would aggressively pursue some or all of these options.

(a) *Increased domestic petroleum production.* In general the United States does not have in place substantial excess crude oil production capacity and therefore is unable to increase domestic production by significant amounts during an emergency. However, some flexibility in domestic production does exist, and steps will be taken to assure that production is maximized during an emergency. Important to this effort is the need to provide adequate price incentives during periods of relatively abundant supplies to assure that new reserves are discovered and developed, that enhanced oil recovery projects are undertaken, and that the production decline rate from existing wells is slowed and production is maintained as long as possible. In addition, in an emergency, section 106 (42 U.S.C. 6214) of the Energy Policy and Conservation Act ("EPCA") (Pub. L. 94-163) authorizes the President to require produciton of petroleum or natural gas at or in excess of the maximum efficient rate.

(b) *Draw down existing inventories.* During periods of normal supply the Nation has in inventory at various levels of distribution supplies of crude oil and refined petroleum products adequate to meet total national demand for several days. Much of this total inventory is necessary to maintain the supply system in normal operation (for example, oil pipelines must be kept full for their efficient operation), but in general stocks are usually adequate to provide for shortfalls of limited duration without any interruption of supply to consumers. At the beginning of January 1979, for example, crude oil stocks were estimated to be sufficient to deal with a crude oil shortfall of about 500,000 barrels a day for 60 days before reaching the level where refinery runs would have to be significantly curtailed.

Provisions of the Standby Petroleum Product Price and Allocation Regulations recently adopted by the Department of Energy (44 FR 3978, January 18, 1979) provide regulatory means by which stock levels can be properly managed in anticipation of and during a supply interruption. They provide that the Department can update allocation base periods to reflect the most recent 12-month period of normal supplies prior to the supply emergency, thus preventing purchasers from drawing upon outdated and unneeded supply entitlements, and they allow the imposition of a mandatory allocation fraction on all suppliers in anticipation of a shortage that will result in the building of inventories to desired levels.

(c) *Draw down strategic petroleum reserves.* The Strategic Petroleum Reserve (SPR) authorized in Title I of the EPCA is scheduled to reach 750 million barrels in the 1985-1986 time period. As of the end of February 1979, 76 million barrels of crude oil will be in underground storage, and the Department of Energy plans to have 248 million barrels in storage by May 1980. Initial

withdrawal capability will be in place by September 1979 and can be put in place sooner if necessary.

(d) *Increase use of coal and other alternate fuels.* The Powerplant and Industrial Fuel Use Act of 1978 provides the President with emergency authority to ban the use of petroleum or natural gas as boiler fuel in an electric powerplant or other major fuel-burning installation capable of using coal or another alternate fuel. This Act also gives the President the authority to allocate coal as necessary. Emergency suspensions of air quality standards, also authorized by this law, would enable some expedited conversion from petroleum to coal during an emergency. Another way in which coal or other alternate fuels can be useful in a petroleum shortage involves the transfer of electricity through transmission lines from coal burning or other alternate fuel powerplants (including nuclear plants) to utilities which burn oil.

(e) *Increase use of natural gas.* The Natural Gas Policy Act eliminated the pricing distinction between the intrastate and the interstate gas markets. As a result of this action and other factors, gas supplies are relatively abundant and are available for use as substitutes for middle distillates and residual fuel oil in many markets. Propane, incremental supplies of which are derived from natural gas, is also currently available in abundant supplies.

During an interruption of pertoleum supplies, utilities, industries and commercial establishments will be encouraged to use gas, propane and other abundant alternate fuels to the maximum extent practicable.

(2) *Distribute the available supply in an equitable manner.* Supply distribution mechanisms do not increase supply, and they have limited capability for use to generally reduce demand for energy. Their principal purpose during an emergency is to provide for the distribution of the available supply of crude and product in a manner designed to assure equity and serve national priorities.

The Department of Energy's Standby Crude Oil Allocation Regulations, issued on January 9, 1979 (44 FR 3418, January 16, 1979), provide for four separate, progressively broader crude oil allocation systems. Phase I, the current crude oil buy/sell program, orders one or more of the 15 major refiners to supply crude oil to those small refiners (that is, those with less than 175,000 BPD of refining capacity) which have demonstrated that they have lost their normal crude supplies.

Phase II, a modification of the current buy/sell program, would permit emergency allocation orders to supply major and large independent refiners.

Phase III, which could be activated in a more severe general crude oil shortage involving more than just a few major and large independent refiners, would require that the current program be maintained for small refiners and that a separate standby program be implemented for major and large independent refiners. Under such a scheme, the large firms would share their available oil with small refiners as under the present program and with each other on an historic usage-current supply basis. In this instance, a national average supply ratio for the larger firms would be determmined. Firms having more oil than the average would sell crude to those having less.

The last standby crude allocation response, for use in more extreme emergencies, would involve every refiner in the country in the same allocation scheme, eliminating the current small refiner program. All refiners' available oil and historical runs to stills would be used to calculate a National Utilization Rate. Refiners with more oil than the national average, including small refiners, would sell to those with less. Under some circumstance certain small refiners could be exempted from sale obligations, and in any event they would receive a slightly better price on buy/sell transactions than large refiners.

The Standby Petroleum Product Allocation and Price Regulations, published in final DOE on January 18, 1979 (44 FR 3978) provide DOE with broad new authority to allocate available supplies of refined petroleum products.

Most petroleum products are not currently subject to allocation and price controls. Only gasoline, naphtha for synthetic natural gas plant feedstocks, and natural gas liquid products are subject to controls. For those products that are not then subject to controls, DOE may in an emergency reactivate price and allocation controls through the standby product regulations, and DOE can also switch those products currently under control to the new regulations. These standby regulations may be activated to address a petroleum product supply shortage on a national basis, or on a regional basis if needed only to deal with localized supply dislocations.

A standby gasoline rationing plan is being submitted simultaneously with this conservation contingency plan to the Congress for it approval. Because of the high cost of rationing, the complexity of its administration, and the inevitable disruptions it would cause, this plan is intended for implementation only in the event of a severe gasoline supply shortfall to prevent motorists from having to wait in lines at service stations for long periods of time in order to obtain gasoline.

(3) *Reduce public and private demand for energy.* Conservation programs seek to reduce energy consumption by promoting greater efficiency and discouraging wasteful energy usage. During an emergency energy shortage, ongoing mandatory and voluntary conservation programs, such as the 55 mph speed limit and carpooling, could be intensified, and other steps for the elimination of nonessential energy usage could be taken. Individual States could implement their own conservation contingency plans, as provided for within Part C (42 U.S.C. 6321-6326), of Title III of the EPCA, and take other actions as appropriate.

During a severe and prolonged shortfall, however, even greater reductions in energy demand might be needed on a national level. When the demand for energy far outweighs the supply, it is impossible to meet normal energy requirement and, even the invocation of the above mandatory and voluntary measures, a large gap between supply and demand would remain. Assuming price controls, this gap would be narrowed only by temporarily curtailing or eliminating normal energy-consuming activities and habits.

The primary objective in formulating standby energy conservation plans is to identify those normal energy demands which can and should be cut back or eliminated on a short-term basis in order to minimize the impact of an energy shortage situation. The rationale for the selection of the Emergency Building Temperature Restrictions Plan as a standby energy conservation plan is described in the following section.

RATIONALE OF THE PLAN

In developing the standby energy conservation plans, DOE reviewed more than 250 potential measures relating to all types of energy consumption in the transportation, commercial, residential and industrial sectors. Each potential measure was evaluated in the light of various constraits that were imposed by the EPCA and other criteria developed by DOE.

The following evaluation criteria were used in the selection process.

(1) *No plan may be based on the use of rationing, taxes, tariffs, user fees, pricing mechanisms for petroleum products or tax credits or deductions.* This restriction is imposed by Section 202(a)(2) of the EPCA (42 U.S.C. 6262(a)(2)) and eliminates from consideration measures which would reduce demand through mechanisms such as a tax-rebate system, a tax on gasoline or an electricity bill surcharge.

(2) *Plans must be capable of rapid payoff.* This criterion is based on the assumption that certain types of emergencies will occur suddenly, and also on the provision in section 201(a)(1) of the EPCA (42 U.S.C. 6261(a)(1)) that no contingency plan may remain in effect more than nine months. Therefore, no measure was selected which could not have a significant demand restraint impact within 45 days following a decision to implement it.

(3) *Plans must be enforceable by Federal authorities.* Although the States and localities might implement and enforce their own emergency conservation plans in the event of an energy shortage and will also be called upon to assume the delegation of enforcement and other functions under the Federal plans, these plans have been developed in such way that they can be fully implemented and enforced at the Federal level if necessary. Coordination with State and local officials will be an essential element of the enforcement strategy.

(4) *The potential for energy demand reduction must be significant.* Only those measures were selected which offered the potential for a significant reduction in energy demand, either directly or through the capacity to heighten overall public awareness of the emergency situation and the need to conserve. In some cases, the lack of historical experience and the need to make many assumptions regarding human behavior make estimates of demand reduction for some proposed measures difficult to validate.

(5) *No measure should impose an undue hardship on any sector of the economy.* Section 521 of the EPCA (42 U.S.C. 6391), referring in part to the contingency plans, provides as follows:

"To the maximum extent practicable, any restriction * * * on the use of energy shall be designed to be carried out in such a manner so as to be fair and create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific class of industry, business, or commercial enterprise or any individual segment thereof."

This requirement of the EPCA was considered in the selection and development of plans. Such consideration is set forth in the economic analysis of each plan which was prepared pursuant to section 201(f) of the EPCA. Section 201(f) provides in part that any contingency plan "be based upon a consideration of * * * the potential economic impacts of such plans."

The impact of plans on the various sectors of the economy was analyzed from a baseline which assumes an energy shortfall that in and of itself would have a substantial impact upon the Nation's economy. In general, potential conservation plans that would not have a favorable overall impact measured from this baseline situation were rejected from consideration.

(6) *No plan should deal with more than one logically consistent subject matter.* EPCA further requires, in section 202(c), that a conservation contingency plan "shall not deal with more than one logically consistent subject matter." However, this plan should be viewed as one of a series of conservation contingency plans, allocation measures and other programs affecting transportation, residential, industrial and commercial energy consumption in a variety of economic sectors. It is our intention to have in place a range of standby energy emergency authorities, of varying degrees of stringency, which together would provide the President and the Congress with a total and flexible program for managing all types of energy shortfalls.

Based on the above criteria, this plan was selected for submission to Congress at this time. The Department of Energy is currently working on several additional plans directed primarily toward conserving fuel used for commuting, pleasure driving, and governmental functions. These plans are in earlier stages of preparation than this plan but could be made available for submission to Congress in a short period of time if emergency conditions warrant.

The Emergency Building Temperature Restrictions Plan was selected since nearly one quarter of the petroleum consumed in the United States is used for space heating and cooling and the production of hot water. The establishment of stringent but tolerable operating standards for some five million nonresidential buildings could bring about a significant reduction in demand for energy during a shortage period. It is estimated that full compliance with the plan's requirements would reduce demand for petroleum products by 364,000 barrels per day within 30 days of implementation, assuming that voluntary conservation measures have already caused temperatures in covered buildings to be within three degrees, on the average, of mandated levels.

The plan's mandatory thermostat settings can be enforced by Federal, State or local inspection personnel in a manner similar to that in which other operating standards for buildings are currently enforced. An economic analysis prepared by the Department of Energy has concluded that the proposed plan would not impose an undue economic hardship on any sector of the economy.

OPERATION OF THE PLAN

The Emergency Building Temperature Restrictions Plan would require that owners[1] of most nonresidential buildings maintain thermostat settings at no higher than 65° F for space heating, at no lower than 80° F for space cooling, and at no higher than 105° F for hot water intended for personal hygiene and general cleaning purposes. The plan would permit DOE to establish other reasonable heating, cooling and hot water temperature levels which it deems are necessary in the circumstances. The plan would also require that thermostats be maintained within reasonable tolerances of accuracy in order to insure that actual temperature levels would be consistent with the required thermostat settings.

Buildings covered by the requirements of the plan include schools, churches, retail and wholesale establishments, entertainment facilities, government and private office buildings, industrial plants, transportation depots and the like. Specifically excluded from coverage are residential buildings (buildings in which over 50% of the gross square footage is used for residential purposes), hotels and other lodging facilities and hospitals and other health care facilities. The plan also exempts from the heating and cooling restrictions those buildings or areas of buildings where specified temperature levels are required by manufacturers' warranties for the operation of special equipment (such as electronic data processing machinery) or where special environmental conditions are necessary in order to protect animal or plant life or materials. The plan exempts from the hot water restrictions hot water which is the only available source for dishwashing and for which health codes require higher sanitizing water temperatures. (Many dishwashing machines do not have sufficient booster capacity to raise 105° water to sanitizing levels.)

The thermostat levels specified above were selected following careful analysis of experience with comparable conservation efforts, including the Federal Energy Management Program and similar programs in the private sector. The 65° and 80° temperature levels are consistent with standards set by the Occupational Safety and Health Administration, and existing studies indicate that the establishment of these temperature levels for space heating and cooling would not bring about a significant decline in employee performance or productivity. In the case of hot water, the 105° F temperature level is adequate for personal hygiene and general cleaning purposes.

With respect to buildings which include both commercial and residential space, it is the Department's intention to adopt regulations which will, to the extent practicable, apply only to the commercial space. Where a significant portion of a building is legitimately used for residential purposes and the individual units are not and cannot readily be equipped with their own thermostats, the Department will generally except the entire building from the temperature restrictions of the plan.

Within 30 days of activation of the plan by the President, the owner of each building covered by the plan would be required to execute a self-certification form certifying compliance with the provisions of the plan. The completed form would be displayed in a prominent location in the appropriate building.

Responsibility for implementation, administration (including determination of exceptions), monitoring and enforcement would be with DOE. However, DOE will delegate enforcement and exception functions to those States that are willing to accept them on a cost reimbursable basis, and in those cases DOE will provide general guidance and assistance, plus concurrent enforcement authority to deal with cases of great public importance. It is contemplated that where DOE retains enforcement authority, enforcement actions would follow procedures used by DOE to enforce other programs for which it has responsibility. These procedures would include onsite inspections conducted by DOE enforcement personnel.

The plan would apply in each State (including the District of Columbia, Puerto Rico, or any territory or possession of the United States) or political subdivision thereof and preempt inconsistent State or local law. The plan would provide, however, that the President or his delegate may, on his own initiative or in response to a request for exemption, exempt a State or political subdivision thereof from its application, in whole or in part, if the President or his delegate determines a comparable program is in effect or finds special circumstances exist in such State or political subdivision. These provisions are pursuant to section 202(b) of the EPCA.

Based on these assumptions pertaining to the operation of the plan, the plan could be implemented for the maximum nine months' duration at a general estimated cost to the Federal Government of $8.1 million, including the cost of reimbursing the State for functions delegated to them. This estimate is very preliminary and is subject to budget review.

EMERGENCY ADVERTISING LIGHTING RESTRICTIONS (STANDBY CONSERVATION PLAN NO. 3)

Prepared by the Department of Energy and transmitted by the President to the Senate and the House of Representatives in Congress assembled, pursuant to the provisions of sections 6261, 6262, 6393(a) and 6422(a) of Title 42 of the United States Code.

CONDITIONS OF EXERCISE

SECTION 1. (a) This plan shall not become effective unless the President:

(1) Has found that putting the plan into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the International Energy Program; and

(2) Has transmitted such finding to the Congress with a statement of the effective date and manner for exercise of the plan.

(b) This plan may remain in effect for no more than nine months, and may be rescinded earlier by the President.

DEFINITIONS

SECTION 2. As used in this plan:

(a) "Advertising sign" means a sign or device which identifies or describes a firm, product, product characteristic, trademark, or service.

(b) "DOE" means Department of Energy.

(c) "Person" means any individual, corporation, company, association, firm, partnership, society, trust, joint venture, joint stock company, the United States or any State or political subdivision thereof, the District of Columbia, Puerto Rico, any U.S. Territory or possession, or any agency of the United States or any State or political subdivision

[1] Where the owner of a covered building is not the operator, the owner and operator would be made jointly and severally liable for the execution of owner responsibilities under the Plan.

thereof, or any other organization or institution.

(d) "Secretary" means the Secretary of Energy or his delegate.

(e) "United States" means any State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(f) "Window display" means any display of products, merchandise, and/or decorative items which is primarily intended for viewing by individuals through a window or windows on the perimeter of an area where business is transacted.

REDUCTION OF ADVERTISING LIGHTING

SECTION 3. (a) No person shall:

(1) Use electricity for illumination of any advertising sign; or

(2) Use electricity for illumination of any window display.

(b) Notwithstanding the provisions of subsection (a)(1) of this section, any commercial, retail or service establishment when open for business may use electricity for illumination of any advertising sign that is essential to direct customers to the open business by identifying it and/or by informing customers of the products or services supplied by it.

RELATION TO STATE LAW

SECTION 4. (a) This plan shall apply in every State (including the District of Columbia, Puerto Rico, or any territory or possession of the United States) and political subdivision thereof and shall preempt any law of any State or political subdivision thereof to the extent that such law is inconsistent with this plan or any rule, regulation, or order promulgated pursuant to this plan.

(b) Notwithstanding the provisions of subsection (a) of this section, the President or his delegate may, on his own intiative or in response to a request for exemption, exempt a State or political subdivision thereof from this plan and any rule, regulation, or order promulgated pursuant to this plan, in whole or in part, during a period for which (1) the President or his delegate determines a comparable program of such State or political subdivision is in effect, or (2) the President or his delegate finds special circumstances exist in such State or political subdivision.

(c) A State which seeks an exemption for itself or a political subdivision thereof on the ground that a comparable program is in effect shall submit to the Secretary a request for exemption which shall include: (1) A full description of the comparable program, (2) the amount of energy which such program will conserve, (3) the period of time during which such program will be in effect, and (4) such other information as the Secretary may require, and the Secretary shall review the request and make a recommendation thereon to the President or his delegate.

(d) A State which seeks an exemption for itself or a political subdivision thereof on the ground that special circumstances exist shall submit to the Secretary a request for exemption which shall include (1) a full description of the special circumstances, (2) a detailed explanation of why implementation of this plan, in whole or in part, is not practicable, (3) an estimation of the period of time in which the special circumstances will exist, (4) any alternative energy conservation measures which may be practicable and their expected savings, and (5) such other information as the Secretary may require, and the Secretary shall review the request and make a recommendation thereon to the President of his delegate.

(e) For purposes of this section, "comparable program" means a mandatory program which deals with the same subject matter as this Plan, and which conserves at least as much energy in the State or political subdivision thereof as this plan would be expected to conserve in such State or political subdivision.

ADMINISTRATIVE PROVISIONS

SECTION 5. (a) The Secretary is authorized and directed to implement, administer (including determination of exceptions), monitor and enforce this plan, and to promulgate such additional rules, regulations or orders as are necessary or appropriate.

(b) Section 523 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6393) shall apply to any rule, regulation, or order having the applicability and effect of a rule as defined in Section 551(4) of Title 5, United States Code, issued under this plan.

(c) The Secretary may delegate all or any portion of the authority granted to him under this plan to such officers, departments or agencies of the United States, or to the Governor of any State, as he deems appropriate.

PUBLIC INFORMATION

SECTION 6. The Secretary may collect and disseminate such information in accordance with current law and policy as he deems appropriate regarding the operation and goals of, and responsibilities under, this plan.

PENALTIES

SECTION 7. Any person who fails to comply with any provision prescribed in, or pursuant to, this plan shall be subject to the applicable penalties set forth in Sections 524 and 525 of the Energy Policy and Conservation Act (42 U.S.C. 6394, 6395).

REPORT

SECTION 8. The Secretary shall report to Congress and the President, within 60 days after the termination of this plan, on the operation of the plan. Such report shall include an estimate of the energy conservation achieved and may include any recommendations deemed appropriate by the Secretary.

STATEMENT OF THE NEED FOR, RATIONALE AND OPERATION OF THE PLAN

NEED FOR THE PLAN

The Emergency Advertising Lighting Restrictions Plan is intended for implementation in the event of a severe energy supply interruption or in order to fulfill obligations of the United States under the International Energy Program ("IEP"). An interruption of a significant portion of the United States' foreign oil supply could produce an energy crisis of even greater severity than that produced by the 1973-1974 oil embargo. At the time of that embargo, the Nation's inability to import sufficient quantities of oil resulted in an estimated $10 to $20 billion decline in gross national product and considerable economic and social disruption. Imports now exceed eight million barrels per day, and although domestic production increased from 1977-1978, it is still lower than in 1973. At the present time the United States imports, at an annual rate, almost 50 percent of domestic petroleum requirements, compared with less than 35 percent just prior to the 1973-1974 embargo. Thus, the Nation is in some respects more vulnerable to an interruption in foreign oil supply today than just five years ago.

Under the IEP, in an embargo or shortage situation in which only one or a few member nations lose more than seven percent of normal petroleum requirements, the targeted country or countries must absorb any shortfall up to seven percent. The other member nations would share the remaining shortfall among themselves. In the event of a widespread shortage, in which all oil-consuming countries sustain a reduction of not more than seven percent of the normal petroleum consumption rate, each participating country must absorb the shortfall itself. If the shortfall exceeds seven percent but is less than twelve percent, each member must reduce consumption by seven percent; the remaining shortfall would be shared proportionately among all countries according to the IEP sharing formula. If oil supplies should fall short by twelve percent or more, each participating country must restrain demand by ten percent and share whatever oil is still available with other member nations.

As a participant in the IEP, the United States has pledged to comply with its emergency provisions, whereby each member must have ready a program of contingency demand restraint measures which would be sufficient to reduce demand for oil by seven percent and ten percent of normal consumption. These measures would likely be implemented in conjunction with storage drawdown in case of an emergency, although the IEP agreement allows signatory countries to substitute drawdown of storage for use of demand restraint measures.

In the event of a severe petroleum shortage, three types of actions are available to alleviate the adverse impact: Actions to increase domestic pertroleum supplies and use alternative forms of energy; actions to distribute the available supply in an equitable manner; and actions to reduce public and private demand for energy. The authorities available to the President and other public officials for taking such actions comprise the basis of the country's energy shortfall management program. The need for energy conservation contingency plans should be viewed in the context of the actions described below.

(1) *Increase domestic petroleum supplies and use alternative forms of energy.* The following is a discussion of several of the primary means available to the United States to increase petroleum supplies or substitute other forms of energy for petroleum on an emergency basis. In a serious emergency, the Federal government would aggressively pursue some or all of these options.

(a) *Increase domestic petroluem production.* In general the United States does not have in place substantial excess crude oil production capacity and therefore is unable to increase domestic production by significant amounts during an emergency. However, some flexibility in domestic production does exist, and steps will be taken to assure that production is maximized during an emergency. Important to this effort is the need to provide adequate price incentives during priods of relatively abundant supplies to assure that new reserves are discovered and developed, that enhanced oil recovery projects are undertaken, and that the

production decline rate from existing wells is slowed and production is maintained as long as possible. In addition, in an emergency, section 106 (42 U.S.C. 6214) of the Energy Policy and Conservation Act ("EPCA") (Pub. L. 94-163) authorizes the President to require production of petroleum or natural gas at or in excess of the maximum efficient rate.

(b) *Draw down existing inventories.* During perios of normal supply the Nation has in inventory at various levels of distribution supplies of crude oil and refined petroleum products adequate to meet total national demand for several days. Much of this total inventory is necessary to maintain the supply system in normal operation (for example, oil pipelines must be kept full for their efficient operation), but in general stocks are usually adequate to provide for shortfalls of limited duration without any interruption of supply to consumers. At the beginning of January 1979, for example, crude oil stocks were estimated to be sufficient to deal with a crude oil shortfall of about 500,000 barrels a day for 60 days before reaching the level where refinery runs would have to be significantly curtailed.

Provisions of the Standby Petroleum Product Price and Allocation Regulations recently adopted by the Department of Energy (44 FR 3978, January 18, 1979) provide regulatory means by which stock levels can be properly managed in anticipation of and during a supply interruption. They provide that the Department can update allocation base periods to reflect the most recent 12-month period of normal supplies prior to the supply emergency, thus preventing purchasers from drawing upon outdated and unneeded supply entitlements, and they allow the imposition of a mandatory allocation fraction on all suppliers in anticipation of a shortage that will result in the building of inventories to desired levels.

(c) *Draw down strategic petroleum reserves.* The Strategic Petroleum Reserve (SPR) authorized in Title I of the EPCA is scheduled to reach 750 million barrels in the 1985-1986 time period. As of the end of February 1979, 76 million barrels of crude oil will be in underground storage, and the Department of Energy plans to have 248 million barrels in storage by May 1980. Initial withdrawl capability will be in place by September 1979 and can be put in place sooner if necessary.

(d) *Increase use of coal and other alternate fuels.* The Powerplant and Industrial Fuel Use Act of 1978 provides the President with emergency authority to ban the use of petroleum or natural gas as boiler fuel in an electric powerplant or other major fuel-burning installation capable of using coal or another alternate fuel. This Act also gives the President the authority to allocate coal as necessary. Emergency suspensions of air quality standards, also authorized by this law, would enable some expedited conversion from petroleum to coal during an emergency. Another way in which coal or other alternate fuels can be useful in a petroleum shortage involves the transfer of electricity through transmission lines from coal burning or other alternate fuel powerplants (including nuclear plants) to utilities which burn oil.

(e) *Increase use of natural gas.* The Natural Gas Policy Act eliminated the pricing distinction between the intrastate and the interstate gas markets. As a result of this action and other factors, gas supplies are relatively abundant and are available for use as substitutes for middle distillates and residual fuel oil in many markets. Propane, incremental supplies of which are derived from natural gas, is also currently available in abundant supplies.

During an interruption of petroleum supplies, utilities, industries and commerical establishments will be encouraged to use gas, propane and other abundant alternate fuels to the maximum extent practicable.

(2) *Distribute the available supply in an equitable manner.* Supply distribution mechanisms do not increase supply, and they have limited capability for use to generally reduce demand for energy. Their principal purpose during an emergency is to provide for the distribution of the available supply of crude and product in a manner designed to assure equity and serve national priorities.

The Department of Energy's Standby Crude Oil Allocation Regulations, issued on January 9, 1979 (44 FR 3418, January 16, 1979), provide for four separate, progressively broader crude oil allocation systems. Phase I, the current crude oil buy/sell program, orders one or more of the 15 major refiners to supply crude oil to those small refiners (that is, those with less than 175,000 BPD of refining capacity) which have demonstrated that they have lost their normal crude supplies.

Phase II, a modification of the current buy/sell program, would permit emergency allocation orders to supply major and large independent refiners.

Phase III, which could be activated in a more severe general crude oil shortage involving more than just a few major and large independent refiners, would require that the current program be maintained for small refiners and that a separate standby program be implemented for major and large independent refiners. Under such a scheme, the large firms would share their available oil with small refiners as under the present program and with each other on an historic usage/current supply basis. In this instance, a national average supply ratio for the larger firms would be determined. Firms having more oil than the average would sell crude to those having less.

The last standby crude allocation response, for use in more extreme emergencies, would involve every refiner in the country in the same allocation scheme, eliminating the current small refiner program. All refiners' available oil and historical runs to stills would be used to calculate a National Utilization Rate. Refiners with more oil than the national average, including small refiners, would sell to those with less. Under some circumstances certain small refiners could be exempted from sale obligations, and in any event they would receive a slightly better price on buy/sell transactions than large refiners.

The Standby Petroleum Product Allocation and Price Regulations, published in final by DOE on January 18, 1979, (44 FR 3978) provide DOE with broad new authority to allocate available supplies of refined petroleum products.

Most petroleum products are not currently subject to allocation and price controls. Only gasoline, naphtha for synthetic natural gas plant feedstocks, and natural gas liquid products are subject to controls. For those products that are not then subject to controls, DOE may in an emergency reactivate price and allocation controls through the standby product regulations, and DOE can also switch those products currently under control to the new regulations. These standby regulations may be activated to address a petroleum product supply shortage on a national basis, or on a regional basis if needed only to deal with localized supply dislocations.

A standby gasoline rationing plan is being submitted simultaneously with this conservation contingency plan to the Congress for its approval. Because of the high cost of rationing, the complexity of its administration, and the inevitable disruptions it would cause, this plan is intended for implementation only in the event of a severe gasoline supply shortfall to prevent motorists from having to wait in lines at service stations for long periods of time in order to obtain gasoline.

(3) *Reduce public and private demand for energy.* Conservation programs seek to reduce energy consumption by promoting greater efficiency and discouraging wasteful energy usage. During an emergency energy shortage, ongoing mandatory and voluntary conservation programs, such as the 55 mph speed limit and carpooling, could be intensified, and other steps for the elimination of nonessential energy usage could be taken. Individual States could implement their own conservation contingency plans, as provided for within Part C (42 U.S.C. 6321-6326), of Title III of the EPCA, and take other actions as appropriate.

During a severe and prolonged shortfall, however, even greater reductions in energy demand might be needed on a national level. When the demand for energy far outweighs the supply, it is impossible to meet normal energy requirements and, even with the invocation of the above mandatory and voluntary measures, a large gap between supply and demand would remain. Assuming price controls, this gap would be narrowed only by temporarily curtailing or eliminating normal energy-consuming activities and habits.

The primary objective in formulating standby energy conservation plans is to identify those normal energy demands which can and should be cut back or eliminated on a short-term basis in order to minimize the impact of an energy shortage situation. The rationale for the selection of the Emergency Advertising Lighting Restrictions Plan as a standby energy conservation plan is described in the following section.

RATIONALE OF THE PLAN

In developing the standby energy conservation plans, DOE reviewed more than 250 potential measures relating to all types of energy consumption in the transportation, commercial, residential and industrial sectors. Each potential measure was evaluated in the light of various constraints that were imposed by the EPCA and other criteria developed by DOE.

The following evaluation criteria were used in the selection process.

(1) *No plan may be based on the use of rationing, taxes, tariffs, user fees, pricing mechanisms for petroleum products or tax credits or deductions.* This restriction is imposed by Section 202(a)(2) of the EPCA (42 U.S.C. 6262(a)(2)) and eliminates from consideration measures which would reduce demand through mechanisms such as a tax-rebate system, a tax on gasoline or an electricity bill surcharge.

(2) *Plans must be capable of rapid payoff.* This criteria is based on the assumption that certain types of emergencies will occur suddenly, and also on the provision in section 201(a)(1) of the EPCA (42 U.S.C. 6261(a)(1)) that no contingency plan may remain in effect more than nine months. Therefore, no measure was selected which could not have a significant demand restraint impact within 45 days following a decision to implement it.

(3) *Plans must be enforceable by Federal authorities.* Although the States and localities might implement and enforce their own emergency conservation plans in the event of an energy shortage and will also be called upon to assume the delegation of enforcement and other functions under the Federal plans, these plans have been developed in such a way that they can be fully implemented and enforced at the Federal level if necessary. Coordination with State and local officials will be an essential element of the enforcement strategy.

(4) *The potential for energy demand reduction must be significant.* Only those measures were selected which offered the potential for a significant reduction in energy demand, either directly or through the capacity to heighten overall public awareness of the emergency situation and the need to conserve. In some cases, the lack of historical experience and the need to make many assumptions regarding human behavior make estimates of demand reduction for some proposed measures difficult to validate.

(5) *No measure should impose an undue hardship on any sector of the economy.* Section 521 of the EPCA (42 U.S.C. 6391), referring in part to the contingency plans, provides as follows:

"To the maximum extent practicable, any restriction * * * on the use of energy shall be designed to be carried out in such a manner so as to be fair and create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific class of industry, business, or commercial enterprise or any individual segment thereof."

This requirement of the EPCA was considered in the selection and development of plans. Such consideration is set forth in the economic analysis of each plan which was prepared pursuant to section 201(f) of the EPCA. Section 201(f) provides in part that any contingency plan "be based upon a consideration of * * * the potential economic impacts of such plans."

The impact of plans on the various sectors of the economy was analyzed from a baseline which assumes an energy shortfall that in and of itself would have a substantial impact upon the Nation's economy. In general, potential conservation plans that would not have a favorable overall impact measured from this baseline situation were rejected from consideration.

(6) *No plan should deal with more than one logically consistent subject matter.* EPCA further requires, in section 202(c), that a conservation contingency plan "shall not deal with more than one logically consistent subject matter." However, this plan should be viewed as one of a series of conservation contingency plans, allocation measures and other programs affecting transportation, residential, industrial and commercial energy consumption in a variety of economic sectors. It is our intention to have in place a range of standby energy emergency authorities, of varying degrees of stringency, which together would provide the President and the Congress with a total and flexible program for managing all types of energy shortfalls.

Based on the above criteria, this plan was selected for submission to Congress at this time. The Department of Energy is currently working on several additional plans directed primarily toward conserving fuel used for commuting, pleasure driving, and governmental functions. These plans are in earlier stages of preparation than this plan but could be made available for submission to Congress in a short period of time if emergency conditions warrant.

The Emergency Advertising Lighting Restrictions Plan is considered important because advertising lighting would constitute an especially conspicuous and visible form of energy consumption during an emergency. A mandatory plan to minimize excessive and unnecessary illumination of advertising and display lighting would reduce demand for energy by approximatley 4,000 barrels per day of oil, assuming full compliance. A more important benefit, however, is that the restrictions would serve as a constant reminder to the general public of the severity of the energy shortage situation and the need to conserve at all times.

OPERATION OF THE PLAN

The Emergency Advertising Lighting Restrictions Plan prohibits the use of electricity for the illumination of advertising signs and window displays. However, the plan does permit any commercial, retail of service establishment that is open for business to illuminate any advertising sign which is essential to direct customers to the open business by identifying it and/or by informing customers of the products or services supplied by it.

The restrictions on advertising lighting contained in the plan were selected following a careful analysis of safety and security considerations and the needs of both businesses and consumers. Street and highway lights are not included in the restrictions due to their importance in reducing the potential for crime and motor vehicle accidents.

Responsibility for implementation, administration (including determination of exceptions), monitoring and enforcement would be with DOE. However, DOE will delegate enforcement and exception functions to those States that are willing to accept them on a cost reimburseable basis, and in those cases DOE will provide general guidance and assistance, plus concurrent enforcement authority to deal with cases of great public importance. It is contemplated that where DOE retains enforcement authority, enforcement actions would follow procedures used by DOE to enforce other programs for which it has responsibility. These procedures would include onsite inspections conducted by DOE enforcement personnel.

The plane would apply in each State (including the District of Columbia, Puerto Rico, or any territory or possession of the United States) or political subdivision thereof and preempt inconsistent State or local law. The plan would provide, however, that the President or his delegate may, on his own initiative or in response to a request for exemption, exempt a State or political subdivision thereof from its application, in whole or in part, if the President or his delegate determines a comparable program is in effect or finds special circumstances exist in such State or political subdivision. These provisions are pursuant to section 202(b) of the EPCA.

Based on these assumptions pertaining to the operation of the plan, the plan could be implemented for the maximum nine months' duration at a general estimated cost to the Federal government of $3.1 million, including the cost of reimbursing the States for functions delegated to them. This estimate is very preliminary and is subject to budget review.

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federal register

THURSDAY, MARCH 8, 1979

PART VI

DEPARTMENT OF ENERGY

■

ASSISTANCE REGULATIONS

Final Rule

[6450-01-M]

Title 10—Energy

CHAPTER, II—DEPARTMENT OF ENERGY

SUBCHAPTER H—ASSISTANCE REGULATIONS

PART 600—ASSISTANCE REGULATIONS

Final Rulemaking

AGENCY: Department of Energy.

ACTION: Final Rule.

SUMMARY: This rule consolidates guidance issued by Federal Energy Administration (FEA) and Energy Research and Development Administration (ERDA); implements Department of Energy's (DOE) authority to use financial assistance instruments; implements final office of management and Budget (OBM) guidance on implementation of the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95-224) 43 FR 36860 and made a part of these regulations as Appendix A; OMB Circular Nos. A-102 and A-110; enunciates policy for providing financial assistance to individuals and profitmaking organizations; and establishes a coherent regulatory basis for DOE's use of financial assistance instruments.

This rule brings each of DOE's constituent organizations under the umbrella of a single, uniform regulatory system. The effect of this rule will be to simplify the application for, and award and administration of, DOE assistance funds. The Department of Energy has determined that this rule does not involve a substantial issue of fact or law, and that it is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. This determination is based on the fact that this rule has been configured primarily to accommodate the several organizational transfers to the DOE; moreover, this rule in major part implements grants and financial assistance policies which have been published by the Office of Management and Budget, and does not, in its own right, establish eligibility for DOE assistance programs.

EFFECTIVE DATE: March 8, 1979.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: On August 21, 1978, DOE published a notice of proposed rulemaking (43 FR 36962-36972) to establish the DOE Assistance Regulations. Comments from four organizations were received reflecting profitmaking, university, nonprofit, and local government points of view.

The remainder of this preamble will consist of summaries of the substantive comments received; a response to each; and any change made to the proposed rule as a result of the comment.

Comment: In § 600.32 there are two references ((b)(1)(ii) and 600.2-8) which do not appear in 10 CFR Part 600.

Response: The references in § 600.32 have been corrected from (b)(1)(ii) and 600.2-8 to (b)(2) and 600.9 respectively.

Comment: Section 600.108(b)(4) "Post-expiration costs," does not, but should, recognize that costs associated with the final reports prepared by principal investigators in institutions of higher education occur after the agreement expiration date.

Response: Since OMB Circular No. A-110, Attachment G, paragraph 3.a. (4) permits the submission of annual and final reports up to 90 days after the expiration date of the award, § 600.108(b)(4) was modified to allow report preparation cost for institutions of higher education to be incurred up to 90 days after the award expiration date.

Comment: Section 600.109(a) "Financial reporting requirements," requires that financial reports be submitted to DOE on an accrual basis, notwithstanding whether the recipient's accounting system is on a cash or accrual basis. This creates great difficulty for those institutions having a cost basis accounting system.

Response: OMB Circular Nos. A-102 and A-110 permit the submission of financial reports on either a cash or accrual basis. Since major granting agencies, such as Department of Health, Education, and Welfare (DHEW), accept financial reports on either a cash or accrual basis, and in the interest of simplification of grant procedures as directed by President Carter's Federal Aid reform initiatives, § 600.109(a) of the Assistance Regulation has been revised to reflect that grantees may submit financial reports on either a cash or accrual basis, whichever the grantee uses in its accounting system.

Comment: Section 600.37 imposes a responsibility on DOE to provide timely notice to the public as to the availability of assistance awards. In order to maximize involvement of prospective subgrantees, particularly in grant programs awarded directly to states, the policy should be revised to require that prime grantees provide timely notice as to the availability of assistance funds to prospective subgrantees.

Response: Section 600.37 has been revised to adopt this recommendation.

Comment: Section 600.110 entitled "Monitoring and reporting of program performance," allows the use of DOE substitute forms if formally approved by DOE and OMB. The regulation should require DOE, and prime recipients where subrecipients are required to report, to formally communicate reporting requirements to recipients and subrecipients prior to award.

Response: Section 600.110 has been revised to adopt this recommendation.

Comment: DOE is wholly without legal authority to initiate this proposed assistance program.

Response: The proposed rule is not a program. It is a regulation applicable to the making of assistance awards which are authorized by DOE program legislation. Section 600.3 states that "The DOE Assistance Regulations do not in and of themselves, provide authority for the use of assistance instruments nor the making of assistance awards where statutory authority has not been otherwise provided." Generic authority to award grants and cooperative agreements is provided by Pub. L. 95-224, the Federal Grant and Cooperative Agreement Act of 1977.

Comment: The latitude afforded in the proposed regulations for the selective award of money to special interest parties in order to pursue matters beyond the scope of Congressionally mandated purposes, must be eliminated. The regulation should be redrafted to ensure that, before the making of any award of money, competitive practices have been observed.

Response: As noted above, the proposed regulation implements statutory authority and emphasizes that DOE assistance funds shall be awarded on an objective, legal, and open basis. Section 600.37 requires DOE to provide timely notice to the public as to the availability of assistance awards. Section 600.835 states that DOE's policy preference is to solicit proposals or applications where discretionary awards are available, rather than rely upon unsolicited proposals or applications. Section 600.38 requires justification of any eligibility restriction not established by program legislation. Section 600.34 permits acceptance of unsolicited proposals, but only after it has been determined that they meet the stringent acceptance criteria set forth in § 600.34(h). The foregoing policies emphasize the need for fairness and are expected to achieve this end.

APPROACH

The DOE Assistance Regulation is intended to contain regulatory material concerning administrative and other Federal requirements applicable to recipients of financial assistance instruments including grants and cooperative agreements. Nonregulatory administrative requirements necessary for DOE's internal management of financial assistance instruments will be developed in an internal DOE Financial Assistance Manual available to the public upon request.

The Assistance Regulation in its current form represents the beginning of an assistance regulatory system for DOE. Additional policies will be added as needed.

The Assistance Regulation is subdivided into subparts. Subpart A contains information about the regulation structure, definitions, and general policies applicable to financial assistance instruments. Subpart B pertains only to grants. The major portion of subpart B is the implementation of OMB Circular Nos. A-102 and A-110. Subpart C is reserved for a future regulation which will cover cooperative agreements.

EFFECT ON EXISTING POLICIES

The Energy Research and Development Administration (ERDA) Federal Assistance Manual (FAM) which was published in the FEDERAL REGISTER on May 31, 1977, contained regulations applicable to grantees and internal procedural material. This regulation supersedes that part of the ERDA-FAM applicable to grantees.

This regulation does not supersede grant program regulations issued prior to the effective date of this regulation. However, in the interests of simplifying administrative requirements on DOE grantees, revisions to preexisting program regulations issued after this regulation becomes effective shall be subject to this regulation.

OTHER INFORMATION

NOTE.—The Department of Energy has determined that this rule does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107. The Department has also determined that this rule will not affect the quality of the environment and that the requirements of Section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, do not apply. Further, the DOE-AR's do not involve substantial issues of fact or law and the regulations are unlikely to have a substantial impact on either the Nation's economy or large numbers of individuals or businesses. Therefore public hearings were not conducted.

Issued in Washington, D.C., March 1, 1979.

M. J. TASHJIAN,
Director Procurement and Contracts Management Directorate.

This part sets forth regulations governing the use of assistance instruments including grants and cooperative agreements.

A new Subchapter H—Assistance Regulations and a New "Part 600—Assistance Regulations," are hereby established in "Chapter II—Department of Energy," "Title 10—Energy," of the Code of Federal Regulations. Part 600—Assistance Regulations is further subdivided into Subpart A—General, Subpart B—Grants, and Subpart C—Cooperative Agreements.

PART 600—ASSISTANCE REGULATIONS

Subpart A—General

Secs.
600.1 Scope of subpart.

REGULATION SYSTEM

600.2 Scope of section.
600.3 Purpose.
600.4 Authority.
600.5 Applicability.
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AUTHORITY: Sec. 644, Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7101); Pub. L. 95-224, 92 Stat. 3 (41 U.S.C. 501)

Subpart A—General

§ 600.1 Scope of subpart.

This subpart sets forth information about the Department of Energy (DOE) assistance regulations: Their purpose, authority, applicability, issuance, arrangement, implementation, and exception procedure; definitions of terms; and general DOE assistance policies.

REGULATION SYSTEM

§ 600.2 Scope of section.

This section sets forth introductory information pertaining to the DOE assistance regulations: Their purpose, authority, applicability, exclusions, issuance, arrangement, publication, and exceptions.

§ 600.3 Purpose.

This section establishes the DOE assistance regulations which codify, implement, and publish uniform assistance policies and selected procedures applicable to DOE and recipients of DOE assistance awards. The DOE as-

sistance regulations do not, in and of themselves, provide authority for the use of assistance instruments nor the making of assistance awards where statutory authority has not been otherwise provided. Generic authority to award grants and cooperative agreements is provided in Pub. L. 95-224, the Federal Grant and Cooperative Agreement Act of 1977. The assistance regulations are distinct from the Federal and DOE procurement regulations.

§ 600.4 Authority.

The DOE assistance regulations are issued pursuant to Section 644 of the Department of Energy Organization Act (Pub. L. 95-91) 42 U.S.C. 7101 et seq., and pursuant to the Secretary's delegation of authority to the Director, Procurement and Contracts Management Directorate, in accordance with Section 642 of the Act.

§ 600.5 Applicability.

The DOE assistance regulations apply to all DOE organizations, to all DOE programs which will result in assistance awards, and to all recipients eligible for DOE assistance awards such as state and local governments, institutions of higher education, hospitals, other nonprofit organizations, individuals, profitmaking organizations, and foreign organizations. The provisions of this part govern the award and administration of all financial assistance matters, including resolutions and guidelines issued by DOE except:

(a) As otherwise required by statute;

(b) For final regulations issued before the effective date of this part;

(c) As otherwise provided by specific program regulations;

(d) Assistance instruments awarded by any Federal department, agency, or official thereof in the performance of functions transferred to DOE under the Department of Energy Organization Act (Pub. L. 95-91), which are in effect as of October 1, 1977, shall continue in effect according to their terms until renewed, continued, or otherwise extended. Such renewals, continuations, or extensions will then be subject to this part.

§ 600.6 Exclusions.

Excluded from this part are requirements pertaining to procurement contracts subject to the Federal Property and Administrative Services Act of 1949 and the Federal and DOE procurement regulations, interagency agreements, memorandums of understanding and programs or projects which directly disseminate technical information, or provide consultation, technical service, information, and data counseling to recipients without the use of an assistance instrument. Also excluded is the sale, lease, license, or other authorization to use Federal property, when such use is not for the purpose of stimulation or support.

§ 600.7 Issuance.

The DOE assistance regulations are issued in the Code of Federal Regulations as Part 600, Chapter II, of Title 10, Energy after publication in the FEDERAL REGISTER. Copies of the DOE assistance regulations in the FEDERAL REGISTER and Code of Federal Regulations may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

§ 600.8 Arrangement.

(a) *General plan.* The general format, numbering system, and nomenclature used in this part conforms with FEDERAL REGISTER standards.

(b) *Citation.* The DOE assistance regulation will be cited in accordance with FEDERAL REGISTER standards. Thus this paragraph, when referred to within divisions of the DOE assistance regulation, should be cited as § 600.8(b). When this section is referred to formally in other documents outside of this part, it should be cited as "10 CFR 2-600.8(b)." Any section of the DOE assistance regulation may be informally identified, for purposes of brevity, as "DOE-AR" followed by the section or paragraph number, such as "DOE-AR 10-600.8(b)."

(c) *Implementation.* Instructions and procedures needed by DOE to internally implement this part will be contained, in a separate DOE Financial Assistance Manual, which will be available to the public upon request.

§ 600.9 Exceptions, deviations, or waivers.

Requests for exceptions, deviations, or waivers from the requirements of this part, unless exceptions are required by program legislation or program regulations, shall be submitted to the Director, Procurement and Contracts Management Directorate. Exceptions may be approved by the Director, Procurement and Contracts Management Directorate or his designee on matters within the scope of his authority, or obtained by the Director from OMB or other cognizant DOE Headquarters Staff Office when required by law or other applicable Federal requirement.

DEFINITION OF TERMS

§ 600.20 Scope of section.

This section will include only those definitions needed to understand this part. Generally terms defined elsewhere in statutes, OMB circulars, and other Federal requirements will not be restated in this section.

§ 600.21 Definitions.

(a) Assistance is where the principal purpose of the relationship is the transfer of money, property, services, or anything of value to a recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute rather than of acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government.

(b) Assistance instrument is a general term which identifies a class of instruments used to award assistance. These instruments include grants and cooperative agreements.

(c) DOE means the Department of Energy as created by the Department of Energy Organization Act.

(d) Secretary means the Secretary of DOE.

GENERAL PROVISIONS

§ 600.31 Scope of section.

This section sets forth the regulations applicable to all assistance instruments as defined herein.

§ 600.32 Selection of award instrument.

(a) This section provides guidance on the appropriate use of award instruments consistent with the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224 and OMB implementation of this Act as published in the FEDERAL REGISTER August 18, 1978 (41 FR 36860) and incorporated by reference herein as Attachment "A". This section applies to all program and individual transactions where the choice of award instruments is within the administrative discretion of DOE and is not otherwise proscribed or limited by law. A variety of award instruments is available as the means for defining the terms and conditions, and the nature of the relationship between DOE and eligible recipients. The award instruments are intended to be different in purpose, application, content, and nature. When properly employed, they create different relationships between the parties. Because of these differences, the decision to use a particular instrument to implement a particular purpose must be made deliberately. The determination of whether a program, to be implemented through individual transactions, is principally one of acquisition or assistance will be made at a DOE policy level. DOE Secretarial Officers will ensure that this determination is either made or reviewed at a policy level.

(b) *Procurement contracts.* A procurement contract shall be used as the legal instrument to reflect a relationship between the Federal Government and a state or local government or other recipient whenever (1) the prin-

cipal purpose of the instrument is the acquisition by purchase, lease, or barter, of property, or services for the direct benefit or use of the Federal Government; or (2) whenever DOE determines in a specific instance that the use of a type of procurement contract is appropriate.

(c) *Grants.* A type of grant agreement shall be used as the legal instrument to reflect a relationship between the Federal Government and a state or local government or other recipient whenever the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the state or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and no substantial involvement is anticipated between DOE, acting for the Federal Government, and the state or local government or other recipient during performance of the contemplated activity.

(d) *Cooperative agreements.* A type of cooperative agreement shall be used as the legal instrument to reflect a relationship between the Federal Government and a state or local government or other recipient whenever the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the state or local government or other recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition by purchase, lease, or barter, of property, or services for the direct benefit or use of the Federal Government; and substantial involvement is anticipated between DOE, acting for the Federal Government, and the state or local government or other recipient during performance of the contemplated activity.

(e) Part C (Cooperative Agreements) of this regulation will be published at a later date. However, effective immediately, any instrument entered into by DOE will identify on the instrument's cover page whether the instrument is a procurement contract, a grant, or a cooperative agreement.

§ 600.33 Small business participation

(a) In furtherance of Pub. L. 95-91, section 102(17), small business firms will be given a reasonable opportunity to participate, insofar as is possible, fairly and equitably in assistance awards made pursuant to this part.

(b) It is further DOE's desire to encourage the maximum feasible involvement of small business, including disadvantaged small businesses, in DOE assistance awards consistent with eligibility criteria established in program legislation or other applicable statutes or directives, and programmatic needs.

(c) Solicitation mechanisms used to obtain proposals or applications for assistance awards may provide for small business preferences where consistent with eligibility criteria established in program legislation, other applicable statutes, directives, regulations, and programmatic needs.

(d) Recipients should accomplish the maximum amount of subcontracting to small and minority business concerns that is reasonable, appropriate, and consistent with the efficient performance of awards received from the Department.

(e) *Definitions.*—(1) *Small business concern.* Unless otherwise designated by the DOE Procurement Business Affairs Office, a small business concern, for the purpose of awarding assistance, is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is submitting requests for assistance, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the Small Business Administration under Code of Federal Regulations, Title 13, Part 121.3-2, as amended, which contains detailed industry definitions and related procedures for grants and cooperative agreements.

(2) *Socially and economically disadvantaged business enterprise.* A small business concern owned and controlled by socially and economically disadvantaged individuals, which is at least 50 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 50 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and whose management and daily business operations are controlled by one or more of such individuals. For purposes of this definition, socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, and other specified minorities, or any other individual found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act.

§ 600.34 Unsolicited applications and proposals for financial assistance awards.

(a) *Policy.* Although it is DOE policy to solicit applications and proposals for assistance awards where possible, DOE also values obtaining innovative ideas, methods, and approaches in energy areas offered by the public through unsolicited applications and proposals.

(b) *Scope.* This section applies to unsolicited proposals being considered for support through an assistance instrument. This section does not apply when a procurement contract is the appropriate award instrument in accordance with § 600.32(b).

(c) *Definition of unsolicited proposal.* The term unsolicited proposal (application) means a written request for DOE support of a project, which is submitted without a written or verbal solicitation made by DOE. The term may include both requests for support of a new project and requests for additional support of a previously funded project (renewals).

(d) *Advance consultation.* Organizations or individuals who are interested in submitting an unsolicited proposal are encouraged, before expending extensive effort in preparing a detailed unsolicited proposal or submitting any proprietary information to the Government, to make preliminary inquiries of DOE program staff as to the general interest in the type of project contemplated. Prior contact with agency technical personnel is permissible and is encouraged with the limited objectives of conveying to the prospective recipient an understanding of the agency mission and interest relative to the type of project contemplated. The project officer shall not indicate or imply in discussions with the potential proposer that a proposal will result in an award. Nothing is to be suggested to encourage or authorize the proposer to perform any work at DOE expense in anticipation of support or an award. If there have been prior discussions with a particular DOE program and the proposal is intended for consideration by that program "For consideration by—Program" should be stated on the face of the proposal.

(e) *Guides.* Guides for preparing the content of unsolicited proposals are available from the DOE Procurement and Contracts Management Directorate, Unsolicited Proposals Management Branch, PR-33, Washington, D.C. 20545. Notwithstanding these guides, state and local governments may submit unsolicited applications or proposals using the application forms authorized by OMB Circular No. A-102, Attachment M.

(f) *Submission point.* All unsolicited proposals for new or renewals of financial assistance awards will be submitted to DOE, Procurement and Contracts Management Directorate, Unsolicited Proposals Management Branch, PR-33, Washington, D.C. 20545.

(g) *Receipt and review.* (1) Receipt of unsolicited proposals will be acknowledged promptly by the Procurement and Contracts Management Directorate and then forwarded expedi-

tiously to potentially interested program offices. Each unsolicited proposal that is circulated for a comprehensive evaluation shall have a legend attached or imprinted on it by the Procurement and Contracts Management Directorate identifying it as an unsolicited proposal, and stating that it shall be used only for purposes of evaluation.

(2) The responsible program official or designee shall assign a project officer and other personnel, as necessary, to evaluate the proposal fairly and objectively. In some instances, the responsible program official may find it advantageous to subject the proposal to external, such as peer group reviews, rather than internal evaluation.

(3) Unsolicited proposals may include data which the proposer does not want disclosed for purposes other than the evaluation of the proposal. In which case, each page containing such data should be marked with the words "Proprietory Data—Restricted Use" at the top of the page. In the event that an unsolicited proposal, in whole or in part, indicates that the proposer wishes to impose restrictions on the use or disclosure of the data contained in the proposal, DOE personnel handling the proposal should take care to ensure that the information in the proposal is not disclosed outside of the Department except for purpose of scientific/technical/business evaluation. The assigned project officer has responsibility for ensuring that proposal reviewers are free of any direct affiliation with the individual(s) or institution submitting the proposal. DOE policy on the use of information contained in proposals is to use such information only for evaluation purposes, except to the extent such information is generally available to the public, is already the property of the Government, or is available to the Government without restriction. Accordingly, if a proposal contains information the proposer wishes to protect, the proposer should mark the cover page of the proposal with the following Notice:

NOTICE

The data contained in pages —— of this proposal have been submitted in confidence and contain trade secrets and/or privileged or confidential commercial or financial information, and such data shall be used or disclosed only for evaluation purposes: *Provided*, That if this proposer receives an award as a result of or in connection with the submission of this proposal the Government shall have the right to use or disclose the data herein to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the proposer.

DOE shall ensure that all copies of the proposal carry the above Notice, and that it is not disclosed outside DOE except for evaluation purposes.

(h) *Criteria for acceptance of an unsolicited proposal.* Unsolicited applications and proposals may be accepted for support if the project has high technical merit or program value in accordance with paragraph (i) of this section; support is appropriate to accomplish a public purpose authorized by legislation in accordance with paragraph (j) of this section; and when funds are available. If an unsolicited proposal fails to meet any one of the foregoing factors, it will be returned to the submitter without support in accordance with paragraph (k) of this section. The responsibility for making the foregoing judgments or decisions rests with the DOE program office which evaluates the proposal.

(i) *Review for high technical merit or program value*—(1) *Evaluation.* An unsolicited proposal shall first be evaluated by the program office considering the following criteria:

(i) The anticipated objectives to be achieved and the probability of achieving the stated objectives;

(ii) The facilities or techniques which the proposer possesses and offers which are considered to be integral factors for achieving the objectives of the proposal;

(iii) The qualifications, capabilities, and experiences of the proposed investigator, team leader, or key personnel, who are considered to be critical in achieving the objectives of the proposal;

(2) *Determination.* The program office shall determine whether the proposal or application offers a project with:

(i) High technical merit which represents an innovative idea, method, or approach; or

(ii) Program value not previously recognized by DOE.

Where a positive determination cannot be made, the proposal or application shall be returned to the submitter in accordance with paragraph (k) of this section.

(j) *Relevance to accomplishment of a public purpose.* An unsolicited proposal or application to be accepted must be relevant to a public purpose of support or stimulation authorized by DOE program legislation. The following list, which is not all inclusive, illustrates the kinds of factors which may be considered and used by DOE program offices as a basis for accepting an unsolicited proposal for assistance award:

(1) The potential contribution which the proposed work is expected to make to the DOE assistance mission;

(2) The economic, environmental, and societal significance which a successful demonstration or project may have, if any, for the national energy program;

(3) The relationship of the proposal to:

(i) The public need for the potential results of the research, development, or demonstration effort, and whether it is unlikely that similar results would be achieved in a timely manner in the absence of Federal assistance;

(ii) Whether the potential opportunities for non-Federal interests to recapture the investment in the undertaking through the normal commercial utilization of proprietary knowledge appear inadequate to encourage timely results;

(iii) The extent of the problems treated and whether the objectives sought by the undertaking are national, widespread, or regional in their significance;

(iv) The extent of opportunities to induce non-Federal support of the undertaking through regulatory actions, end use controls, tax and price incentives, public education, or other alternatives to direct Federal financial assistance;

(v) The degree of risk of loss of the investment inherent in the research, and the availability of risk capital to the non-Federal entities which might otherwise engage in the field of the research so as to further timely development of the technology.

(k) *Nonsupport of proposal.* If the proposal does not offer sufficient technical merit or program value; is not relevant to the accomplishment of a public purpose authorized by DOE program legislation; or if funds are not available; the proposal will be returned to the submitter. The reviewing program office shall prepare a letter to the submitter for signature of the responsible program official or designee which sets forth the basis for rejection of the unsolicited proposal or application.

(l) *Support of proposal.* There is no prescribed format for the program documentation necessary to justify providing support. The minimum requirements are that: there be a reasonable basis for acceptance based on paragraphs (i) and (j) of this section; the rationale for providing support be written, and approvals be obtained as required by DOE; and, that a copy of the documentation be included in the assistance instrument award file. The rationale for providing support analysis may be included in documents required by program offices for project approval.

§ 600.35 Responsibility for issuing solicitations for proposals or applications.

(a) It is DOE policy to favor solicitation of proposals or applications, where discretionary assistance awards are available, in preference to relying

on unsolicited proposals to maximize opportunities for open participation by the public in DOE assistance awards.

(b) The Procurement and Contracts Management Directorate and authorized field contracting offices of DOE are the offices responsible for issuing solicitations, announcements, or the like, which call for the submission of proposals and applications by a certain due date which, if favorably acted upon by DOE, may result in assistance awards except as provided in paragraph (c) of this section.

§ 600.36 Notice of program interest.

(a) A notice of program interest can be used to stimulate the flow of unsolicited proposals or applications when the program objectives cannot be defined sufficiently to prepare a program solicitation as described in § 600.72. Each program office may publish periodically a listing of broad, general, technical problems and areas needing investigation.

(b) The notice should contain the following, at a minimum:

(1) A number assigned by the issuing program office for control and reference purposes;

(2) A brief description of the broad, general, technical program or areas needing investigation (generally 50 words or less);

(3) A statement of the principal program objective in possibly funding unsolicited proposals as either:

(i) The acquisition of concepts, property, or services for the direct benefit or use of the Federal Government; or

(ii) The transfer of money, property, or services to a recipient for support or stimulation authorized by Federal statute;

(4) A statement about how unsolicited proposals will be evaluated and accepted:

(i) If the principal program objective is to accomplish a public purpose of support or stimulation, the policy in § 600.34(h) shall apply. Such proposals will be evaluated for merit in accordance with § 600.34(i). Acceptance of meritorious unsolicited proposals will be based on consideration of the factors in § 600.34(j) unless factors for acceptance are included in the notice, in which case, the acceptance factors in the notice shall govern over the factors in § 600.34(j);

(ii) If the principal program objective is the acquisition of concepts, property, or services for the direct benefit or use of the Federal Government, the policy regarding evaluation and acceptance of unsolicited proposals in 41 CFR 9-4.9 shall apply;

(5) Restrictions, if any, as to who may submit proposals;

(6) A contact (name and telephone number) within the program office or divisions, where additional information may be obtained;

(7) An expiration date which identifies when the notice will no longer be current. This date shall not be used as a required common due date for submission of proposals;

(8) A statement that DOE reserves the right to support or not support, in whole or in part, any or all proposals received;

(9) A statement that DOE assumes no responsibility for any costs associated with specific proposal preparation if no award is made; but that, if an award is made, DOE will pay its allocable share of bid and proposal expenses as provided for in applicable Federal cost principles referenced in § 600.108;

(10) Proposals submitted pursuant to the notice should be mailed to the Procurement and Contracts Management Directorate, Unsolicited Proposal Management Branch, Department of Energy, Washington, D.C. 20545;

(11) A reference that detailed information concerning assistance policy and procedures is contained in the DOE assistance regulation, 10 CFR, Chapter II, Part 600;

(12) As much information as possible as to how proposals and applications will be evaluated;

(13) Policies and procedures for patents, data, and copyrights is in accordance with § 600.82 for grants and a separate section applicable to cooperative agreements, and 41 CFR Part 9. Proposers have the right to request in advance of or within 30 days after the effective date of award a waiver of all or any part of the United States rights in subject inventions.

(c) The notice should be approved for publication at a Headquarters or field program level designated by the head of the program office. The notice should be in a format that best reflects the needs of the specific program, for example, letter, booklet, bulletin, or other documents.

(d) The notice should be distributed widely. It may be distributed to industry associations, including small business associations; schools, colleges, and universities; appropriate professional and scientific journals; state, local, and regional governmental organizations; the Commerce Business Daily; other DOE offices; and individuals and organizations who request copies on a one-time basis. Copies of the notice shall be sent to the Procurement and Contracts Management Directorate, Office of Program Support, PR-40, Headquarters for information.

(e) The submission of innovative methods, approaches or ideas is not to be restricted to those problems or technical areas published in the notice of program interest. Alternatives will be eligible for consideration.

(f) Proposals which are submitted in response to a notice of program interest shall be accepted or rejected as described in § 600.34.

§ 600.37 Public notice of availability of assistance awards.

(a) In order to maximize involvement of prospective recipients in DOE assistance programs, it is DOE's policy to provide timely notice to the public as to the availability of assistance awards.

(b) Early notice regarding legislated grant or other assistance program will be provided by DOE to the Office of Management and Budget for publication in the Catalog of Federal Domestic Assistance pursuant to OMB Circular No. A-89. When legislated assistance programs or program objectives which are to be implemented via assistance instruments reach the point where applications or proposals are to be obtained, timely notice of such solicitations will be published in the FEDERAL REGISTER, Commerce Business Daily, trade and professional journals, which are widely circulated to state and local governments, and news media, as appropriate to communicate with potentially interested applicants.

(c) When a DOE assistance program involves making assistance available via prime recipients to subrecipients, such as through states to local governments, prime recipients should provide timely advance notice to subrecipients as to the availability of such assistance, and provide a reasonable time period for subrecipients to prepare applications and secure prerequisite local approvals.

§ 600.38 Requirement for unrestricted solicitations for discretionary assistance awards.

(a) *Policy.* It is DOE policy to maximize the opportuity for prospective recipients to be considered for assistance awards where eligibility is not prescribed by law. Therefore, when eligibility is not prescribed by law or a final program regulation, and when discretionary assistance awards are selected to accomplish a program objective, applications or proposals will be obtained by issuance of a written solicitation. When DOE initiates the solicitation of applications or proposals, eligibility to be considered for discretionary awards will not be restricted by DOE to one category of recipients or to a single recipient without adequate basis.

(b) *Justification of restricted eligibility.* Where program legislation explicitly restricts eligibility, e.g., state governments, no justification is required. When program regulations restrict eligibility beyond the restrictions required by the program legislation, the basis for the restriction shall

be set forth in the program rulemaking. In all other cases, a written justification must be prepared to set forth the basis for restricting eligibility. 41 CFR 9-3.805-51 shall be used as a guide in preparing the "justification for restricting eligibility." The reasons offered will be evaluated for consistency with the policy in paragraph (a) of this section, DOE's overall mission, and the objective of maintaining an open and fair system of making assistance awards.

(c) *Approvals.* Justifications of restricted eligibility will be signed by the Assistant Secretary, Director, Administrator, Head of Office or their designees and will be reviewed by Office of General Counsel for legal sufficiency prior to issuance of the restricted solicitation. The signed justification will be forwarded to the awarding officer as documentation for the official award file.

§ 600.39 Nondiscrimination in federally assisted DOE programs—Civil Rights.

Recipients of DOE financial assistance awards which are provided under DOE Federal Assistance programs shall comply with Part 1040, Chapter X, Title 10 of the Code of Federal Regulations "Nondiscrimination in Federally Assisted Programs" (proposed rule) (10 CFR Part 1040) as published in the FR Vol. 43, No. 222, Thursday, November 16, 1978 (pages 53658 through 53676) and when published, as a final rule. 10 CFR Part 1040 provided that no person shall on the ground of race, color, national origin, sex, handicap, or age be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment, where the main purpose of the program or activity is to provide employment or when the delivery of program services is affected by the recipient's employment practices, in connection with any program or activity receiving Federal assistance from the DOE.

§ 600.40 Joint funding under grants and cooperative agreements.

Pursuant to Section 10(c) of the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95-224), DOE is provided the opportunity and the authority to participate in joint funded projects with other Federal agencies in any funding relationship which will serve the best interest of all of the participating agencies' programs. Such joint funding project may include more than one type of assistance relationship, e.g., some components of a project may be funded by grants and other components of the project may be funded by cooperative agreements, or in rare instances, by other assistance instruments such as direct loans, loan guarantees, etc.

§ 600.41 Disputes. [Reserved]

§ 600.42 Access to records.

The Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of any recipient of an assistance instrument awarded by the DOE, which are directly pertinent to a specific assistance award project or program, for the purpose of making audit, examination, excerpts and transcriptions. With respect to all contracts or subgrants awarded by recipients of DOE assistance awards, such contractors or subgrants utilizing Federal funds under such DOE awards shall include a provision to the effect that the recipient of a DOE assistance award, the Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor or subgrantee which are directly pertinent to any contract or subgrant activity utilizing Federal funds provided by DOE to the primary recipient. Recipients of DOE assistance awards shall require contractors or subgrantees to maintain all required records for 3 years after a DOE assistance recipient has made final payments to such contractors or subgrantees and all other pending matters between the parties are closed.

Subpart B—Grants

§ 600.50 Scope of subpart.

(a) This subpart establishes uniform administrative requirements for the award and administration of grants by the Department of Energy (DOE). This subpart is intended to include requirements specifically applicable to DOE grantees, and selected DOE administrative policies applicable to grants which are mandatory for DOE personnel. The establishment of program requirements, as distinct from administrative requirements in this subpart, is the responsibility of DOE program office.

(b) The scope includes policies and requirements from the initiation of solicitations for grant applications or proposals through award, performance, and closeout of grant award instruments.

(c) The scope also includes policy and requirements applicable to all potential categories of grantees including state and local governments, institutions of higher education, hospitals, other non-profit organizations, profit-making organizations, individuals, and foreign organizations.

(d) This subpart is divided into three sections which include adoption of Federal requirements applicable to grants, elements of the DOE administrative system for administering grants, and implementation of OMB Circular Nos. A-102 and A-110.

Federal Requirements

§ 600.55 Scope of section. [Reserved]

§ 600.56 Listing of Federal requirements applicable to grants. [Reserved]

DOE Administrative Policies

§ 600.70 Scope of section.

This section contains those elements of DOE's administrative system which grantees need to know about in order to apply for and be considered for a DOE grant award.

§ 600.71 Authority to enter into grants.

DOE is authorized to award grants pursuant to specific statutory authorities transferred to DOE, the Federal Grant and Cooperative Agreement Act of 1977, 41 U.S.C. 501 et seq., and individual DOE grant program legislation.

§ 600.72 Program solicitation.

(a) A program solicitation shall be used to request submission of proposals or applications for DOE support through grants in identified areas except when such proposals or applications are obtained by program regulation. A program solicitation is more definitive than a notice of program interest as described in § 600.36 and normally describes the specific types of projects the program office wishes to fund. A program solicitation normally is active for a more limited period of time, such as 30-90 days, as compared to a notice of program interest which may be in effect for up to 1 year. A program solicitation specifies common due date(s) for submission of proposals as compared to a notice where unsolicited proposals may be submitted at any time during the period the notice is in effect. Under a program solicitation, proposals may be evaluated on the basis of comparative merit, or individually against certain minimum criteria, or in any other manner which is objective, fair, and achieves the program objective. Program solicitations may be used for any purpose from research and development to traineeships where it is certain that awards will be made through grant instruments prior to issuance of the solicitation. Solicited proposals which include data that the proposer wishes to protect shall be marked in accordance with the procedure set forth in § 600.34(g)(3).

(b) Program solicitations may only be issued in accordance with § 600.35.

§ 600.73 Conditions of submission. [Reserved]

§ 600.74 Assurance. [Reserved]

§ 600.75 [Reserved]

§ 600.76 Standard application forms.

(a) *Recipients subject to OMB Circulars Nos. A-102 and A-110.* DOE will use the standard forms as prescribed by OMB Circular Nos. A-102 and A-110, attachment M.

(b) *Other recipients.* There are no standard application forms for profitmaking organizations, individuals, and foreign organizations. Applicable forms will be provided in individual solicitations.

§ 600.77 Intergovernmental coordination.

(OMB CIRCULAR NO. A-95)

(a) OMB Circular No. A-95 (revised January 2, 1976) implements Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, Title IV of the Intergovernmental Cooperative Act of 1968, and Section 102(2)(c) of the National Environmental Policy Act of 1969 by establishing requirements relating to:

(1) A project notification and review system (PNRS) (part I);

(2) Direct Federal development (part II);

(3) State plans (part III); and

(4) Coordination of planning in multijurisdictional areas (part IV).

(b) Attachment M to OMB Circular Nos. A-102 and A-110 promulgates a standard form (SF 424) to be used as a face sheet for applications for support under programs covered by Part I of Attachment A to OMB Circular No. A-95, as an optional notification of intent by applicants, and as a Federal report form of actions taken on such applications.

(c) State and local government applicants are subject to the requirements of OMB Circular No. A-95 for DOE programs covered by OMB Circular No. A-95.

§ 600.78 Joint Funding Simplification Act (OMB Circular No. A-111).

(a) The Joint Funding Simplification Act of 1974 (42 U.S.C. 4251 et seq.) provides for state and local governments and non-profit organizations to combine state and Federal resources in support of projects of common interest to the governments and organizations concerned.

(b) OMB Circular No. A-111 has established procedures for the submission of applications for joint funding through state and areawide clearinghouses and Federal Regional Councils.

(c) Prospective state or local government applicants should make preliminary inquiries to DOE program offices before initiating formal applications if such state or local government desires a project to be funded by DOE pursuant to the OMB Circular No. A-111 procedures.

§ 600.79 Release of information including proposal and application contents. [Reserved]

§ 600.80 Evaluation methods. [Reserved]

§ 600.81 Disposition of proposals and applications. [Reserved]

§ 600.82 Patents, data, and copyrights.

(a) Grants issued pursuant to this part are subject to patents, data, and copyrights regulations set forth in 41 CFR Part 9-9. Modifications of the provisions of 41 CFR Part 9-9 or from the patent, data, and copyright provisions of this part shall be obtained from the DOE Assistant General Counsel for Patents.

(b) *The patent rights (short form) clause.* The patent rights (short form) clause, as set forth in 41 CFR 9-9.107-6, shall normally be applicable to grants with educational and non-profit institutions, small businesses, state and local governments, and individuals, except consultants working under long-term agreements, where such grants have as their purpose the conduct of research, development, or demonstration (RD or D) work. If a waiver is granted, the appropriate waiver clause shall be obtained from the DOE Assistant General Counsel for Patents and substituted for this patent rights (short form) clause.

(c) *Rights in technical data (short form) clause.* The clause in 41 CFR 9-9.202-3(g)(2) shall normally be applicable to all grants such as those with educational and non-profit organizations, profitmaking organizations, state and local governments, and individuals, where such grants have as their purpose the conduct of research, development, or demonstration work. However, this clause will not normally be included in grants with individuals or small businesses under special programs such as those for "appropriate technology" and development of inventions referred to DOE by the National Bureau of Standards under Section 14 of the Federal Non-Nuclear Energy Reseach and Development Act of 1974. In this latter situation, the cognizant DOE program office shall have the responsibility to identify that data to be delivered by the grantee as a non-proprietary report of work performed under the grant and the results obtained therefrom.

(d) *Rights in data (modified short form) clause.* The rights in data (modified short form) clause set forth below shall be applicable to grants having as a purpose the conduct of a conference, symposium, or training.

RIGHTS IN DATA—MODIFIED SHORT FORM

(1) The grantee grants to the Government a worldwide, royalty-free, non-exclusive, irrevocable license to publish, duplicate, translate, perform, exhibit and dispose of, and to have others do so, technical information or data including copyrightable material first produced by the grantee under this grant.

(2) DOE has the right to require delivery of all technical information or data first produced by the grantee under this grant and all conference papers of a scientific or technical nature. The grantee agrees not to include in the technical information, or data, or scientific or technical conference papers delivered under this grant, any material copyrighted by the grantee or any material including scientific or technical conference papers copyrighted by others without first obtaining, without cost, a license therein for the benefit of the Government of the same scope as set forth in paragraph (1) above. If, nevertheless, there must be included in the technical information, or data, or scientific or technical conference papers to be delivered copyrighted material for which a license of the above scope cannot be obtained, the grantee shall obtain the written authorization of DOE to include such material prior to its physical delivery to DOE.

(e) *Authorization and consent.* The clause in 41 CFR 9-9.102.2 shall be used in all grants calling for research, development or demonstration work.

(f) *Notice and assistance.* The clause in 41 CFR 9-9.104 shall be used in all grants in excess of $10,000 for construction, research, development or demonstration work. *Provided,* That the clause shall not be included in grants:

(1) Where both performance and delivery are to be outside the United States, its possessions, or Puerto Rico, or

(2) Of $10,000 or less.

NOTE: As a matter of administrative convenience, the clause need not be deleted when it is part of a standard form being used for such grants since it is self-deleting.

(g) *Classified inventions.* Unauthorized disclosure of classified subject matter, whether in a patent application or resulting from the issuance of a patent, may be a violation not only of the Atomic Energy Act of 1954, as amended, and other laws relating to espionage and national security, but also of the provisions pertaining to disclosure of information incorporated in the grant. Accordingly, the clause of 41 CFR 9-9.106 shall be included in every grant which covers or is likely to cover classified subject matter.

(h) *Reporting of royalties.* In order that DOE may be informed regarding royalty payments to be made by a recipient in connection with any assistance, construction, or operation where the amount of the royalty payments is reflected in the award budget, or is to be reimbursed by the Government, the negotiator shall:

(1) Obtain from the offeror the information concerning the royalty payments expected to be made in connection with the proposed assistance, construction, or operation, together with the names of the licensors and either the patent numbers involved or such other information as will permit identification of the patents and patent applications as well as the basis on which the royalties are to be paid; and

(2) Obtain from the offeror a certification that the award budget includes no amount representing the payment of any royalty by the offeror directly to others in connection with the performance of the award; or

(3) Insert in the grant the clause set forth in 41 CFR 9-9.110.

IMPLEMENTATION OF OMB CIRCULAR NOS. A-102, A-110

§ 600.100 Scope of section.

This section implements OMB Circular Nos. A-102 and A-110 as they apply to all grantees.

§ 600.101 General.

(a) *Implementation approach.* This section implements OMB Circular Nos. A-102 and A-110, which are hereby incorporated into this part. Implementation will not be a restatement of circular material, but will be limited to implementation of areas required to be implemented by the circulars or DOE statutes. The circulars shall be complied with unless an exception is obtained in accordance with § 600.9.

(b) *Applicability to categories of grantees.* OMB Circular Nos. A-102 and A-110 are mandatory for state and local governments, and institutions of higher education, hospitals, and other non-profit organizations, respectively. This point will not be restated in subsections § 600.102 through § 600.118. The circulars do not include profitmaking organizations, individuals, or foreign organizations within their scope. Therefore, the applicability of each subject covered by the circulars to this excluded group will be specified in each subsection in this section. Unless otherwise specified, the flexibility denoted by the words "shall usually" provided in this section for applying the circular attachments to profitmaking organizations, individuals, and foreign organizations may be exercised by DOE grants officers without recourse to the exception procedure in § 600.9.

(c) *Definitions.* OMB Circular Nos. A-102 and A-110 use several terms to identify a Federal agency or department. The following terms in their singular or plural form as used in the circulars mean the Department of Energy: Federal sponsoring agency, Federal agency, Federal grantor agency, or grantor agency. When the term "head of" is used before any of the terms used to identify DOE, it shall mean the Secretary of DOE.

(d) *Meaning of shall and may.* Where the circulars use the terms "shall" and "shall not," the action or restriction prescribed by OMB shall be complied with unless an exception is requested which, in turn, must be approved by OMB upon request of the DOE. Where the circulars use the terms "may" or "at the option or discretion of the agency," the most appropriate of the alternatives permitted may be selected by the responsible DOE grant program manager as best suits the individual case without requesting an exception in accordance with § 600.9.

(e) *Subrecipients.* OMB Circular Nos. A-102 and A-110 require that the attachments to the circulars be applied to subgrantees performing substantive work under grants that are passed through or awarded by the primary grantee. The attachments to the circulars shall apply to subgrantees only when the prime grantee awards a subgrant. If a grantee awards a contract, only Attachment O, Procurement Standards, of the circulars, and Attachment B, Bonding and Insurance, if the contract is for construction, shall apply to the grantee's contractors. Attachments in Circular Nos. A-102 and A-110, other than the procurement standards in Attachment O and bonding and insurance in Attachment B, shall not be applicable to contracts awarded by grantees.

§ 600.102 Cash depositories.

OMB Circular No. A-102, Attachment A, and OBM Circular No. A-110, Attachment A, set forth standards governing the use of banks and other banking institutions as depositories of funds awarded by the Federal Government through grants. These standards shall usually be applied to profitmaking organizations and foreign organizations. Physical separation of funds may be required of a grantee organization in the unusual case where there is a need for cash control and accountability of funds on a project basis. When grant funds are awarded to an individual, physical separation of funds shall usually be required.

§ 600.103 Bonding and insurance.

OMB Circular No. A-102, Attachment B, and OBM Circular No. A-110, Attachment B, set forth requirements regarding bonding and insurance. These requirements shall usually be applied to profitmaking organizations and individuals, but may be waived of modified if there are adequate business reasons or if the grantee is a foreign organization.

§ 600.104 Retention and custodial requirements for records.

OMB Circular No. A-102, Attachment C, and OBM Circular No. A-110, Attachment C, set forth requirements regarding records. These requirements shall be applicable to all DOE grantees. Special arrangements may be made to meet the intent of the OMB requirements if the grantee is a foreign organization.

§ 600.105 Waiver of "single" state agency requirements.

OBM Circular No. A-102, Attachment D, regarding waiver of the "single" state agency requirements in accordance with Section 204 of the Intergovernmental Cooperation Act of 1968 shall apply only to state grantees.

§ 600.106 Program income.

OMB Circular No. A-102, Attachment E, and OBM Circular No. A-110, Attachment D, set forth standards regarding the accounting for and disposition of program income. The standards in paragraphs 2, 3, and 4 of Attachments E and D shall usually be applied to profitmaking organizations, individuals, and foreign organizations. Paragraph 5 in Attachments E and D provides for alternate uses of income other than interest, proceeds from sale of real property, and royalties. For profitmaking organizations and individuals, all other income earned during the grant period shall either by used to reduce the amount of support awarded by DOE or returned to DOE by check made payable to the U.S. Treasury at the end of the award period. For foreign organizations, the disposition of other income under paragraph 5 may be established by mutual agreement.

§ 600.107 Cost sharing and matching share.

(a) DOE policy on cost participation [Reserved]

(b) OMB Circular No. A-102, Attachment F, and OMB Circular No. A-110, Attachment E, set forth criteria and procedures for the allowability of cash and in-kind contributions. These policies shall not usually apply to grants with profitmaking organizations, individuals, and foreign organizations, but may be where general guidance is needed.

§ 600.108 Standards for financial management systems.

OMB Circular No. A-102, Attachment G, and OBM Circular No. A-110, Attachment F, set forth standards for grantee financial management systems. Grants shall not require financial reporting on the accrual basis if the grantee's accounting system is maintained on the cash bases. When accrual reporting is statutorily re-

quired, a grantee shall not be required to convert it to the accrual basis; the grantee may develop accrual information through an analysis of the documentation on hand. These requirements shall usually be applied to profitmaking organizations, individuals, and foreign organizations to serve the purpose of accounting for funds. However, to achieve the purpose with individuals and foreign organizations, these standards may be modified and other special financial provisions may be developed by mutual agreement.

(a) *Federal cost principles.* Expenditures under DOE grants shall be governed by the Federal cost principles applicable to specific types of grantees as follows:

(1) *Institutions of higher education.* Principles for determining the costs applicable to research and development and to training and other educational services performed by colleges and universities under Federal Government grants are contained in Federal Management Circular 73-8 (formerly OBM Circular No. A-21). This circular is applicable to all DOE awards to both public and private institutions of higher education is codified in 34 CFR, Part 254.

(2) *Other non-profit organizations.* A proposed set of Government-wide cost principles for certain other nonprofit organizations was published for public comment in the FEDERAL REGISTER of Tuesday, April 26, 1977. Pending the promulgation of such Government-wide cost principles, expenditures under DOE grants with nonprofit organizations shall be governed by Subpart 1-15.2 of the DOE Federal Procurement Regulation (41 CFR, Subpart 1-15.2) and DOE Procurement Regulation 9-15.2 (41 CFR, Subpart 9-15.2).

(3) *Profitmaking organizations and individuals.* The Government-wide cost principles and procedures for use in cost-reimbursement type contracts with commercial organizations, contained in 41 CFR, Subpart 1-15.2, as supplemented by DOE Procurement Regulation 9-15.2 (41 CFR, 9-15.2), shall be applicable to DOE grants to profitmaking organizations including profitmaking education organizations and individuals.

(4) *State and local governments.* FMC 74-4 (formerly OBM Circular No. A-87) provides principles and standards for determining costs applicable to grants with state and local governments. That circular, which is applicable to all DOE awards to state and local government entities (excluding publicly financed colleges and universities and hospitals), is codified in 34 CFR, Part 255.

(5) *Applicability to contracts under grants.* Grantees are responsible for assuring that costs of all contracts under DOE grants are subject to those cost principles and procedures appropriate to the contract type and contractor organization or institution involved. For example, if the contract is a cost reimbursement type for supplies or services with a commercial concern, 41 CFR, Subpart 1-15.2, shall apply; if the contract is for experimental, developmental, or research work with an educational institution, 41 CFR, Subpart 1-15.3, shall apply.

(6) *Conflicting guidelines.* In the event of any discrepancy between the summary information contained in this section and any specific provision of the applicable Federal cost principles, the cost principles in effect as of the effective date of the DOE grant shall govern. In case of a discrepancy between the special provisions of a DOE grant and the standards of the applicable cost principles, the special provisions of the grant shall govern.

(b) *Other financial considerations.*—(1) *Maximum obligation.* The maximum obligation of DOE for support of the project shall not exceed the amount specified in the grant instrument, as amended. DOE will not usually amend grants to provide additional funds for such purposes as reimbursement for unrecovered indirect costs resulting from the establishment of final negotiated rates or for increases in salaries, fringe benefits, and other costs.

(2) *Applicable credits.* Purchase discounts, rebates, allowances, and other credits, relating to any allowable cost, received by or accruing to the grantee shall be credited to the Government in the same percentage as the Government's contribution either as a cost reduction or by cash refund, as appropriate.

(3) *Preaward costs.* Costs incurred prior to the effective date of the grant shall not be charged against the grant without written approval of the grants officer or unless specifically provided for in the grant award.

(4) *Post-expiration costs.* DOE funds shall not be obligated by grantees subsequent to the expiration date of the grant except to liquidate valid commitments which were made by the grantee on or before the expiration date. Costs incurred after the grant expiration date shall not be allowed unless the grant is modified in writing to so allow, except that with respect to grants awarded to institutions of higher education, costs incurred for report preparation will be recognized as allowable if incurred up to 90 days after the grant expiration date.

§ 600.109 Financial reporting requirements.

OMB Circular No. A-102, Attachment H, and OMB Circular No. A-110, Attachment G, set forth uniform financial reporting payment request procedures.

(a) Paragraphs 3(a)(2) in attachments H and G require DOE to prescribe whether the financial status report shall be on a cash or accrual basis. Grantees may submit financial reports on either a cash or accrual basis, whichever it uses in its accounting system.

(b) Provisions applicable to profitmaking organizations and individuals.

(1) When payment is made in advance or as a reimbursement by U.S. Treasury checks, the standard form 1034, public voucher, and standard form 1035, continuation sheet, shall usually be used. The request for payment shall include the cumulative costs incurred by budget cost element through the billing period, the amount previously received from DOE, either in advance or as a reimbursement, and the current amount requested. When this information is included, no additional interim financial report shall be required. An original and two copies shall be submitted. Requests for payment may usually be submitted monthly, or as often as biweekly, if approved by the grants officer.

(2) If payment is made by letter of credit, then the report of Federal cash transactions described in OMB Circular No. A-110 shall be submitted quarterly with a financial status report at the end of the grant.

(3) *Final cost report.* Profitmaking organizations and individuals shall submit a final cost report within 90 days after the end of the grant period. The format of the report shall be the same as the budget as awarded. The final cost report shall compare the amounts allocated in the award budget to the amounts expended for each budget element, and shall indicate whether there is an unobligated balance to be refunded to DOE.

(c) Provision applicable to foreign organizations. (1) Payments shall be made in the manner described in § 600.109(b)(1). Forms other than the SF 1034 and SF 1035 may be substituted by the grantee if equivalent information is provided.

(2) A final cost report shall be submitted in the manner described in § 600.109(b)(3).

§ 600.110 Monitoring and reporting program performance.

OMB Circular No. A-102, Attachment I, and OMB Circular No. A-110, Attachment H, set forth procedures for monitoring and reporting program performance of grantees. Reporting requirements under grants may also be met by the use of DOE forms if formally approved by DOE and OMB. Use of DOE substitute forms shall be at the discretion of the DOE project

officer. DOE shall, to the maximum feasible extent, establish reporting requirements for recipients, and subrecipients where required by DOE, prior to the award of financial assistance. The procedures in the OMB circulars may be applied to profitmaking organizations, individuals, and foreign organizations where appropriate. Reporting requirements for these grantees may be tailored to meet the needs of a particular project or program consistent with the OMB policy that grantees are responsible for monitoring performance.

§ 600.111 Payment requirements.

OMB Circular No. A-102, Attachment J, and OMB Circular No. A-110, Attachment I, set forth methods of making payments. These methods shall be applied to all grantees, except that foreign organizations are not eligible to use the letter of credit method of payment.

§ 600.112 Budget and financial plan revision procedures.

OMB Circular No. A-102, Attachment K, and OMB Circular No. A-110, Attachment J, set forth requirements for reporting of deviations from financial plans and granting approvals. These requirements and procedures shall usually be applied to profitmaking organizations, but may be waived or modified if there are adequate business reasons.

§ 600.113 Closeout procedures.

OMB Circular No. A-102, Attachment L, and OMB Circular No. A-110, Attachment K, prescribe uniform closeout procedures. These procedures shall be applicable to all DOE grants and grantees.

§ 600.114 Suspension and termination.

OMB Circular No. A-102, Attachment L, paragraphs 4 and 5, and OMB Circular No. A-110, Attachment L, prescribe procedures for suspension and termination. These procedures shall be applicable to all DOE grants and grantees.

§ 600.115 Standard forms for applying for Federal assistance.

OMB Circular No. A-102, Attachment M, and OMB Circular No. A-110, Attachment M, promulgate standard forms for applying for Federal Assistance, including those applications which are for grants under programs covered by Part I, Attachment A, OMB Circular No. A-95. The requirements in Attachment M to OMB Circular Nos. A-102 and A-110 shall not be applicable to profitmaking organizations, individuals, or foreign organizations. While the requirements in Attachment M to Circulars A-102 and A-110 are not applicable to profitmaking organizations, individuals, or foreign organizations, the forms prescribed therein may be used as appropriate for such organizations or individuals.

§ 600.116 Property management standards.

OMB Circular No. A-102, Attachment N, and OMB Circular No. A-110, Attachment N, prescribe uniform standards governing the utilization and disposition of property.

(a) Paragraph 8 in Attachment N to OMB Circular Nos. A-102 and A-110, which covers intangible property, inventions and patents, shall not be applicable to any DOE grants because DOE statutory patent provisions govern. The patent provisions applicable to all DOE grants and grantees are prescribed in § 600.82.

(b) The provisions of Attachment N to OMB Circular Nos. A-102 and A-110 shall only apply to profitmaking organizations, individuals, and foreign organizations when federally owned property is made available for use by the grantee, or when the grant award provides for transfer or vesting of title to property acquired with Federal funds in the grantee. Title to property furnished by DOE, or property excluding expendable personal property acquired by the grantee under the grant, shall not vest in a profitmaking organization, an individual, or a foreign organization unless statutory authority for such vesting is available, and then only as explicitly provided in the grant award. If such authority is available, then title may vest in the grantee with no further accountability to the Department.

§ 600.117 Procurement standards.

(a) OMB Circular No. A-102, Attachment O, and OMB Circular No. A-110, Attachment O, provide standards for use by grantees in establishing procedures for the procurement of supplies, equipment, construction and other services with Federal funds. Paragraph (h) of these attachments provides that rights to inventions and materials generated under contracts awarded by grantees are subject to regulations issued by the Federal sponsoring agency. The applicable DOE regulations regarding patents, rights in technical data, etc., are in 41 CFR Part 9-9. A summary of these requirements is contained in § 600.82. For the purpose of this part, the term contract, as used in 41 CFR Part 9-9, means grant, and the term subcontract means a contract or subgrant awarded by the grantee under its grant.

(b) The procurement standards in Attachment O to OMB Circular Nos. A-102 and A-110 shall be applicable to all grantees except that foreign organizations may procure using their normal business practices.

§ 600.118 Protests.

This section shall be applicable to all grants. Attachment O to OMB Circular Nos. A-102 and A-110 states that grantees are responsible, without recourse to the grantor agency, for resolution of all contractual and administrative issues arising out of procurements under grants including protests of award, disputes, and claims. GAO regulations, 40 FR 42406, require agency reports on certain protests lodged by bidders on contract awards under grants. Such required agency reports shall be prepared by the grants officer for submission to the Procurement and Contracts Management Directorate (PR-31) for forwarding to GAO. GAO does not take jurisdiction of grants disputes.

Subpart C—Cooperative Agreements [Reserved]

Subpart D—Direct Loans [Reserved]

Subpart E—Loan Guarantees [Reserved]

APPENDIX A

OMB GUIDANCE TO AGENCIES FOR IMPLEMENTING THE FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT

(Pub. L. 95-224)

Introduction. The Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95-224), signed February 3, 1978, requires executive agencies to distinguish procurement relationships from assistance relationships. A major objective of the act is to achieve consistency in the use of legal instruments by agencies for procurement and assistance transactions. This is a preliminary step toward a broad review of the administration of Federal assistance programs and the relationships created by the terms and conditions of legal assistance instruments. Section 4 of the act requires the use of procurement contracts for all agency acquisition activity. Sections 5 and 6 require the use of grants or cooperative agreements for specified types of assistance relationships. Section 9 authorizes the Director of the Office of Management and Budget to issue supplementary interpretative guidelines to promote consistent and efficient implementation of sections 4, 5, and 6. Subsection 10(d) authorizes the Director to except individual transactions or programs from the act's provisions.

In addition, section 8 of the act requires OMB to conduct a study of Federal assistance relationships and submit a report to Congress in 2 years. The guidelines that follow are based on OMB authorizations under sections 8, 9, and 10(d).

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GUIDANCE

A. OMB INTERPRETATION OF THE ACT

1. *General purposes of the Act.* OMB views the Federal Grant and Cooperative Agreement Act as an important opportunity to review, improve, and simplify the broad array of Federal assistance relationships. It sees the Act's objective of Federal consistency for various types of relationships coinciding with the President's goal of making Federal program actions more understandable and predictable. Agencies should give serious consideration to the policy implications of the Act's provisions, particularly Sections 4, 5, and 6, pertaining to the use of contracts, grants, and cooperative agreements as these involve the essence of the way agencies perform fundamental functions.

This Act does not cover all possible relationships that may exist between Federal agencies and others. For example, the sale, lease, license, and other authorizations to use Federal property, when not for the purpose of support or stimulation, are not within the scope and intent of Pub. L. 95-224 or this guidance.

2. *Orderly implementation of sections 4, 5, and 6.* These sections of the Act require agencies to use contracts for all procurement actions, and grants or cooperative agreements to transfer money, property, services, or anything of value to recipients to accomplish a Federal purpose of stimulation or support authorized by statute. Subsection 10(b) says:

Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

The legislative history clearly indicates that Congress intended this provision to provide one year for orderly implementation of sections 4, 5, and 6. The Act was signed February 3, 1978. Agencies have until February 3, 1979, to implement these sections in accordance with the OMB guidelines.

3. *Interpretation of specific provisions of the Act.* To promote consistency, agencies should interpret subsections 4(2), 7(a), and 7(b) of the Act as follows:

a. Subsection 4(2) allows the use of contracts "whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate." The Senate Report on the Act says:

"This subsection accommodates situations in which an agency determines the specific public needs can be satisfied best by using the *procurement process.* For example, subsection 4(2) would cover the two-step situation in which a Federal agency may procure medicines which it then "grants" to non-Federal hospitals. This subsection does not allow agencies to ignore sections 5 and 6. Compliance with the requirements of sections 4, 5, and 6 will necessitate deliberate and conscious agency determinations of the choice of instruments to be employed. (Italics added.)

Until the Federal Acquisition Regulation is published, the Federal Procurement Regulation, the Armed Services Procurement Regulation, and other procurement regulations authorized by law govern policy and procedures regarding procurement contracts awarded under the authority of this subsection. Section M of this guidance includes a reporting requirement for procurement transactions based on subsection 4(2).

b. Subsection 7(a) says:

Notwithstanding any other provision of the law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act.

If, prior to the passage of the Act, an agency was authorized to use one or more of the three instruments—procurement contracts, grants, or cooperative agreements—and is not prohibited from using any of them, this provision enables it to enter into any of the three types of arrangements, subject to the criteria set forth in sections 4, 5, and 6.

c. Subsection 7(b) says:

The authority to make contracts, grants, and cooperative agreements for the conduct of basic or applied research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such funds.

The Act repeals the Grants Act, Pub. L. 85-934, which authorized the use of grants for scientific research. This provision continues the authority of the Grants Act to vest title to equipment purchased with Federal funds in a nonprofit organization. It expands this authority to other classes of property and applies to procurement contracts and cooperative agreements as well as grants.

B. DISTINGUISHING BETWEEN PROCUREMENT AND ASSISTANCE

1. *Basic determinations.* While one of the major objectives of the Act is to distinguish between procurement and assistance relationships, neither term is specifically defined. Section 4 requires use of a procurement contract when the principal purpose is acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government. Sections 5 and 6 require the use of grants or cooperative agreements when the principal purpose is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use by the Federal Government.

Agencies should interpret the language of sections 5 and 6 which call for the use of grants or cooperative agreements to "accomplish a public purpose of support or stimulation authorized by Federal statute" as including but not restricted to traditional assistance transactions. Thus, for example, where an agency authorized to support or stimulate research decides to enter into a transaction where the *principal purpose* of the transaction is to stimulate or support research, it is authorized to use either a grant or a cooperative agreement. Conversely, if an agency is not authorized to stimulate or support research, or the *principal purpose* of a transaction funding research is to produce something for the government's own use, a procurement transaction must be used. Until the Federal Acquisition Regulation is published, the Federal Procurement Regulation, the Armed Services Procurement Regulation, and other procurement regulations authorized by law govern policy and procedures regarding procurement contracts.

2. *Assistance awards to for-profit organizations.* Subject to the requirements of sections 4, 5, and 6 of the Act, assistance awards may be made to for-profit organizations when deemed by the agency to be consistent with legislative intent and program purposes.

3. *When to decide on the use of procurement or assistance instruments.* Any public notice, solicitation, or request for applications or proposals should indicate whether the intended relationship will be one of procurement or assistance.

4. *What to do if the distinctions between procurement and assistance do not apply to a specific class of transactions.* Agencies should make every effort to ensure their relationships conform with those specified in the Act. If, however, there are major individual transactions or programs which contain elements of both procurement and assistance, but which cannot be characterized as having a *principal purpose* of one or the other, an OMB exception should be requested. Sections I and J deal with OMB exceptions.

C. CHARACTERIZATION OF GRANTS AND COOPERATIVE AGREEMENTS

1. *Anticipated substantial involvement during performance.* The basic statutory criterion for distinguishing between grants and cooperative agreements is that for the latter, "*substantial* involvement is *anticipated* between the executive agency and the recipient *during performance* of the contemplated activity" (emphasis added). To insure consistent determinations, all agencies should use only this criterion when deciding to use either a grant or a cooperative agreement.

a. Anticipated substantial Federal involvement is a relative rather than an absolute concept. The examples that follow in "b" and "c" are not meant to be a checklist or to be considered as individual determinants. Rather, they are to illustrate the general policy that:

(1) When the terms of an assistance instrument indicate the recipient can expect to run the project without agency collaboration, participation, or intervention as long as it is run in accordance with the terms of the assistance instrument, substantial involvement is not anticipated.

(2) When the instrument indicates the recipient can expect agency collaboration or participation in the management of the project, substantial Federal involvement is anticipated.

b. As a guide to making these determinations, anticipated substantial involvement during performance does not include:

(1) Agency approval of recipient plans *prior* to award.

(2) Normal exercise of Federal stewardship responsibilities during the project period such as site visits, performance reporting, financial reporting, and audit to insure that the objectives, terms, and conditions of the award are accomplished.

(3) Unanticipated agency involvement to correct deficiencies in project or financial performance from the terms of the assistance instrument.

(4) General statutory requirements understood in advance of the award such as civil rights, environmental protection, and provision for the handicapped.

(5) Agency review of performance *after* completion.

(6) General administrative requirements, such as those included in OMB Circulars A-21, A-95, A-102, A-110, and FMC 74-4.

c. Conversely, anticipated involvement during performance would exist and, depending on the circumstances, could be substantial, where the relationship includes, for example:

(1) Agency power to immediately halt an activity if detailed performance specifications (e.g., construction specifications) are not met. These would be provisions that go beyond the suspension remedies of the Federal Government for nonperformance as in OMB Circulars A-102 and A-110.

(2) Agency review and approval of one stage before work can begin on a subsequent stage during the period covered by the assistance instrument.

(3) Agency review and approval of substantive provisions of proposed subgrants or contracts. These would be provisions that go beyond existing policies on Federal review of grantee procurement standards and sole source procurement.

(4) Agency involvement in the selection of key recipient personnel. (This does not include assistance instrument provisions for the participation of a named principal investigator for research projects.)

(5) Agency and recipient collaboration of joint participation.

(6) Agency monitoring to permit specified kinds of direction or redirection of the work because of interrelationships with other projects.

(7) Substantial, direct agency *operational involvement* or *participation* during the assisted activity is anticipated prior to award to insure compliance with such statutory requirements as civil rights, environmental protection, and provision for the handicapped. Such participation would exceed that normally anticipated under (b)(4), above.

(8) Highly prescriptive agency requirements prior to award limiting recipient discretion with respect to scope of services offered, organizational structure, staffing, mode of operation, and other management processes, coupled with close agency monitoring or operational involvement during performance over and above the normal exercise of Federal stewardship responsibilities to ensure compliance with these requirements.

2. *OMB policy on substantial involvement.* Agencies should limit Federal involvement in assisted activities to the minimum consistent with program requirements. Nothing in this Act should be construed as authorizing agencies to increase their involvement beyond that authorized by other statutes.

3. *How technical assistance and guidance relate to substantial involvement.* The practice of some agencies of providing technical assistance, advice, or guidance to recipients of financial assistance does not constitute substantial involvement if:

a. It is provided at the request of the recipient, or;

b. The recipient is not required to follow it, or;

c. The recipient is required to follow it, but it is provided prior to the start of the assisted activity and the recipient understood this prior to the financial assistance award.

4. *What to do if grants or cooperative agreements do not fit program requirements.* There may be a few cases of assistance programs covered by section 5 or 6 of the Act where neither a grant nor a cooperative agreement is suitable. In such cases, an OMB exception should be requested in accordance with sections I and J below.

5. *Competition for assistance awards.* Consistent with the purposes of Pub. L. 95-224, agencies are encouraged to maximize competition among all types of recipients in the award of grants or cooperative agreements, in consonance with program purposes.

D. AGENCY DECISION STRUCTURE FOR SELECTION OF INSTRUMENTS

The determinations of whether a program is principally one of procurement or assistance, and whether substantial Federal involvement in performance will normally occur are basic agency policy decisions. Agency heads should insure that these general decisions for each program are either made or reviewed at a policy level. A determination that a program is principally one of procurement or assistance does not preclude the use of any of the types of instruments when appropriate for a particular transaction. Congress intended the Act to allow agencies flexibility to select the instrument that best suits each transaction. Agencies should insure that all transactions covered by the Act are consistent with their basic policy decisions for each program.

E. ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Present administrative requirements such as OMB Circulars A-95, A-102, and A-110 apply to both grants and cooperative agreements involving the transfer of Federal funds. Some of these administrative requirements apply to specific classes of recipients such as State and local governments. This guidance does not extend the coverage of these requirements to instruments with other recipient classes such as for-profit organizations. These administrative requirements will not apply to General Revenue Sharing or Anti-Recession Fiscal Assistance Grants administered by the Treasury Department.

Each assistance instrument must provide that the head of the assisting agency and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the recipient and their subgrantees which are pertinent to the transaction for the purpose of making audits, examination, excerpts, and transcripts.

F. SPECIFIC GUIDELINES FOR GRANTS

1. *Increasing Federal involvement during a grant period.* At times an agency may find it necessary to increase the involvement in a grant-funded project during the period of time covered by the grant. This could happen, for example, when standard grant reports or monitoring indicates some sort of problem. If this occurs, agencies should not view the Act as restricting their authority to intervene as necessary to bring the project into conformance with original intentions. Agencies should not, however, seek to become substantially involved in a long term or ongoing grant-funded activity without converting the grant instrument to a cooperative agreement following negotiation with the recipient.

G. SPECIFIC GUIDELINES FOR COOPERATIVE AGREEMENTS

1. *Alternative uses of cooperative agreements.* In all cases, the determination of when to use cooperative agreements will be based on the need for substantial Federal involvement in the assisted activity.

a. Some programs now using grants will require the use of cooperative agreements exclusively. This determination should be based on statutory requirements or policy level determinations of substantial Federal involvement in the performance of the assisted project.

b. Other programs may use grants or cooperative agreements, depending on the nature of the project or the abilities of the recipients. For example:

(1) Some projects may start out as cooperative agreements in the first year and be converted to grants after recipient capacity has been established.

(2) Other projects, initially funded as grants, may have to be renewed or continued for subsequent budget periods as cooperative agreements if there is a need to revise the project, upgrade recipient capacity, or protect the Federal interest.

2. *Statement of Federal involvement.* Each cooperative agreement should include an explicit statement of the nature, character, and extent of anticipated Federal involvement. These statements must be developed with care to avoid unnecessarily increasing Federal liability under the assistance instrument.

H. ASSISTANCE TRANSACTIONS INVOLVING ONLY NONMONETARY TRANSFERS

1. *Types of assistance included.* Sections 5 and 6 apply to transactions that transfer "property, services, or anything of value," which *could* include consultation, technical services, information, and data. This section of the guidance applies to agencies and programs that provide such types of nonmonetary assistance apart from fund transfers.

2. *Applicability of administrative standards.* Section E above stated that existing administrative standards (e.g., OMB Circulars A-95, A-102, A-110) apply to grants and cooperative agreements involving the transfer of funds.

Agencies are encouraged, however, to use these standards where appropriate, and in some cases, their use is required for nonmonetary transfers. For example, a donation of a substantial parcel of land to a local

government is the type of Federal action covered by Part II of A-95, but other administrative standards may not apply.

3. *OMB exception for nonmonetary assistance.* OMB exempts programs and transactions providing nonmonetary assistance from the provisions of section 5 of the Act. Existing agency practices for providing nonmonetary assistance where no Federal involvement in the assisted activity is anticipated should continue. Thus a formal grant instrument is not required to provide surplus property, consultation, or data. Where substantial Federal involvement in the assisted activity is anticipated, however, a cooperative agreement is required as indicated in section 6 of the Act. Agencies engaged in the provision of nonmonetary assistance will be asked to report on these activities under section M below.

I. OMB EXCEPTION POLICY

1. *General.* Section 10(d) authorizes the Director of OMB to:

Except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one year after receipt by the Congress of the study provided for in section 8 of this Act.

Agencies are advised that, unless otherwise indicated, OMB exceptions will run through January 1981.

2. *Exceptions provided in this guidance.* Section H3 of this guidance excepts nonmonetary grants.

3. *Other exceptions under the Act.* Agencies are required to conform with sections 4, 5, and 6 of the Act. Where severe disruption to a program or serious consequences to recipients would result, a request for exceptions should be made to OMB. OMB intends to grant additional exceptions only on the basis of agency requests that include strong justifications and an indication of the harm that will result if an exception is not granted. Section J below indicates the procedures agencies should follow in requesting exceptions.

4. *Waiver of administrative standards.* OMB is responsible for most of the administrative standards that apply to assistance programs. Agencies should follow these standards. The circulars that establish these standards presently provide procedures for granting of waivers. If the standards appear unsuitable to a particular situation, requests for waivers should be sent to the OMB office responsible for the circular or the responsible agency if not OMB (e.g., for GSA uniform relocation provisions). Requests for waivers to financial management circulars administered by OMB should be addressed to John Lordan, Chief, Financial Management Branch, OMB, Room 6002, NEOB, Washington, D.C. 20503.

J. OMB EXCEPTION PROCEDURES

A request for an OMB exception under this Act should be addressed to Deputy Associate Director for Intergovernmental Affairs, Room 9025, NEOB, Washington, D.C. 20503. It should include:

1. A statement on whether the exception is requested for a complete program or an individual transaction.

2. An explanation of why an exception is requested, including statutory, agency policy, or other reasons.

3. A statement of what the agency will do if an exception is not granted and what the implications would be if this action were taken.

4. An indication of how the agency will handle the situation if the OMB exception expires before there are any changes to either this Act or agency statutes.

K. JOINT FUNDING UNDER GRANTS AND COOPERATIVE AGREEMENTS

Subsection 10(c) of the Act specifically provides for projects funded under the Joint Funding Simplification Act that include more than one type of assistance relationship. Thus a project with some components funded by grants and others by cooperative agreements is entirely permissible. Agencies should view this Act as providing the opportunity and authority to participate in joint funded projects in any number of funding relationships to serve the best interests of the participating agencies programs.

L. AGENCY RECORDS

Both Congress and OMB view this Act as a preliminary step toward long-range overhaul of Federal assistance activities. The requirement for agencies to implement sections 4, 5, and 6 in one year is, in large part, to begin the systematic gathering of data about Federal assistance relationships. Agencies should anticipate that congressional committees, the General Accounting Office, and OMB will be asking extensive questions about the effects of implementing these sections. While the questions may vary from agency to agency, they can reasonably be expected to deal with operating experience for a year or more after full implementation. Agencies should develop systems of records that would allow them to answer questions such as:

1. How many financial grants have been awarded in accordance with section 5 of the Act? What was the dollar volume and what classes of recipients were involved (e.g., State governments, universities, hospitals, individuals)?

2. For which programs did the agency decide to use grants exclusively? Why?

3. How many financial assistance cooperative agreements have been awarded in accordance with section 6 of the Act? What was the dollar volume and what classes of recipients were involved?

4. For which programs did the agency decide to use cooperative agreements exclusively? What are the nature and reason for the agency involvement?

5. For which programs were both grants and cooperative agreements used? What were the criteria for determining the instrument used?

6. What types of nonmonetary assistance transfers were made as grants? What types as cooperative agreements?

7. What was the agency's experience in implementing sections 4, 5, and 6? How did it contribute to improve projects, management, or intergovernmental relations? What problems has the Act presented that can be expected to continue?

M. OMB REPORTING REQUIREMENTS

The experience of the agencies in making decisions necessary to implement sections 4, 5, and 6 of the Act will be important to the study required by section 8. In addition, to the more general questions about the feasibility of a comprehensive system of guidance for assistance activities, the report to Congress must include a summary of the effects of sections 4, 5, and 6. For these reasons, agencies are to provide by March 1, 1979, a report to OMB that includes the following:

1. Distinguishing between procurement and assistance:

a. For what types of activities did the agency have trouble making the distinction between procurement and assistance? Why?

b. On what basis were the issues resolved?

2. Use of procurement contracts:

a. What activities formerly funded through grants or other assistance instruments will now be handled with procurement contracts?

b. What is the anticipated dollar volume of these procurement contracts?

c. What is expected to be the impact of this shift on the agency?

d. Who will be the principal recipients of these contracts?

e. What is expected to be the impact on the recipients?

f. What use was made of the subsection 4(2) procurement provisions? Explain any uses other than those following the two-step example in the legislative history.

3. Agency decisions on when to use grants or cooperative agreements:

a. Describe the process by which the agency decided which programs would use:

(1) Only grants.

(2) Only cooperative agreements.

(3) Both grants and cooperative agreements.

b. Which programs, as listed in the Catalog of Federal Domestic Assistance, will fall into each of the above three categories? For those in category 3 what is the expected mix in terms of total dollars and numbers of transactions?

c. What programs not listed in the Catalog of Federal Domestic Assistance will fall into each of the three categories? For those in category 3 what is the expected mix in terms of total dollars and numbers of transactions?

d. What is the anticipated first-year dollar volume of the programs in each of the three categories?

e. What types of Federal involvement in the assisted activity led to the identification of programs that would use only cooperative agreements?

f. What are the anticipated reactions of the recipients of programs using only cooperative agreements?

g. What are the anticipated liability, accountability, and other implications for the programs using only cooperative agreements?

h. What are the agency guidelines on the selection of instruments for programs that may use either grants or cooperative agreements?

i. What is the anticipated dollar volume of grants and cooperative agreements to be awarded under these programs?

j. How will the opportunity to use either grants or cooperative agreements improve administration of these programs?

k. What negative effects are anticipated from the requirement to make a choice of instruments?

l. What programs will use assistance instruments that formerly used contracts and what is the dollar volume of these new uses of assistance instruments?

4. Nonmonetary assistance transfers:

a. What were the types and dollar value of nonmonetary transfers made by the agency using grant instruments?

b. How do these grant instruments compare with monetary grant instruments?

c. What were the types and dollar value of nonmonetary transfer made under the OMB exception that did not use grant instruments?

d. How would the agency have treated these transfers had not OMB granted the exception?

e. What were the types and dollar value of nonmonetary transfers made through cooperative agreements?

f. What was the agency's experience with this use of cooperative agreements?

5. Overall evaluation of the Act:

a. What elements of the Act are contributing to improved program performance and administration?

b. What elements of the Act are particularly troublesome? Why?

c. What proposals would the agency make for revising the Act?

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federal register

THURSDAY, MARCH 8, 1979

PART VII

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

■

RURAL DEVELOPMENT

Energy Impacted Area Development Assistance Program

[3410-07-M]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1948]

[FmHA Instruction 1948-B]

RURAL DEVELOPMENT

Energy Impacted Area Development Assistance Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration proposes to add regulations regarding assistance to areas impacted by increased coal or uranium production, processing or transportation. This action is taken to implement a public law. The intended effect of this action is to provide regulations under which assistance will be provided to eligible applicants.

DATES: (1) Comments must be received on or before May 7, 1979.

(2) There will be public hearings on these proposed regulations during the 60-day comment period. Announcement will be made at a later time in the Proposed Rule Section of the FEDERAL REGISTER.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

ENVIRONMENTAL IMPACT ANALYSIS STATEMENT: The Farmers Home Administration has reviewed this document for compliance with the National Environmental Quality Regulations, CFR Part 1500 and Farmers Home Administration Regulation 1901-G "Environmental Impact Statements."

Funds authorized under Section 601 may be utilized for a wide variety of project types. Area designations and priorities are to be established by the Governor of the State. These circumstances do not lend themselves to rational analysis of potential environmental effects on a programmatic basis. Therefore, special provisions have been incorporated to insure that environmental impacts will be studied at the most appropriate scale concurrent with establishment of priorities and processing of applications.

The proposed regulations require that environmental consequences of any action funded under this Subpart will be considered both on a site specific and cumulative basis. The Farmers Home Administration has determined that the regulations are in full compliance with NEPA and CEQ guidelines.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Kugler, Phone: 202-447-2573.

SUPPLEMENTARY INFORMATION: The FmHA proposes to add a new Subpart B to Part 1948, Chapter XVIII, Title 7 in the Code of Federal Regulations. This action will implement the provisions of Section 601 of the Powerplant and Industrial Fuel Use Act of 1978. The major provisions of the regulation are as follows: To provide assistance to areas impacted by coal and/or uranium development activities designated by the Governor of the affected State and approved by the Department of Energy, after consultation with FmHA. This assistance will contribute to the development of growth management and housing plans and the provisions of housing, public facilities, and services through grants for planning, site development, and site acquisition.

An approved draft impact analysis statement is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6313-S, Washington, D.C. 20250.

Therefore, as proposed, Subpart B reads as follows:

PART 1948—RURAL DEVELOPMENT

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Subpart B—Section 601—Energy Impacted Area Development Assistance Program

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1948.82 Application procedure for planning grants.
1948.83 Planning grant selection criteria.
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1948.86 Site development and acquisition allocation of funds.
1948.87 Performance of site development work.
1948.88 Application procedure for site development grants.
1948.89 Site development grant selection criteria.
1948.90 Application procedure for site acquisition grants.
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1948.92 [Reserved]
1948.93 Direct land acquisition by FmHA.
1948.94 Land transfers.
1948.95 Inspections of development.
1948.96 Grant approval and fund obligation.
1948.97 [Reserved]
1948.98 Reporting requirements.
1948.99 Grant monitoring.
1948.100 Audit requirements.
1948.101 Grant closing and fund disbursement.
1948.102 Grant agreements.
1948.103-105 [Reserved]

Exhibit A—Grant Agreement Growth Management and Housing Planning for Approved Designated Energy Impacted Areas.
Exhibit B—Grant Agreement (Public Bodies) for Site Development and/or Site Acquisition for Housing and/or Public Facilities and/or Services.

Subpart B—Section 601 Energy Impacted Area Development Assistance Program

§ 1948.51 General.

This Subpart sets forth policies and procedures for designation, approval of designation, and making grants for assistance to areas impacted by increased coal and uranium production, processing, or transportation. The Farmers Home Administration (FmHA) will fully consider all A-95 clearinghouse review comments and recommendations in selecting applications for funding.

§ 1948.52 Objectives.

The objective of the program is to contribute to the development of areas impacted by coal or uranium development activities by providing assistance for the development of growth management and housing plans and housing, public facilities, and services.

§ 1948.53 Definitions.

(a) *Approved designated areas.* An area designated as an energy impacted area by the Governor of a State and approved by the Secretary of Energy in consultation with the Secretary of Agriculture.

(b) *Available financial resources.* All existing financial resources which could be used for impact assistance including Federal, State, and local finan-

cial resources and financial resources accruing to States and local government as a result of coal or uranium development activity and not already committed to other programs by law or historical precedent.

(c) *Base year.* The most recent calendar year determined by the Governor of the appropriate State to be prior to the occurence of the most significant impact on the designated area. This may be any calendar year selected by the Governor from 1975 to the calendar year preceding the most recent calendar year.

(d) *Coal or uranium development activities.* The production, processing, or transportation of coal or uranium.

(1) Production includes the mining of coal or uranium and all mine site operations connected with such operations including construction on mine sites.

(2) Processing includes all operations performed on coal or uranium short of conversion into electrical energy. This includes construction of processing plants.

(3) Transportation includes the transfer of coal or uranium from a mine site to another location for the purpose of processing or consumption.

(e) *Condemnation by USDA.* The use of Federal authority by the Secretary of Agriculture to condemn privately owned land.

(f) *Council of local governments.* Areawide development organization which includes one or more local governments servicing at least a portion of an approved designated area. Such organization must either have a policymaking body made up of a majority of local elected officials or be certified by the Governor of a State as an official substate district performing functions for State and/or local government.

(g) *Eligible employment.* Full time work when such work is directly related to coal or uranium development activities.

(h) *Eligible employment facility.* A coal or uranium mine, processing plant, or transportation depot.

(i) *Energy impacted areas.* Areas where coal and uranium development activities have a significant impact on the socio-economic structure of the area and which meet the criteria set out at § 1948.73 below.

(j) *Fair market value.* The price at which a property will sell in the open market allowing a reasonable period of time for typical, fully-informed buyers and sellers to react, assuming that the purchaser and seller are both willing participants in the transaction.

(k) *Grantee.* An entity with whom FmHA has entered into a grant agreement under this program.

(l) *Growth management planning.* Planning for the orderly development of an approved designated area. This planning includes, but is not limited to: planning for provision of infrastructure to support housing and public facility needs, sewer and water needs for the community; planning for the provision of additional public services needed in the community; overall plans for the coordinated development of all approved designated areas within a State; the development of State Investment Strategies for Energy Impacted Areas; and coordination of development of approved designated areas at the interstate level where impact is interstate in nature.

(m) *Housing planning.* Identification of present and future housing needs within an approved designated area and providing methods for developing needed housing. This planning includes, but is not limited to the identification of: sites; site development needs; infrastructure needs; funding needs; acquisition methods and agencies of government responsible for delivery of housing services.

(n) *Industry reports.* Those reports concerning production, expected production, and employment within an approved designated area which are requested by the Governor and submitted by a person to the Secretary of Energy.

(o) *Local government.* Any county, parish, city, town, township, village or other general purpose political subdivision of a State with the power to levy taxes and expend Federal, State, and local funds and exercise governmental powers.

(p) *Person.* Any corporation, individual, partnership, company, association, firm, institution, society, trust, joint venture, or joint stock company, any State or any agency or instrumentality thereof.

(q) *Public facilities.* Installations open to the public and used for the public welfare. This includes but is not limited to: hospitals, clinics, dispensaries, firehouses, parks, recreation areas, sewer systems, water systems, streets, bridges, sidewalks, community centers, libraries, city or town halls, jailhouses, courthouses, and schoolhouses.

(r) *Public services.* The provision to the public of services such as: health care, fire and police protection, recreation, etc.

(s) *Site acquisition.* The obtaining of title to land for sites for housing and public facilities and services.

(t) *Site development.* Site restoration and necessary off-site improvements such as the construction of sewer and water connections and construction of access roads; but does not include the construction of houses or public facilities.

(u) *Site restoration.* On-site improvements to the land such as backfilling, compaction, and grading and leveling necessary to facilitate the construction of houses and public facilities.

(v) *State.* Any of the fifty States, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

(w) *State Investment Strategy for Energy Impacted Areas.* The investment strategy for the development of approved designated areas within a State as proposed by the Governor and approved by FmHA.

(x) *Substandard housing.* All housing units which do not have complete plumbing fixtures, lack adequate heating systems, are not structurally sound, or contain any other conditions that would cause a safety, sanitary, or health hazard to the family or community.

§§ 1948.54–1948.56 [Reserved]

§ 1948.57 Eligible applicants.

Organizations eligible for grants include local governments, councils of local government, and State governments.

§ 1948.58 Source of funds.

(a) Grants will be awarded from appropriated funds specifically allotted for this program.

(b) Grants made for growth management and housing planning will equal 10 percent of the total amount of funds appropriated for and allotted to this program in any one fiscal year.

§ 1948.59 Use of funds.

Grant funds may be used for:

(a) The preparation of growth management and/or housing plans for approved designated areas as set forth in the grant agreement including but not limited to:

(1) One hundred percent of the total cost of developing growth management and/or housing plans;

(2) Payment of salaries of professional, technical, and clerical staff to carry out growth management and housing planning and evaluation;

(3) Payment of necessary reasonable office expenses such as office rental, office utilities, and office equipment rental;

(4) Purchase of office supplies;

(5) Payment of necessary reasonable administrative costs, such as workmen's compensation, liability insurance, and employer's share of social security and travel; and

(6) Payment of costs to undertake tests or surveys necessary for the planning activity.

(b) The cost of the development of sites acquired under this section or owned by the Grantee as set forth in the grant agreement, including but not limited to:

(1) Necessary grading and leveling;

(2) Sewer and water connections;

(3) Necessary water and sewer lines to housing and public facilities sites;

(4) Access roads to housing and public facilities sites;

(5) Restoring previously mined sites;

(6) Necessary engineering reports in connection with site development; and

(7) Payment of interim financing and interest thereon.

(c) The cost of acquiring sites for housing, providing access to housing sites, acquiring sites for the location of public facilities, and acquiring sites for the location of a delivery network for public services as set forth in the grant agreement including, but not limited to:

(1) The actual cost of the sites acquired;

(2) Necessary legal fees involved in the transfer of the land; and

(3) Payment interim financing and interest thereon.

§ 1948.60 Grant purposes.

(a) FmHA will make grants for assistance to approved designated areas in accordance with criteria contained in this Subpart by providing assistance to fill gaps in growth management and housing planning, and to support the provision of housing and public facilities and services by State and local governments.

(b) Existing plans, State and local programs, and other Federal programs will be utilized to the maximum extent feasible in providing assistance. Particular attention will be given to the utilization of existing FmHA authorities under other FmHA programs in providing assistance to approved designated areas in accordance with the Governor's approved State Investment Strategy for Energy Impacted Areas.

(c) Where existing plans are unsuitable or nonexistent, and other assistance programs are inadequate or unavailable, FmHA will provide assistance under this section to States, councils of local government, and local governments for:

(1) The modification, updating, and/or development of growth management and/or housing plans to deal with problems resulting from coal or uranium development within approved designated areas according to the criteria contained in this Subpart; and

(2) The acquisition and/or development of sites and/or the acquisition of sites for needed housing and public facilities and services within approved designated areas according to the criteria contained in this Subpart. Such assistance for site development and acquisition will be made in accordance with FmHA approved plans and State Investment Strategies for Energy Impacted Areas in accordance with the criteria contained in this Subpart.

§ 1948.61 [Reserved]

§ 1948.62 Ineligible activities.

(a) Growth management and housing planning grant funds may not be used for:

(1) Acquisition, construction, repair, or rehabilitation of housing and public facilities;

(2) Replacement of, or substitution for, any financial support previously provided or assured from any other source which would result in a reduction of current efforts on the part of the applicant;

(3) Duplication of current services;

(4) Routine administrative activities not allowed under Federal Management Circular FMC 74-4, "Cost Principles Applicable to Grants and Contracts with State and Local Governments;"

(5) Planning for areas other than approved designated areas;

(6) Planning other than growth management and housing planning; or

(7) Political activities.

(b) Grants funds for site development may not be used for:

(1) Construction or rehabilitation of public facilities;

(2) The actual construction or rehabilitation of housing;

(3) Site acquisition;

(4) Replacement of, or substitution for, any financial support previously provided or assured from any other source which would result in a reduction of current effort on the part of the applicant;

(5) Administrative expenses;

(6) Duplication of current services;

(7) Purposes where funding exists under other State or Federal programs that may reasonably be obtained on a timely basis by the applicant; and

(8) Political activities.

(c) Grant funds for site acquisition may not be used for:

(1) Construction, repair, or rehabilitation of housing and public facilities;

(2) Replacement of, or substitution for, any financial support previously provided or assured from any other source which would result in a reduction of effort on the part of the applicant;

(3) Payment of the costs of administrative activities;

(4) Payment of the costs of site development;

(5) Payment of the costs of acquiring sites other than that called for in a FmHA approved plan; or

(6) Political activities.

§ 1948.63-1948.65 [Reserved]

§ 1948.66 Environmental impact requirements.

The policies and regulations contained in Part 1901, Subpart G, of this Chapter apply to grants made under this program. Environmental Assessments and/or Environmental Impact Statements shall be prepared on all applications for assistance under this Subpart. Assessments and Statements shall be prepared to considered cumulative as well as site specific effects.

Subsequent to energy impact area designation by the Governor and establishment of priorities, the FmHA State Director, in consultation with the Governor, shall define the geographic boundaries or otherwise delineate the areas which will be studied for environmental impacts.

Boundaries shall define the area within which the environmental impacts of the proposed action can be reasonably studied. Proper delineation of impact areas will avoid duplication of effort by using one assessment or impact statement to study a broad area rather than numerous overlapping documents prepared for smaller projects.

§ 1948.67 Historic preservation requirements.

The policies and regulations contained in Part 1901, Subpart F, of this Chapter apply to this program.

§ 1948.68 Equal opportunity requirements.

The policies and regulations contained in Part 1901, Subpart E, of this Chapter apply to grants made under this program.

§ 1948.69 Relocation Act requirements.

The policies and regulations contained in Title 7, Subtitle A, Part XXI of the Code of Federal Regulations will apply to site development and acquisition grants made under this program.

§ 1948.70 A-95 and other administrative requirements.

The policies and regulations contained in Chapter 4, Sections 4 and 5 of the USDA Administrative Regulations; Part 1901, Subparts H and J of this Chapter; Treasury Circular Number 1082, Revised; and OMB Circular A-95 apply to grants made under this program.

§ 1948.71 [Reserved]

§ 1948.72 Procedure for designation.

(a) Local governments may request the Governor of the State in which they are located to designate an area served by them as an energy impacted area.

(b) The Governor will define the geographic area of a designated area consistent with the nature of the impact and the socio-economic integration of the area.

(c) Local governments will provide the Governor with information and available statistical data relevant to

the criteria for designation along with requests for designation or upon request.

(d) The Governor may designate an area as an energy impacted area based on the criteria contained in this Subpart.

§ 1948.73 Criteria for designation.

An area designated by the Governor must have the following characteristics:

(a) The eligible employment in coal or uranium development activities within the area has either increased by eight percent or more in the year immediately following the base year, or such employment (as projected by generally acceptable estimates) will increase by eight percent or more of the base year eligible employment per year during each of the next three calendar years.

(b) Because of increased employment in coal or uranium development activities, a shortage of housing or inadequate public facilities and services does or will exist in the area. Such shortages or inadequcies may be demonstrated by: housing shortage statistics; higher occupancy rates of substandard houses than has historically occurred within the area; an increase in eligible employment from the base year of at least 100 workers or one-half of one percent of the designated areas population and for which data or projected data is available; and that available public facilities and services in the area are below generally accepted standards due to the increased demand resulting from coal and uranium development activities.

(c) Available State and local financial resources are inadequate to meet the public demand for housing or public facilities and services at present or in the next three years. In making this determination the Governor will examine the following:

(1) State revenue increases resulting from coal and uranium development activity based on existing tax laws.

(2) Federal funds transferred to States for impact assistance.

(3) Local revenue increases resulting from coal or uranium development activities based on existing tax laws;

(4) Other federal financial assistance to which the area may have access;

(5) All other available State and local sources of funding;

(6) The time during which the resources will be available;

(7) Existing laws committing increases in State and local revenues and Federal transfers to purposes other than impact assistance; and

(8) The estimated cost of development based on existing plans or the best available informed judgement.

(d) After examining these factors and determining that the area meets the criteria of (a), (b) and (c), the Governor may certify, by letter bearing the Governor's signature, that the area being designated meets the factors and criteria set forth in (a), (b), and (c) above and submit the letter of certification and all data and estimates upon which the certification is based to the Department of Energy at the same time that the designation is submitted for approval.

§ 1948.74 Designation submitted for approval.

Designations submitted to the Secretary of Energy for approval shall include the following:

(a) A list of all counties and parts of counties covered by the designation; a map showing the boundary of the area and the approximate location of all eligible employment facilities in the area and nearby;

(b) A written justification for the inclusion of an area if the area is smaller than a county;

(c) All relevant information used in determining the compliance of the area with the designation selection criteria;

(d) Certification of validity of data upon which certification is based;

(e) The population and total employment of each designated county or part of a county;

(f) The level of eligible employment within the designated area in 1972 and each succeeding year for which employment data is available. This data should be obtained from a single source or, if data from the desired source is not available for all years of interest, data for the missing years may be supplied from any other source which uses the identical collection procedure and identical definitions of employment;

(g) Current status of planning for growth management and housing, including planning done by State agencies, Councils of Governments, planning districts, and local governments for the designated area, including the estimated cost, minus available planning resources, of developing plans or revising existing plans to meet the growth management and housing plan approval criteria contained in this section; and

(h) In areas where the impacted areas covers counties or parts of counties located in more than one State, the Governors of the affected States may jointly designate such area and submit the designation to the Secretary of Energy for approval.

1948.75 Designation approval.

Upon receipt of a request for approval of a designation made under this section, the Secretary of Energy shall:

(a) Determine to the best of his ability the accuracy of the supporting data submitted along with the designation by the Governor;

(b) Confer with FmHA on:

(1) The appropriateness of the geographic area covered by the designation; and

(2) The accuracy of data used in making desingations;

(c) Notify the Governor and the Administrator of FmHA of action taken on each designation within 30 days of the receipt of a request for approval;

(d) Notify the Administrator of FmHA of all approved designated areas, those designated areas whose approval is imminent, and those designated areas which are likely to be approved; on June 15, 1979, and monthly thereafter; and

(e) Publish a description in the FEDERAL REGISTER of all designated areas approved within 30 days of their approval.

§ 1948.76 Industry reports.

The Governor of a State may require any person regularly engaged in any coal or uranium development activity within an approved designated area to submit a report to the Secretary of Energy, Department of Energy, Washington, D.C. 20461.

(a) The report shall contain:

(1) Projected levels of employment in coal or uranium development activities within the approved designated area for the next three calendar years;

(2) The projected number of new jobs to be created in coal or uranium development activities by the person within the approved designated area in each of the following three calendar years;

(3) Current or planned actions of the person in relation to the provisions of housing or public facilities for their employees in the next three calendar years;

(4) Contracts in force whereby the person intends to provide funds to State government, local governments, and public or private nonprofit organizations for the provision of housing or public facilities for their employees; and

(5) The projected quantity of coal or uranium to be produced, processed, or transported by the person in each of the next three years.

(b) A person required to file a report by a Governor under this section shall submit this report to the Secretary of Energy within 90 days after the written request has been issued by the Governor;

(c) The Governor requesting the report will notify the Secretary of Energy of persons from whom reports have been requested;

(d) The Secretary of Energy shall, subject to the provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974,

provide a copy of these reports to the Secretary of Agriculture, the appropriate Governor, and the appropriate county or local officials and make it available for public inspection and copying in the public reading room of the Department of Energy, Room GA152, Forrestal Building, Washington, D.C.

§ 1948.77 Allocation of planning funds.

(a) The FmHA National Office will annually allocate to FmHA State Offices for growth management and housing planning grants 10 percent of the total funds appropriated and allotted for this section.

(b) Funds for growth management and housing planning grants for fiscal year 1979 will be allocated on or before July 1, 1979.

(c) Fiscal year 1979 allocations for growth management and housing planning grants will be based on areas designated and approved before June 15, 1979 and areas designated and which approval has been indicated to be imminent by the Secretary of Energy to FmHA on or before June 15, 1979.

(d) In years following fiscal year 1979, allocations will be made on November 30 based on areas designated and approved before the beginning of that fiscal year.

(e) Allocations to State Office will be made based on information from designation approval requests. Items considered are as follows:

(1) The number of new employees in coal and/or uranium development activity in any one year since the base year, including those years projected within approved designated areas and designated areas for which approval has been indicated to be imminent by the Secretary of Energy;

(2) The percentage of increase in employment in coal and/or uranium development activity in any one year since the base year, including those years projected, within approved designated areas or designated areas for which approval is indicated to be imminent by the Secretary of Energy;

(3) The available financial resources for meeting the needs of residents of approved designated areas;

(4) The population of approved designated areas and designated areas for which approval has been indicated to be imminent by the Secretary of Energy.

§ 1948.78–1948.81 [Reserved]

§ 1948.82 Application procedure for planning grants.

(a) All applicants should notify the appropriate designated clearinghouse(s) of the intent to submit an application consistent with OMB Circular A-95.

(b) Applicants shall file an original and one copy of Form AD-621, "Preapplication for Federal Assistance," with the appropriate FmHA office. This form is available in all FmHA offices. Local governments and councils of local governments shall submit applications to the appropriate FmHA District Office. State governments shall apply to the appropriate FmHA State Office. The FmHA District Office will forward the preapplication with written comments within 10 working days to the appropriate State Office.

(c) All preapplications shall be accompanied by:

(1) Evidence of applicant's legal existence;

(2) Evidence of applicant's authority to prepare growth management and/or housing plans;

(3) A statement declaring that the planning neither duplicates nor conflicts with current activities;

(4) A complete original and one copy of Form FmHA 449-10, "Applicant's Environmental Impact Evaluation;" and

(5) An original and one copy of Forms FmHA 400-1, "Equal Opportunity Agreement," and 400-4, "Nondiscrimination Agreement."

(6) A statement regarding other resources available to the area for this planning.

(d) District and State FmHA Offices receiving preapplications will:

(1) Determine if the area to be covered by the project is an "approved designated area" as defined in this Subpart;

(2) Comply with the environmental requirements set forth in this part; and

(3) Prepare a Historic Preservation Assessment in accordance with Part 1901, Subpart F, of this Chapter.

(e) District FmHA Offices receiving preapplications will also provide written comments reflecting planning grant selection criteria listed in this Subpart.

(f) The FmHA District Office will forward the original of the preapplication and accompanying documents including those described in paragraphs (d)(1) through (d)(3) and paragraph (e) of this section to the appropriate FmHA State Director within 10 working days of receipt of the preapplication.

(g) Upon receipt of a preapplication, the FmHA State Office will:

(1) Review and evaluate the preapplication and accompanying documents;

(2) Consult with the Governor of the appropriate State concerning the FmHA allocation for the State and the Governor's priorities on the project; and

(3) Respond to the applicant within 30 days of the date of receipt of the preapplication using Form AD-622, "Notice of Preapplication Review Action," indicating the action taken on the preapplication.

(h) Upon notification that the applicant is eligible to compete with other applicants for funding, a Form AD-623, "Application for Federal Assistance (Nonconstruction Programs)," may be submitted to the FmHA State Office by all other applicants.

(i) The FmHA State Office will send a copy of the applicant's Form AD-621 and relevant documents to the USDA Regional Office of General Counsel (OGC) and request that a legal determination be made of the applicant's legal existence and authority to prepare growth management and/or housing plans in those cases where an application (AD-623) is requested.

(j) Upon receipt of an application on Form AD-623 by the FmHA State Office, a docket will be prepared which will include the following:

(1) Form AD-621;

(2) Form AD-622;

(3) A-95 Clearinghouse comments;

(4) Form AD-623;

(5) Evidence of the applicant's legal existence and authority to prepare growth management and/or housing plans;

(6) OGC legal determinations;

(7) Grant agreement and scope of work;

(8) Form FmHA 440-1, "Request for Obligation of Funds;"

(9) Form FmHA 400-1;

(10) Form FmHA 400-4;

(11) Form FmHA 449-10;

(12) Form FmHA 440-46;

(13) Historic Preservation Assessment; and

(14) District, where appropriate, and State FmHA written comments, assessments and analysis of the proposed projects in accordance with the grant selection criteria.

§ 1948.83 Planning grant selection criteria.

The following criteria will be used in the selection of planning grant recipients:

(a) Planning assistance which could be used for the purpose of the proposed planning process is not available from other sources on a timely basis (Mandatory);

(b) The planning priorities of the Governor or Governors of the appropriate States;

(c) An assessment of the need for the planning including the shortage of housing, the shortage of public facilities and services, and other socio-economic impacts due to coal or uranium development activity;

(d) The cost effectiveness of the project including but not limited to: the ratio between the number of persons to be benefited by the project and the cost of the project; ratio between

the number of persons to be hired and the cost of the project; and the ratio between the financial burden on the area and the resources available; and

(e) The nature of comments and recommendation from the A-95 clearinghouse(s).

§ 1948.84 Growth management and housing planning projects.

(a) A reasonable effort will be made to modify existing plans for use in meeting the planning requirements of this section.

(b) The planning process developed with assistance under this section should begin at the local level and flow upward to the State.

(c) Planning processes developed with assistance under this section should have the maximum possible citizen involvement in the development of plans.

(d) Governors should give full consideration to local and substate priorities in the development of the State Investment Strategy for Energy Impacted Areas.

(e) Plans developed with assistance under this section should be fully coordinated with other Federal, State, substate and local planning activities affected by the project.

(f) To the greatest extent possible, planning projects should be coordinated with related planning and development activities presently carried out by the A-95 clearinghouse agency.

(g) Planning conducted by a State should include effective management activities for coordinated development of approved designated areas through the plan implementation state.

§ 1948.85 Plan approval procedure.

(a) Any plan submitted for FmHA approval, whether it is a plan developed with assistance under this section, an existing plan, or a modified plan, should contain:

(1) The present level of coal or uranium production, processing, or transportation within the approved designated area covered by the plan;

(2) The anticipated level of coal or uranium production, processing, or transportation in each of the next three calendar years within the area covered by the plan;

(3) The socio-economic impacts that have occurred since the base year in the approved designated area covered by the plan;

(4) The socio-economic impacts that are expected to occur in the approved designated area covered by the plan within each of the next three calendar years;

(5) The number of new jobs in coal or uranium development activities since the base year within the approved designated area covered by the plan;

(6) The anticipated number of new employees expected to be hired in coal or uranium development activities in each of the next three years within the approved designated area covered by the plan;

(7) The present need for housing, public facilities, and services within the approved designated area covered by the plan;

(8) A description of the existing or proposed procedures which will be employed by State and local governments to assure development of planning, management, and financing capabilities to mitigate or avoid the adverse community impacts from rapid energy resource development;

(9) The amount of State assistance and State expenditure in the approved designated area covered by the plan in the last calendar year;

(10) Available financial resources and federal programs that may be applied to meeting the needs of the approved designated area including but not limited to the following:

(i) Federal programs which could provide assistance on a timely basis;

(ii) The expected amount of State assistance and State expenditures in the approved designated area covered by the plan for impact assistance in the next three years;

(iii) The amount of tax revenues expected to accrue to local governments serving the approved designated area covered by the plan in each of the next three years due to increased economic activities that have occured since the base year or is expected to occur as a result of coal and uranium development activity;

(iv) Existing budget surplus at the State and local level;

(v) Sources and amount of assistance State and local government are now receiving or are expected to receive from persons for the provision of housing and public facilities and services;

(11) The specific needs of the area covered by the plan as to the number of housing units now needed and the number that are expected to be needed in each of the next three years, and the number and type of public facilities and services now needed or expected to be needed in the next three years;

(12) The type and quantity of land now needed or expected to be needed in the next three years for the construction of public facilities and/or housing and/or in the provision of public services over the next three years;

(13) Description of specific sites within the approved designated area covered by the plan that could be used for the needed public facilities, housing, or public services delivery systems;

(14) A description of the process by which each site identified could be acquired by the State or local governments;

(15) An estimated cost of acquiring each identified site;

(16) Activities necessary for the development of each site to be acquired and an outlined step-by-step method for development of each; and

(17) An estimate of assistance that will be necessary under this section and/or other FmHA programs for the development of the site.

(b) All plans meeting the criteria in (a) should be forwarded to the Governor of the appropriate State or States for incorporation into the State Investment Strategy for Energy Impacted Areas.

(c) Appropriate growth management and/or housing plans received by the Governor under this section should be submitted to the appropriate FmHA State Office by the Governor.

(d) The Governor shall submit a copy of the State Investment Strategy for Energy Impacted Areas along with all plans submitted to FmHA for approval. The State Investment Strategy for Energy Impacted Areas will include but is not limited to:

(1) A list of projects in order of priority;

(2) Methods of coordinating assistance with other State and Federal development programs;

(3) Earliest possible starting date for each project;

(4) Nature and quantity of assistance needed for approved designated areas not provided for under this section or other Federal or State programs;

(5) The differential between available financial resources and the cost of needed site development and acquisition for housing and public facilities and services based on plans submitted to the Governor; and

(6) The Governor's recommended level of and method of funding for each project called for in the plans submitted.

(e) The State Investment Strategy for Energy Impacted Areas should be a dynamic document updated as each plan or group of plans is submitted to FmHA for approval.

(f) The Governor shall consult with the FmHA State Director when developing or updating a State Investment Strategy for Energy Impacted Areas in order to allow the FmHA State Director to target other FmHA programs to areas having agreed-upon high priority.

(g) The FmHA State Director shall review all plans and the State Investment Strategy for Energy Impacted Areas and provide comments on the following:

(1) Appropriateness of FmHA assistance under this section as called for in the plans;

(2) Appropriateness of FmHA assistance under other programs as called for in the plans;

(3) Appropriateness of the State Investment Strategy for Energy Impacted Areas;

(4) Other Federal programs which could be used instead of, or in addition to, assistance under this section;

(5) Recommended action.

(h) The FmHA State Director shall submit all plans received from the Governor, the State Investment Strategy for Energy Impacted Areas, and any comments to the FmHA National Office for approval within 10 days of the submission of plans and the State Investment Strategy for Energy Impacted Areas to the State Director.

(i) The FmHA National Office shall review all plans and State Investment Strategies for Energy Impacted Areas received and approve or return them for modification within 30 days of their receipt in the FmHA National Office.

(j) The FmHA National Office shall notify the appropriate State Director of all plans that have been approved by the Administrator.

(k) The FmHA State Office shall notify the Governor and the appropriate District Directors of all plans approved by the FmHA National Office.

(l) Modifications to approved plans shall be approved by the Administrator of FmHA following the above procedure.

(m) The Governor's modification to the State Investment Strategy for Energy Impacted Areas may be approved by the FmHA State Director provided the modification is consistent with FmHA approved plans.

(n) Upon receipt of approved plans from the FmHA National Office, the FmHA State Director may exercise the authority of the Secretary of Agriculture under Section 603 of the Rural Development Act of 1972 to convene a meeting of the appropriate representatives of all Federal and State agencies which are requested to supply development funds by the State Investment Strategy for Energy Impacted Areas for the purpose of obtaining tentative funding commitments consistent with their authorities.

§ 1948.86 Site development and acquisition allocation of funds.

(a) The National Office will allocate funds appropriated and allotted for this section to State Offices for the purpose of making grants for site development and acquisition.

(b) The allocation of FY 79 funds will be made on or before August 1, 1979, based on plans approved by FmHA prior to July 15, 1979.

(c) Allocations in all subsequent years will be made semiannually on November 30 based on plans approved prior to September 30 and on April 15 based on plans approved before March 31 of each year.

(d) Site development and acquisition funds will be allocated to States based on FmHA approved plans. Items considered are as follows:

(1) The number of new employees or residence of employees in coal or uranium development activities in any one year since the base year including those years projected within approved designated areas of a State;

(2) The pecentage of increase in employment or residence of employees in coal or uranium development activity within approved designated areas in any one year since the base year including projected years within a State.

(3) The total of the Governor's recommended level of funding under this section for all projects listed in the State Investment Strategy for Energy Impacted Areas; and

(4) State and local effort in providing assistance as a percentage of available financial resources to approved designated areas as called for in the State Investment Strategy for Energy Impacted Areas.

§ 1948.87 Performance of site development work.

Site development work will be done in accordance with § 1942.18 of FmHA Instruction 1942-A.

§ 1948.88 Application procedure for site development grants.

(a) All applicants should notify the appropriate designated clearinghouse(s) of the intent to submit an application consistent with OMB Circular A-95.

(b) Applicants shall file an original and one copy of Form AD-623, with the appropriate FmHA office. Local governments and councils of local government shall submit applications to the FmHA District Office and State governments to the FmHA State Office. Applications shall include:

(1) Evidence of applicant's legal existence and authority to undertake the proposed project;

(2) Evidence of ownership of site to be developed;

(3) Description of project and relationship to approved growth management and housing plan. Applicant must cite pages and sections of the FmHA approved plan;

(4) A plat of the area including elevations;

(5) Preliminary plans and specifications on proposed development which will contain an estimate of the projected cost of site development prepared by independent qualified appraisers;

(6) The amount of Federal grant needed;

(7) The amount and source of applicant's financial contribution to the project;

(8) An original and one copy of Form FmHA 449-10;

(9) An original and one copy of Forms FmHA 400-1, and 400-4;

(10) Evidence that the land is stable (including relevant data on soil analysis);

(11) Evidence that the site will comply with Executive Order 11988 "Flood Plain Management," and Executive Order 11990 "Protection of Wetlands;" and

(12) Assurance that the requirements set forth in Title 7, Part 21 of the Code of Federal Regulations (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) have been met.

(c) District and State FmHA Offices receiving applications shall:

(1) Determine if the project is in accordance with a FmHA approved growth management and/or housing plan;

(2) Determine that the housing or public facilities are necessary due to an increase in employment due to coal or uranium development activities;

(3) Verify that the information provided is accurate and complete;

(4) Comply with environmental requirements set forth in this Subpart;

(5) Prepare a Historic Preservation Assessment in accordance with Part 1901, Subpart F, of this Chapter;

(6) Determine site stability; and

(7) Determine that all sites for public facilities and/or housing will comply with Executive Orders 11988, "Flood Plain Management" and 11990, "Protection of Wetlands."

(d) District FmHA Offices receiving applications shall also provide written comments reflecting site development grant selection criteria § 1948.89 listed in this Subpart.

(e) The FmHA District Office shall forward the original of the application and accompanying documents including paragraphs (c)(1) through (c)(4) of this section to the FmHA State Director within 10 working days of receipt of the application.

(f) Upon receipt of an application, the FmHA State Office shall:

(1) Review and evaluate the application and accompanying documents;

(2) Determine that the project is consistent with the State Investment Strategy for Energy Impacted Areas;

(3) Send a copy of the applicant's evidence of legal existence and authority to the USDA Regional OGC for review;

(4) If applicant is local government(s), consult with the Governor and obtain written concurrence

on funding recommendation of the project; and

(5) Respond to the applicant within 30 days of the date of receipt of the application.

(g) Upon receipt of an application by the FmHA State Office, a docket shall be prepared which shall include the following:

(1) Application Form AD-623 and enclosures;

(2) A-95 clearinghouse comments;

(3) Evidence of ownership of site to be developed;

(4) Evidence of applicant's legal existence and authority;

(5) OGC legal determination;

(6) Preliminary plans and specification on the proposed development;

(7) Grant agreement and scope of work;

(8) An estimate of projected cost of site development prepared by independent qualified appraisers;

(9) A plat of the area;

(10) Form FmHA 440-1;

(11) Form FmHA 400-1;

(12) Form FmHA 400-4;

(13) Form FmHA 449-10;

(14) Form FmHA 440-46, "Environmental Impact Assessment;"

(15) Historic Preservation Assessment;

(16) A copy of the State Investment Strategy for Energy Impacted Areas; and

(17) District, where appropriate, and State FmHA written comments, assessments and analysis of the proposed project in accordance with the grant selection criteria.

§ 1948.89 Site development grant selection criteria.

The following criteria will be considered in the selection of site development grant recipients:

(a) *Required criteria.* Each project must meet the following criteria:

(1) The area is covered by a FmHA approved plan;

(2) The approved plan specifically calls for the site development;

(3) No other Federal funds are available that the community could receive for the project, and no State or local funds for site development are available to permit development on a timely basis;

(4) The site is to be developed for housing or public facilities or services;

(5) The applicant has title to the site, or an option on the site and funds to purchase the site, or is applying for a site acquisition grant in conjunction with the application for a site development grant; and

(6) The site will comply with Executive Orders 11988, "Flood Plain Management" and 11990, "Protection of Wetlands."

(b) *Competitive criteria.* The following criteria will be considered in the selection of grantees:

(1) Priority assigned by the Governor in the State Investment Strategy for Energy Impacted Areas;

(2) The severity of need for housing and/or public facilities and/or services that has resulted from coal or uranium development activities in relation to available financial resources within the area covered by the application;

(3) The cost effectiveness of the project including but not limited to the severity of need of the individuals to benefit from the project, the ratio of persons to directly benefit from the project and the degree to which the project will meet the highest priority needs of the area;

(4) The amount of effort by State and local government to meet the needs of the area covered by the application as called for in the State Investment Strategy for Energy Impacted Areas in relation to available financial resources;

(5) An assessment of the environmental impacts of the project; and

(6) The nature of comments and recommendations from A-95 clearinghouse(s).

§ 1948.90 Application procedure for site acquisition grants.

(a) All applicants should notify the appropriate designated clearinghouse(s) of the intent to submit an application consistent with OMB Circular A-95.

(b) Local governments and councils of local governments shall file an original and one copy of Form AD-623, with the appropriate FmHA District Office and State governments with the FmHA State Office. Applications shall include:

(1) Evidence that a growth management and/or housing plan has been approved by the FmHA National Office;

(2) Evidence of applicant's legal existence and authority to undertake the proposed project;

(3) Description of project and its relation to the approved plan. Applicant must cite pages and section of the approved plan;

(4) A plat of the area including elevations;

(5) ("Option to Purchase Real Property,") Form FmHA 440-34;

(6) A topographic map of area;

(7) Relevant data on soil analysis;

(8) Evidence that the land is stable;

(9) Evidence that the site will comply with Executive Order 11988, "Flood Plain Management," and Executive Order 11990, "Protection of Wetlands;"

(10) Amount of Federal grant needed;

(11) Amount and source of applicant's financial contribution to the project;

(12) An original and one copy of Form FmHA 449-10;

(13) An original and one copy of Forms FmHA 400-1; and 400-4; and

(14) Assurance that the requirements set forth in Title 7, Part 21 of the Code of Federal Regulations (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) have been met or will be met.

(c) District and State FmHA Offices receiving applications will:

(1) Determine if the project is in accordance with the State's approved growth management and/or housing plan;

(2) Determine that the housing or public facilities are necessary due to an increase in employment due to coal or uranium development activities;

(3) Verify that the information provided is accurate and complete;

(4) Comply with environmental requirements set forth in this Subpart;

(d) District FmHA Offices receiving applications shall also provide written comments reflecting site acquisition grant selection criteria listed in these regulations.

(e) The FmHA District Office shall forward the original of the application and accompanying documents including paragraphs (c)(1) through (c)(4) of this section to the FmHA State Director within 10 working days of receipt of the application.

(f) Upon receipt of an application, the FmHA State Office will:

(1) Review and evaluate the application and accompanying documents;

(2) Consult with the Governor of the appropriate State concerning the category of the project in the State Investment Strategy for Energy Impacted Areas;

(3) Send the applicant's evidence of legal existence and authority to the USDA Regional OGC for review; and

(4) Respond to the applicant within 30 days of the date of receipt of the application.

(g) Upon receipt of an application by the FmHA State Office, a docket will be prepared which will include the following:

(1) Application Form AD-623 and enclosures;

(2) A-95 clearinghouse comments;

(3) Evidence of applicant's legal existence and authority;

(4) OGC legal determination;

(5) Grant agreement and scope of work;

(6) Form FmHA 440-1;

(7) Form FmHA 400-1;

(8) Form FmHA 400-4;

(9) Form FmHA 440-34; or statement from condemning authority of intention to condemn land, if appropriate;

(10) Form FmHA 449-10;

(11) Form FmHA 440-46;

(12) Historic Preservation Assessment;

(13) A copy of State Investment Strategy for Energy Impacted Areas;

(14) A plat of the area;

(15) A topographic map of area; and

(16) District, where appropriate, and State FmHA written comments, assessments and analysis of the proposed project in accordance with the grant selection criteria.

§ 1948.91 Site acquisition grant selection criteria.

The following criteria will be considered in the selection of site acquisition grant recipients:

(a) *Required criteria.* All applications must meet the following criteria:

(1) There is an FmHA approved plan calling for a site acquisition under this section;

(2) The FmHA approved plan provides for step-by-step development of the site to be acquired;

(3) The site to be acquired will be used for housing or public facilities and/or services;

(4) The site to be acquired must be specifically identified in the application;

(5) The applicant must have an option to buy the site or a commitment from the condemning authority to condemn the site and an appraisal of the fair market value of the site;

(6) Priority has been given in the selection of site to unoccupied or previously mined land;

(7) The site is not located in a flood plain;

(8) Farm land was included in the site only if other suitable land was not available; and

(9) Assurance that the requirements set forth in Title 7, Subtitle A, Part 21 of the Code of Federal Regulations (Uniform Relocation Assistance and Real Property Acquisition Act of 1970) have been met.

(b) *Competitive criteria.* The following criteria will be considered in the selection of grantees:

(1) Priority assigned by the Governor in the State Investment Strategy for Energy Impacted Areas;

(2) The severity of need for housing and/or public facilities and/or services that has resulted from coal or uranium development activities in relation to available financial resources within the area covered by the application;

(3) The cost effectiveness of the project including but not limited to the severity of need of the individuals to benefit from the project and the degree to which the project will meet the highest priority needs of the area;

(4) The amount of effort by State and local government to meet the needs of the area covered by the application as called for in the State Investment Strategy for Energy Impacted Areas in relation to available financial resources;

(5) An assessment of the environmental impacts of the projects; and

(6) The nature of the comments and recommendations from A-95 clearinghouse(s).

§ 1948.92 [Reserved]

§ 1948.93 Direct land acquisition by FmHA.

(a) FmHA may take action to acquire land directly upon the written request of the Governor of the State in which the land is located. FmHA will not acquire land directly under this section without such a request.

(b) All requests for direct land acquisition should be submitted to the FmHA State Director. The following conditions must be met prior to the submission of a request for direct acquisition by FmHA:

(1) The State or local government serving the area must lack power to condemn land of this type for this purpose and must supply an opinion by the State Attorney General that this authority is lacking;

(2) The land is to be used as a site for needed housing, public facilities, or services;

(3) The site acquisition is called for in a FmHA approved plan;

(4) The site is specifically identified by a FmHA approved plan;

(5) State and local governments have been unable to obtain the land for a price which does not substantially exceed its fair market value; an suitable alternate sites are not available;

(6) The land is not Indian Trust land;

(7) The land is not U.S. Forest Service land; and

(8) There is authority to undertake the proposed project.

(c) Upon receipt of a request from a Governor for direct land acquisition by FmHA, the State Director shall determine if other suitable land for the site or sites is available in the area at a price which does not substantially exceed its fair market value. Preference will be given to land that is unoccupied or previously mined and abandoned provided previously mined land is determined to be stable. Farm land will not be considered unless there is no other suitable land available.

(d) If other suitable land which can be acquired at a price which does not substantially exceed its fair market value is determined to exist the request for direct FmHA land acquisition shall be denied. The request will also be denied if either State or local government serving the area has condemnation power.

(e) If the State Director determines that no other suitable land exists that can be obtained at a price which does not substantially exceed its fair market value, and if the appropriate State or local government lacks condemnation authority evidenced by opinion from the Attorney General, and there is authority to undertake the proposed project, then the State Director shall immediately open negotiations to directly acquire the land through purchase or trade.

(f) The FmHA State Director may acquire land by purchase or trade when FmHA has been requested to do so by the Governor of the State in which the land is located.

(g) The Governor shall submit, with this request, a commitment from the State to acquire the land, together with a plan of compensation fo FmHA and evidence of the States legal authority to enter into this agreement with FmHA to accept the land and repay FmHA for cost of acquiring the land.

(h) After a reasonable time for negotiations, the State Director shall inform the Governor of the results of the negotiations.

(i) The State Director shall inform the Governor that FmHA land acquisition is not likely to occur by purchase or trade if negotiations have failed to produce acceptable results within 90 days of the request for FmHA land acquisition.

(j) A request for condemnation shall be submitted by the FmHA State Director to the Administrator of FmHA, Washington, D.C. 20250 within 10 days of informing the Governor of the failure to acquire the land by purchase or trade. A copy of the Governor's request for FmHA land acquisition and the State Attorney General's opinion that State and local government condemnation authority is lacking shall be attached to the FmHA State Director's request.

(k) The Administrator shall forward all requests for Federal condemnation to the OGC, USDA with a recommendation for action.

(l) The Secretary of Agriculture shall inform the Governor of any action on the request for condemnation.

§ 1948.94 Land transfers.

(a) A request for FmHA acquisition of land by a Governor of a State constitutes an agreement by that State to receive said land and to reimburse FmHA for the fair market value of said land.

(b) Terms and conditions, including reimbursement terms, for land transfers shall be set forth in a Land Transfer Agreement between the Administrator FmHA and the appropriate Governor. These terms and conditions

will be agreed upon by FmHA and the State prior to FmHA undertaking to acquire the property. These agreements shall be prepared after consulting with OGC, and forwarded for prior approval by the FmHA National Office.

(c) All funds from land transfers received by FmHA shall be deposited in the U.S. Treasury.

(d) All land transfer agreements shall be in accordance with provisions set forth in the grant agreement and the policies and regulations contained in OMB Circular A-102.

§ 1948.95 Inspections of development.

Inspections will be made by the FmHA State Engineer or other employee designated by the FmHA State Director to ascertain whether site development is proceeding in accordance with plans and specifications. Such inspections are solely for the benefit of the Government and not for the benefit of the Grantee or any other person.

§ 1948.96 Grant approval and fund obligation.

(a) The FmHA State Office shall review the docket to determine whether the proposed grant complies with this Subpart and that funds are available.

(b) If a grant is not recommended after the docket is developed, the FmHA State Office shall notify the applicant in writing of the reason for rejection.

(c) If at any time prior to grant approval it is decided that favorable action will not be taken on a preapplication or application, the State Director will notify the applicant in writing of the reasons why the request was not favorably considered. The notification to the applicant will state that a review of this decision by FmHA may be requested by the applicant in accordance with FmHA Instruction 1900-B.

(d) If a grant is recommended, Form FmHA 440-1 and the proposed grant agreement and scope of work will be prepared and forwarded to the applicant for signature.

(3) When Form FmHA 440-1 and the grant agreement and scope of work are received by the applicant, the applicant will sign these documents and forward them to the State Director.

(f) Form FmHA 071-1, "Project Information Card," will be prepared by the State Director and sent to the Director of Information, Farmers Home Administration.

(g) If the State Director approves the project, the following actions will be taken in the order listed:

(1) The State Director, or a designee, will telephone the Finance Office requesting that grant funds for a particular project by obligated. Immediately after contacting the Finance Office, the requesting official shall furnish the requesting office's security identification code. Failure to furnish the security code will result in the rejection of the request of obligation. After the security code is furnished, the required information from Form FmHA 440-1, shall be furnished to the Finance Office. Upon receipt of the telephone request for obligation of funds, the Finance Office shall record all information necessary to process the request for obligation in addition to the date and time of request;

(2) The individual making the request shall record the date and time of the request.

(i) The Finance Office will notify the FmHA State Office by telephone when funds are reserved and the date the funds will be obligated. If funds cannot be reserved for a project, the Finance Office will notify the FmHA State Office that funds are not available. The obligation date will be six working days from the date the request for obligation is processed.

(ii) The Finance Office will send Form FmHA 440-57, "Acknowledgement of Obligated Funds/Check Request," to the FmHA State Director, informing the State Director of the reservation of funds with the obligation date inserted as required by Item 9 on the Forms Manual Insert (FMI) for Form FmHA 440-57.

(iii) The date of obligation will be recorded in Section 39 of Form FmHA 440-1 along with the signature of the requesting official.

(iv) Form FmHA 440-1 will not be mailed to the Finance Office.

(3) The State Director, FmHA shall notify the Director of Information in the FmHA National Office with a recommendation that the project announcement be released.

(4) An executed Form FmHA 440-1 shall be sent to the applicant along with an executed copy of the grant agreement and scope of work on or before the date funds are obligated.

(i) The actual date of applicant notification will be entered on the original of Form FmHA 440-1 and the original of the form will be included as a permanent part of the file.

(ii) Standard Form 270, "Request for Advance or Reimbursement," will be sent to the applicant for completion and returned to FmHA ;

(5) If it is determined that a project will not be funded or if major changes in the scope of the project are made after release of the approval announcement, the FmHA State Director will notify the Director of Information by telephone giving the reasons for such action. The Director of Information will inform all parties who were notified by the project announcement if the project will not be funded or of major changes in the project using a procedure similar to the announcement process. Form FmHA 440-10, "Cancellation of Loan or Grant Check and/or Obligation," will not be submitted to the Finance Office until five working days after notifying the Director of Information;

(6) Upon receipt of a properly completed SF 270, the appropriate check request information will be called to the Finance Office.

§ 1948.97 [Reserved]

§ 1948.98 Reporting requirements.

SF-270 shall be submitted by grantees on an as needed basis but not more frequently than once every 30 days. SF-269, "Financial Status Report," and a project performance activity report will be required of all grantees on a quarterly basis. SF-269, and a final project performance report will also be required. These final reports may serve as the last quarterly reports. Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. All grantees except States should submit an original of each report and one copy to the appropriate FmHA District Office. When the grantee is a State, an original should be submitted to the appropriate FmHA State Office. The project performance reports shall include, but need not be limited to the following:

(a) A comparison of actual accomplishments to the objectives established for that period;

(b) Reasons why established objectives were not met;

(c) Problems, delays, or adverse conditions which will materially affect attainment of planned project objectives, prevent the meeting of time schedules or objectives, or preclude the attainment of project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or contemplated and any Federal assistance needed to resolve the situation; and

(d) Objectives established for the next reporting period.

§ 1948.99 Grant monitoring.

Each grant will be monitored by FmHA to ensure that the Grantee is complying with the terms of the grant and that the project activities are completed as approved. This will involve on-site visits to the project area and review of quarterly and final reports by FmHA.

§ 1948.100 Audit requirements.

(a) Audit requirements for Site Development and Acquisition Grants will

be made in accordance with (FmHA Instruction 442.12, Appendix A) Part 1823, Subpart O, § 1823.458.

(b) Audit requirements for planning grants will be made in accordance with State statutes or regulatory agencies and are acceptable provided they are prepared in sufficient detail to permit FmHA to determine that grant funds have been used in compliance with the proposal, any applicable laws and regulations, and the grant agreement. A copy of the audit shall be submitted to the State Director as soon as possible but in no case later than 90 days following the period covered by the grant.

§ 1948.101 Grant closing and fund disbursement.

Grant closing and fund disbursement will be accomplished in accordance with (FmHA Instruction 442.12, Appendix A) Part 1823, Subpart O § 1823.460.

§ 1948.102 Grant agreements.

The Grant Agreements are a part of this regulation.

(a) Exhibit A of this Subpart is a Grant Agreement for Growth Management and Housing Planning Grants for approved Designated Energy Impacted Areas.

(b) Exhibit B of this Subpart is a Grant Agreement for Site Development and/or Site Acquisition for Housing and/or Public Facilities and/or Services.

§§ 1948.103–1948.105 [Reserved]

EXHIBIT A

GRANT AGREEMENT

GROWTH MANAGEMENT AND HOUSING PLANNING FOR APPROVED DESIGNATED ENERGY IMPACTED AREAS

This Agreement is between

_____

(name),

_____

(address),

(Grantee) and the United States of America acting through the Farmers Home Administration (grantor or FmHA). Grantee has determined to undertake certain growth management and housing planning for energy impacted areas at an estimated cost of $_____ and has duly authorized such planning. The Grantor agrees to grant to Grantee a sum not to exceed $_____ subject to the terms and conditions established by the Grantor; provided, however, that any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant. In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 601 of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95-620) for the purpose only of defraying the planning costs as permitted by applicable Farmers Home Administration regulations:

Part A

Grantor and Grantee agree:

1. This agreement shall be effective when executed by both parties.

2. The scope of work set out below shall be completed prior to _____.

3. Use of grant funds for travel which is determined as being necessary to the program for which the grant is established may be subject to the travel policies of the Grantee institution if they are uniformly applied regardless of the source of funds in determining the amounts and types of reimbursable travel expenses of Grantee staff and consultants. Where the Grantee institution does not have such specific policies uniformly applied, the Federal Travel Regulations shall apply in determining the amount charged to the grant. Grantee may purchase furniture and office equipment only if specifically approved in the scope of work. Approval will be given only when Grantee demonstrates that purchase is necessary and would result in less cost to the Government in providing Federal-share funds or to the Grantee in providing its contributions. Commercial purchase under these circumstances will be approved only after consideration of Federal supply sources.

(b) Expenses and Purchases Excluded:

(i) In no event shall the Grantee expend or request reimbursement from Federal-share funds for obligations entered into or for costs incurred or accrued prior to the effective date of this grant.

(ii) Funds budgeted under this grant may not be used for entertainment expenses.

(iii) Funds budgeted under this grant may not be used to pay for capital assets, the purchase of real estate or vehicles, improvement and renovation of space, and repair and maintenance of privately-owned vehicles.

(c) Grant funds shall not be used to replace any financial support previously provided or assured from any other source. The Grantee agrees that the general level of expenditure by the Grantee for the benefit of program area and/or program covered by this agreement shall be maintained and not reduced as a result of the Federal share funds received under this grant.

4. (a) In accordance with Treasury Circular 1075, grant funds will be disbursed by the FmHA as cash advances on an as-needed basis not to exceed one advance every 30 days. The financial management system of the recipient organization shall provide for effective control over and accountability for all Federal funds as stated in OMB Circular A-102 revised for State and local governments.

(b) Cash advances to the Grantee shall be limited to the minimum amounts needed and shall be timed to be in accord only with the actual, immediate cash requirements of the Grantee in carrying out the purpose of the planning project.

(c) The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program costs.

(d) Federal funds should be promptly refunded to the FmHA and redrawn when needed if the funds are erroneously drawn in excess of immediate disbursement needs. The only exceptions to the requirement for prompt refunding are when the funds involved:

(i) will be disbursed by the recipient organization within seven calendar days, or

(ii) are less than $10,000 and will be disbursed within 30 calendar days.

(e) Grantee shall provide satisfactory evidence to FmHA that all officers of Grantee organization authorized to receive and/or disburse Federal funds are covered by such bonding and/or insurance requirements as are normally required by the Grantee.

(f) Grant funds will be placed in a bank account(s). If for any reason grant funds are invested, income earned on such investment shall be identified as interest income on grant funds and forwarded to the Finance Office, FmHA, St. Louis, Missouri, unless the Grantee is a State. "State" includes instrumentalities of a State but not political subdivisions of a State. A State Grantee is not accountable for interest earned on grant funds.

5. The Grantee will submit Performance and Financial reports as indicated below:

(a) As needed, but not more frequently than once every 30 days, an original and 2 copies of Standard Form 270, "Request for Advance or Reimbursement;"

(b) Quarterly, and original and 2 copies of Standard Form 269, "Financial Status Report," and a Project Performance report according to the schedule below:

Period	*Date Due*

(c) Final, and original and 2 copies of Standard Form 269, "Financial Status Report," and a Project Performance report according to the schedule below:

Period	*Date Due*

Note: Final reports may serve as the last quarterly reports.

(d) The Project Performance reports shall include but need not be limited to the following:

(i) A comparison of actual accomplishment to the objectives established for that period;

(ii) Reasons why established objectives were not met;

(iii) Problems, delays, or adverse conditions which will materially affect attainment of planned project objectives, prevent the meeting of time schedules or objectives, or preclude the attainment of project work elements during established time periods. This disclosure shall be accompanied by a Statement of the action taken or contemplated and any Federal assistance needed to resolve the situation; and

(iv) Objectives established for the next reporting period.

(e) All Grantees except States shall submit an original of each report and one copy to the appropriate FmHA District Office. A State Grantee shall submit original reports to the appropriate FmHA State Office.

(f) The plan(s) developed under this grant shall be submitted to the appropriate Governor for incorporation into the State Investment Strategy for energy Impacted Areas. The Governor will submit the plan and the State Investment Strategy to the appropriate FmHA State Office(s). The FmHA State Office will forward the plan and State Investment Strategy to the FmHA National Office for approval of the plan.

6. The Budget covered by this agreement is:

Budget category	Federal funds	Non-Federal share		Total
		Cash	In-kind	
Direct charges:				
1. Personnel	$			
2. Fringe benefits				
3. Travel				
4. Equipment				
5. Supplies				
6. Contractual				
7. Other				
Total direct charges	$			
8. Indirect charges				
Total	$			

(a) In accordance with FMC 74-4, Attachment B, compensation for employees will be considered reasonable to the extent that such compensation is consistent with that paid for similar work in other activities of the State or legal government.

(b) In accordance with OMB Circular A-102, Attachment K, transfers among direct cost budget categories of more than 5 percent of the total budget must have prior written approval by the State Director, Farmers Home Administration.

7. (a) The scope of work is described in the attached exhibit 1. The Grantee accepts responsibility for establishing a development process which will improve local conditions and alleviate problems associated with increased coal or uranium production in the Grantee areas. The Grantee shall:

(i) Develop a growth management and housing plan for assistance to approved designated area(s) impacted by increased coal or uranium production.

(ii) Contribute to development of a State Investment Strategy for Energy Impacted Areas.

(iii) Endeavor to coordinate and provide liaison with State development organizations, where they exist.

(iv) Provide continuing information to FmHA on the status of Grantee programs, projects, related activities, and problems.

(b) The Grantee shall inform the Grantor as soon as the following types of conditions become known:

(i) Problems, delays, or adverse conditions which materially affect the ability to attain program objectives, prevent the meeting of time schedules or goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken or contemplated, and any Grantor assistance needed to resolve the situation.

(ii) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

Part B

Grantee agrees:

1. To comply with property management standards established by Attachment N of OMB Circular A-102 for expendable and nonexpendable personal property "Personal property" means property of any kind except real property. It may be tangible—having physical existence—or intangible—having no physical existence, such a patents, inventions, and copyrights. "Nonexpendable personal property" means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A Grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above. "Expendable personal property" refers to all tangible personal property other than nonexpendable property. When nonexpendable tangible property is acquired by a Grantee with project funds, title shall not be taken by the Federal Government but shall vest in the Grantee subject to the following conditions:

(a) Right to transfer title. For items of nonexpendable personal property having a unit acquisition cost of $1,000 or more, FmHA may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards:

(1) The property shall be appropriately identified in the grant or otherwise made known to the Grantee in writing.

(2) FmHA shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which the 120 calendar day period, the Grantee shall apply the standards of paragraph (4) below.

(4) When title is transferred either to the Federal Government or to a third party and the Grantee is instructed to ship the property elsewhere, the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(b) Use of other tangible expendable property for which the Grantee has title.

(1) The Grantee shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When it is no longer needed for the original project or program, the Grantee shall use the property in connection with its other Federally sponsored activities, in the following order of priority:

(a) Activities sponsored by FmHA.

(b) Activities sponsored by other Federal agencies.

(2) Shared use. During the time that nonexpendable personal property is held for use on the project or program for which it was acquired, such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissable if authorized by FmHA. User charges should be considered if appropriate.

(c) Disposition of other nonexpendable property. When the Grantee no longer needs the property as provided in 1(a)(4) above, the property may be used for other activities in accordance with the following standards:

(1) Nonexpendable property with a unit acquisition cost of less than $1,000. The Grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(2) Nonexpendable personal property with a unit acquisition cost of $1,000 or more. The Grantee may retain the property for other use provided that compensation is made to FmHA or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the Grantee has no need for the property and the property has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

FmHA shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services administration by FmHA to determine whether a requirement for the property exists in other Federal agencies. FmHA shall issue instructions to the Grantee no later than 120 days after the Grantee request and the following procedures shall govern:

(a) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the property and reimburse FmHA an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is great-

er, for the Grantee's selling and handling expenses.

(b) If the Grantee is instructed to dispose of the property other than as described in 1(a)(4) above, the Grantee shall be reimbursed by FmHA for such costs incurred in its disposition.

(c) Property management standards for nonexpendable property. The Grantee's property management standards for nonexpendable personal property shall include the following procedural requirements:

(1) Property records shall be maintained accurately and shall include:

(a) A description of the property.

(b) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(c) Sources of the property including grant or other agreement number.

(d) Whether title vests in the Grantee or the Federal Government.

(e) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(f) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(g) Location, use and condition of the property and the date the information was reported.

(h) Unit acquisition cost.

(i) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a Grantee compensates the Federal agency for its share.

(2) Property owned by the Federal Government must be marked to indicate Federal ownership.

(3) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The Grantee shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the Grantee shall promptly notify FmHA.

(5) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(6) Where the Grantee is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

(7) Expendable personal property shall vest in the Grantee upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the grant and if the property is not needed for any other Federally sponsored project or program, the Grantee shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

2. To provide Financial Management Systems which will include:

(a) Accurate, current, and complete disclosure of the financial results of each grant. Financial Reporting will be on an accrual basis.

(b) Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all funds, property, and other assets. Grantee shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

(d) Accounting records supported by source documentation.

(e) Provide an audit report prepared in sufficient detail to allow Grantor to determine that funds have been used in compliance with the proposal any applicable laws and regulations and this agreement.

3. To retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm copies may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee which are pertinent to the specific grant program for the purpose of making audit, examination, excerpts, and transcripts.

4. To provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

5. To provide information as requested by the Grantor concerning the Grantee's actions in solicitating citizen participation in the application process, including published notice of public meetings, actual public meetings held, and content of written comments received.

6. To account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes unless the Grantee is a State. See Part A 4(f) above.

7. Not to encumber, transfer, or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in Part B 1.

8. To provide Grantor such periodic reports as it may require of Grantee operations by designated representative of the Grantor.

9. To execute Form FmHA 400-1, "Equal Opportunity Agreement," and to execute any other agreements required by Grantor to implement the civil rights requirements.

10. To include in all contracts in excess of $100,000 a provision for compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. Violations shall be reported to the Grantor and the Regional Office of the Environmental Protection Agency.

11. That, upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will, to the extent legally permissible, repay to the Grantor forthwith the original principal amount of the grant stated herein above, with interest at the rate of five percentum per annum from the date of the default. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it or previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

12. That no member of Congress shall be admitted to any share or part of this grant or any benefit that may arise therefrom; but this provision shall not be construed to bar as a contractor under the grant a publicly held corporation whose ownership might include a member of Congress.

13. That all non-confidential information resulting from its activities shall be made available to the general public on an equal basis.

14. That the purpose and scope of work for which this grant is made shall not duplicate programs for which monies have been received, are committed, or are applied for from other sources, public and private.

15. That the Grantee shall relinquish any and all copyrights and/or privileges to the materials developed under this grant, such material being the sole property of the Federal Government. In the event anything developed under this grant is published in whole or in part, the material shall contain notice and be identified by language to the following effect: "The material is the result of tax-supported research and as such is not copyrightable. It may be freely reprinted with the customary crediting of the source."

16. That the Grantee shall abide by the policies promulgated in OMB Circular A-102, Attachment O, which provides standards for use by Grantees in establishing procedures for the procurement of supplies, equipment, and other services with Federal grant funds.

17. To the following termination provisions:

(a) Termination for cause: The Grantor agency may terminate any grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant. The Grantor agency shall promptly notify the Grantee in writing of the determination and the reasons for the termination, together with the effective date.

(b) Termination for convenience. The Grantor agency or Grantee may terminate grants in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Grantor agency

shall allow full credit to the Grantee for the Federal share of the noncancelable obligations, properly incurred by the Grantee prior to termination.

Part C

Grantor agrees:

1. That it will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans and with any State or area plans for the area in which the project is located.

2. That at its sole discretion, Grantor may at any time give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (a) advisable to further the purposes of the grant or to protect Grantor's financial interest therein, and (b) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

This agreement is subject to current Grantor regulations and any future regulations not inconsistent with the express terms hereof.

Grantee on ———. 19—, has caused this agreement to be executed by its duly authorized ——— and attested and its corporate seal affixed by its duly authorized ———.

Attest:

Grantee:

By ———

———

(Title)

By ———

———

(Title)

Grantor:
UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION
By ———

———

(Title)

EXHIBIT B

GRANT AGREEMENT (PUBLIC BODIES) FOR SITE DEVELOPMENT AND/OR SITE ACQUISITION FOR HOUSING AND/OR PUBLIC FACILITIES AND/OR SERVICES

This agreement dated ———, 19—, between ——— a public body corporate organized and operating under ——— (Authorizing State Statute) Herein called "Grantee," and the United States of America acting through the Farmers Home Administration, Department of Agriculture, herein called "Grantor," Witnesseth: Grantee had determined to undertake a project for site acquisition and/or site development as follows: ——— (herein called project) to serve the approved designated energy impacted area under its jurisdiction at an estimated cost of $———, and has duly authorized the undertaking of such project;

Grantee is able to finance not more than $——— of the site acquisition and/or site development costs through revenues, charges, taxes or assessments, or funds otherwise available to Grantee. Said sum has been committed to and by Grantee for such project acquisition and/or site development costs.

The Grantor agrees to grant to Grantee a sum not to exceed $——— subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 601 of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95-620) for the purpose only of defraying a part of the acquisition and/or site development costs, as defined by applicable Farmers Home Administration regulations.

Grantee agrees that Grantee will:

1. Cause said project to be completed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any necessary modifications thereof prepared by Grantee and approved by Grantor.

2. Permit periodic inspection of the project by a representative of Grantor.

3. Make the housing or public facility or services available to all persons in Grantee's service area without regard to race, color, national origin, religion, sex, marital status, age, physical handicap, or mental handicap, (must possess necessary authority to enter into contract).

4. Use the real property including land and land improvements for authorized purposes of the grant as along as needed.

a. The Grantee shall obtain approval of the Grantor before using the real property for other purposes when the Grantee determines that the property is no longer for the original purposes.

b. When the real property is no longer needed as provided above, return all real property furnished or purchased wholly with Federal grant funds to the Grantor. In the case of property purchased in part with Federal grant funds, the Grantee may be permitted to take title to the Federal interest therein upon compensating the Federal Government for its fair share of the property. The Federal share of the property shall be the amount computed by applying the percentage of the Federal participation in the total cost of the grant program for which the property was acquired to the current fair market value of the property.

5. Not use grant funds to replace any financial support previously provided or assured from any other source. The Grantee agrees that the general level of expenditure by the Grantee for the benefit of program area and/or program covered by this agreement shall be maintained and not reduced as a result of the Federal share funds received under this grant.

6. Not use grant funds to pay for construction costs of housing or public facilities.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

7. Abide by the following conditions pertaining to nonexpendable personal property which is furnished by the Grantor or acquired wholly or in part with Grant Funds.

a. The Grantee shall retain such property as long as there is a need for the property to accomplish the purpose of the grant. When there is no longer a need for the property to accomplish the purpose of the grant, the Grantee shall use the property in connection with other Federal grants it has received in the following order of priority.

(1) Other grant of the Grantor needing the property.

(2) Grants of other Federal agencies needing the property.

b. Grantee agrees:

(1) To comply with property management standards established by Attachment N of OMB Circular A-102 for expendable and nonexpendable personal property "personal property" means property of any kind except real property. It may be tangible—having physical existence—or intangible—having no physical existence, such as patents, inventions, and copyrights. "Nonexpendable personal property" means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A Grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above. "Expendable personal property" refers to all tangible personal property other than nonexpendable property. When nonexpendable tangible property is acquired by a Grantee with project funds, title shall not be taken by the Federal Government but shall vest in the Grantee subject to the following conditions:

(a) Right to transfer title. For items of nonexpendable personal property having a unit acquisition cost of $1,000 or more, FmHA may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards:

(1) The property shall be appropriately identified in the grant or otherwise made known to the Grantee in writing.

(2) FmHA shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If FmHA fails to issue disposition instructions within the 120 calendar day period, the Grantee shall apply the standards of paragraph (4) below.

(3) When FmHA exercises its right to take title, the personal property shall be subject to the provisions for federally owned nonexpendable property discussed in paragraph (4), below.

(4) When title is transferred either to the Federal Government or to a third party and the Grantee is instructed to ship the property elsewhere, the Grantee shall be reimbursed by the benefitting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(b) Use of other tangible nonexpendable property for which the Grantee has title.

(1) The Grantee shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When it is no longer needed for the original project or program,

the Grantee shall use the property in connection with its other Federally sponsored activities, in the following order or priority:

(a) Activities sponsored by FmHA.

(b) Activities sponsored by other Federal agencies.

(2) Share use. During the time that nonexpendable personal property is held for use on the project or program for which it was acquired, the Grantee shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by FmHA; second preference shall be given to projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by FmHA. User charges should be considered if appropriate.

(c) Disposition of other nonexpendable property. When the Grantee no longer needs the property as provided in 1(a)(4) above, the property may be used for other activities in accordance with the following standards:

(1) Nonexpendable property with a unit acquisition cost of less than $1,000. The Grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(2) Nonexpendable personal property with a unit acquisition cost of $1,000 or more. The Grantee may retain the property for other use provided that compensation is made to FmHA or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the Grantee has no need for the property and the property has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

FmHA shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by FmHA to determine whether a requirement for the property exists in other Federal agencies. FmHA shall issue instructions to the Grantee no later than 120 days after the Grantee request and the following procedures shall govern:

(a) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the property and reimburse FmHA an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater, for the Grantee's selling and handling expenses.

(b) If the Grantee is instructed to dispose of the property other than as described in 1(a)(4) above, the Grantee shall be reimbursed by FmHA for such costs incurred in its disposition.

(c) Property management standards for nonexpendable property. The Grantee's property management standards for nonexpendable personal property shall include the following procedural requirements:

(1) Property records shall be maintained accurately and shall include:

(a) A description of the property.

(b) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(c) Sources of the property including grant or other agreement number.

(d) Whether title vests in the Grantee or the Federal Government.

(e) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(f) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(g) Location, use and condition of the property and the date the information was reported.

(h) Unit acquisition cost.

(i) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a Grantee compensates the Federal agency for its share.

(2) Property owned by the Federal Government must be marked to indicate Federal ownership.

(3) A physical inventory or property shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The Grantee shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the Grantee shall promptly notify FmHA.

(5) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(6) Where the Grantee is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

(7) Expendable personal property shall vest in the Grantee upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the grant and if the property is not needed for any other federally sponsored project or program, the Grantee shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

2. To provide Financial Management Systems which will include:

(a) Accurate, current, and complete disclosure of the financial results of each grant. Financial Reporting will be on an accrual basis.

(b) Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all funds, property, and other assets. Grantee shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

(d) Accounting records supported by source documentation.

(e) Provide an audit report prepared in sufficient detail to allow Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations, and this agreement.

3. To retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm copies may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee which are pertinent to the specific grant program for the purpose of making audit, examination, excerpts, and transcripts.

4. To provide informatin as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

5. To provide information as requested by the Grantor concerning the Grantee's actions in soliciting citizen participation in the application process, including published notice of public meetings, actual public meetings held, and content of written comments received.

6. To account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes unless the Grantee is a State. If for any reason grant funds are invested, income earned on such investment shall be identified as interest income on grant funds and forwarded to the Finance Office, FmHA, St. Louis, Missouri, unless the Grantee is a State. "State" includes instrumentalities of a State but not political subdivisions for a State. A State Grantee is not accountable for interest earned on grant funds.

7. Not to encumber, transfer, or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor without the written consent of the Grantor except as provided in Part b 1.

8. To provide Grantor with such periodic reports as it may require of the Grantee operations by designated representative of the Grantor.

9. To execute Form FmHA 400-1, "Equal Opportunity Agreement," and to execute any other agreements required by Grantor to implement the civil rights requirements.

10. To include in all contracts in excess of $100,000 a provision for compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. Violations shall be reported to the Grantor and the Regional Office of the Environmental Protection Agency.

11. That, upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will, to the extent legally permissible, repay to the Grantor forth with the original principal amount of the grant stated herein above, with interest at the rate of five percent per annum from the date of the default. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it of previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

12. That no member of Congress shall be admitted to any share or part of this grant or any benefit that may arise therefrom; but this provision shall not be construed to bar as a contractor under the grant a publicly held corporation whose ownership might include a member of Congress.

13. That all non-confidential information resulting from its activities shall be made available to the general public on an equal basis.

14. That the purpose and scope of work for which this grant is made shall not duplicate programs for which monies have been received, are committed, or are applied for from other sources, public and private.

15. That the Grantee shall relinquish any and all copyrights and/or privileges to the materials developed under this grant, such material being the sole property of the Federal Government. In the event anything developed under this grant is published in whole or in part, the material shall contain notice and be identified by language to the following effect: "The material is the result of tax-supported research and as such is not copyrightable. It may be freely reprinted with the customary crediting of the source."

16. That the Grantee shall abide by the policies promulgated in OMB Circular A-102, Attachment O, which provides standards for use by Grantees in establishing procedures for the procurement of supplies, equipment, and other services with Federal grant funds.

17. To the following termination provisions:

(a) Termination for cause: The Grantor agency may terminate any grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant. The Grantor agency shall promptly notify the Grantee in writing of the determination and the reasons for the termination, together with the effective date.

(b) Termination for convenience. The Grantor agency or Grantee may terminate grants in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Grantor agency shall allow full credit to the Grantee for the Federal share of the noncancelable obligations, properly incurred by the Grantee prior to termination.

18. To include in all contracts for construction or repair a provision for compliance with the Copeland "Anti-Kick Back" Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

19. In contracts in excess of $2,000 and in other contracts in excess of $2,500 which involve the employment of mechanics or laborers, to include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5).

c. Grantor agrees that it will:

(1) Assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans and with any State or area plans for the area in which the project is located.

(2) In its sole discretion, Grantor may at any time give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (a) advisable to further the purposes of the grant or to protect Grantor's financial interest therein, and (b) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Grantee on the date first above written has caused this agreement to be executed by its duly authorized _____ and attested and its corporate seal affixed by its duly authorized _____.

Attest:
(Seal)

By _____

_____
(Title)

Grantee:

_____

By _____

_____
(Title)

Grantor:
UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION
By _____

_____
(Title)

(Section 601 Pub. L. 95-620; delegation of authority by the Secretary of Agriculture, 7 CRF 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has reviewed this document for compliance with National Environmental Quality Regulations, CRF Part 1500 and Farmers Home Administration Regulation 1901-G "Environmental Impact Statement."

Funds authorized under Section 601 may be utilized for a wide variety of project types. Area designations and priorities are to be established by the Governor of the State. These circumstances do not lend themselves to rational analysis of potential environmental effects on a programmatic basis. Therefore, special provisions have been incorporated to insure that environmental impacts will be studied at the most appropriate scale concurrent with establishment of priorities and processing of applications.

The proposed regulations require that environmental consequences of any action funded under this Subpart will be considered both on a site specific and cumulative basis. The Farmers Home Administration has determined that the regulations are in full compliance with NEPA and CEQ guidelines.

Dated: March 2, 1979.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 79-7032 Filed 3-7-79; 8:45 am]

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